STATE OF NEW YORK

10124

IN ASSEMBLY

May 6, 2024

Introduced by M. of A. LEVENBERG -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to providing protections for telecommunications tower technicians

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

Section 1. Legislative intent. Installation and maintenance of telecommunications equipment on towers is sensitive work that requires diligent consideration of safety concerns. Tower climbing is an essential yet dangerous job - between 2003 and 2022, 166 workers in the cell tower industry died on the job - but there are few regulations and safety standards in place.

Additionally, the existence of multi-layered employment structures in the industry can weaken employer accountability for ensuring safe conditions, impacting both workers and the public.

The work tower technicians perform ensures New Yorkers have access to reliable and convenient cell service that is essential to daily life, as well as reliable 911 services. Many of these towers are state assets or on state-owned land. New York state has a proprietary and economic interest in ensuring that its property is properly maintained and safeguarded, that equipment installed on state property does not cause any undue risk to property or livelihood.

§ 2. The labor law is amended by adding a new article 21-B to read as follows:

ARTICLE 21-B

TOWER TECHNICIAN PROTECTIONS

Section 790. Definitions.

790-a. Tower technician protections.

790-b. Severability.

§ 790. Definitions. For the purposes of this article, the following terms shall have the following meanings:

1. "Bidder" means any individual, business, vendor or other legal entity, or any employee, agent, consultant or person acting on behalf thereof, that submits a bid in response to a solicitation.

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

LBD15134-04-4

2. "Telecommunications tower" means any freestanding tower, monopole or similar structure or facility used for the provision of wireless services including ancillary telecommunications equipment required to integrate such structure or facility into an existing or proposed wireless network.

3. "Tower technician" means any telecommunications professional who installs, repairs, and maintains telecommunications towers and equipment.

4. "Contractor" means any person, firm, partnership, corporation, association, company, organization or other entity, including a construction manager, general or prime contractor, joint venture, or any combination thereof, which enters into a construction contract with an owner.

5. "Subcontractor" means any person, firm, partnership, corporation, company, association, organization or other entity, or any combination thereof, which is a party to a contract with a contractor, and/or party to a contract with the contractor's subcontractors at any tier to perform any portion of work within the scope of the contractor's tower services contract with the owner, including where the subcontractor has no direct privity of contract with the contractor.

6. "Procurement contract" means any written agreement entered into by a state agency for the acquisition of goods, services, or construction.

7. "Tower services" means any work performed by a tower technician, or licensing agreements regarding the use of state-owned telecommunications towers.

8. "OSHA" means the federal occupational safety and health administration.

§ 790-a. Tower technician protections. 1. For any procurement contracts for tower services entered into by New York state, or any agency, department, division, bureau, office, or other subdivision thereof and a private entity, the requirements of this section shall be met.

2. (a) Tower technicians employed by a bidder and all its contractors and/or subcontractors shall be provided the following trainings during work hours and without suffering a loss of pay, by a bona fide source, including but not limited to:

(i) OSHA's 1926 standards training for construction course;

(ii) In-person first aid and cardiopulmonary resuscitation;

(iii) Radiofrequency radiation awareness;

(iv) The globally harmonized system for classification of chemicals;

(v) OSHA's standards for protections against bloodborne pathogens;

(vi) An authorized or competent climber course;

(vii) An authorized or competent rescuer course;

(viii) A competent rigger or qualified person course;

(ix) A capstan hoist operator course;

(x) A signal person course; and

(xi) A mobile elevated work platform course.

(b) All trainings under paragraph (a) of this subdivision shall, wherever possible, meet or exceed OSHA safety standards or be OSHA certified.

3. A bidder shall submit with its bid a list of all contractors and subcontractors, that includes the following information for each such contractor and subcontractor:

(a) The bidder's name, state and federal tax identification numbers, state contractor's license number, license category, and license expiration date scope, and the duration and location of work to be performed;

(b) Confirmation that the bidder's employees, or the employees of the relevant contractor, subcontractor, or agent have the required certifications, trainings and licenses, specifying the contractor, subcontractor, or agent if applicable;

(c) A list of job titles and wages for all tower technicians;

(d) Whether such tower technicians are directly employed; and

(e) Any previous and pending enforcement actions resulting from violations of state or federal labor law, along with any penalties paid, criminal convictions, or judgments related to the provisions of New York state labor and employment laws, the federal labor standards act, and the occupational safety and health act.

4. Any information provided by a bidder shall be subject to the freedom of information law under article six of the public officers law.

5. A bidder shall, on a yearly basis, provide the information in this section to the comptroller and the department, separate from the application process.

6. Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any collective bargaining agreement to the contrary.

§ 790-b. Severability. If any clause, sentence, paragraph, subdivision or section of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or section thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this article would have been enacted even if such invalid provisions had not been included herein.

§ 3. This act shall take effect immediately.