

STATE OF NEW YORK

1252--B

Cal. No. 1286

2021-2022 Regular Sessions

IN SENATE

January 8, 2021

Introduced by Sens. GIANARIS, ADDABBO, BAILEY, BRESLIN, BRISPORT, BROOKS, BROUK, COMRIE, COONEY, GAUGHRAN, GOUNARDES, HARCKHAM, HINCHEY, HOYLMAN, JACKSON, KAMINSKY, KAPLAN, KAVANAGH, KENNEDY, LIU, MANNION, MARTUCCI, MATTERA, MAY, MAYER, MYRIE, PERSAUD, RAMOS, REICHLIN-MELNICK, RIVERA, RYAN, SALAZAR, SANDERS, SAVINO, SERRANO, SKOUFIS, STAVISKY, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Labor -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading -- recommitted to the Committee on Labor in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the labor law, in relation to enacting the "roadway excavation quality assurance act"

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "roadway excavation quality assurance act".

3 § 2. The labor law is amended by adding a new section 224-e to read as
4 follows:

5 § 224-e. Workers on excavations. 1. For the purposes of this section:

6 a. "Covered excavation project" shall mean construction work for which
7 a permit may be issued to a utility company, or its contractors or
8 subcontractors by the state, a county or a municipality to use, exca-
9 vate, or open a street.

10 b. "Department of jurisdiction" shall mean the department of the
11 state, board or officer in the state, or municipal corporation or
12 commission or board appointed pursuant to law, whose duty it is to issue

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD00123-07-2

1 a permit to a utility company, or its contractors or subcontractors, for
2 a covered excavation project.

3 c. "Fiscal officer" shall mean the commissioner; except for covered
4 excavation projects performed pursuant to a permit issued by a city with
5 a population in excess of one million in which case the "fiscal officer"
6 shall be the comptroller or other analogous officer of such city.

7 d. "Utility company" shall have the same meaning as subdivision twen-
8 ty-three of section two of the public service law.

9 2. Each utility company, or its contractors or subcontractors, shall
10 be required to shall be required to pay not less than the prevailing
11 rate of wage in the same trade or occupation in the locality within the
12 state where such covered excavation project is situated to each laborer,
13 worker, or mechanic in the employ of the utility company, or its
14 contractors or subcontractors, performing work on the project in accord-
15 ance with sections two hundred twenty and two hundred twenty-b of this
16 article. No permit shall be issued for a covered excavation project
17 until an agreement confirming the payment of wages as required by this
18 section has been contractually mandated and filed with the department of
19 jurisdiction, and all permits issued after the effective date of this
20 section shall include therein a copy of this section.

21 3. The enforcement of any covered excavation project pursuant to this
22 section shall be subject to the requirements of sections two hundred
23 twenty, two hundred twenty-a, two hundred twenty-b, two hundred twenty-
24 three and two hundred twenty-four-b of this article and section two
25 hundred twenty-seven of this chapter and within the jurisdiction of the
26 fiscal officer; provided, however, nothing contained in this section
27 shall be deemed to construe any covered excavation project as otherwise
28 being considered public work pursuant to this article.

29 4. Notwithstanding the provisions of any general, special or local
30 law, or judicial decision to the contrary, a covered excavation project
31 shall exclude any construction work performed under a pre-hire collec-
32 tive bargaining agreement between the utility company or its contractors
33 and subcontractors and a bona fide building and construction trade labor
34 organization which has established itself as the collective bargaining
35 representative for laborers, workers, or mechanics who will perform work
36 on such a project, and which provides that only contractors and subcon-
37 tractors who sign a pre-negotiated agreement with the labor organization
38 can perform work on such a project, or construction work performed under
39 a labor peace agreement, project labor agreement, or any other
40 construction work performed under an enforceable agreement between a
41 utility company or contractor and a bona fide building and construction
42 trade labor organization.

43 5. The fiscal officer may issue rules and regulations governing the
44 provisions of this section. Any violation of this section shall be
45 grounds for determinations and orders pursuant to section two hundred
46 twenty-b of this article.

47 § 3. This act shall take effect on the thirtieth day after it shall
48 have become a law and shall apply to all contracts for construction
49 executed and permits issued on or after such date.