STATE OF NEW YORK

5608

2023-2024 Regular Sessions

IN ASSEMBLY

March 16, 2023

Introduced by M. of A. REYES, DINOWITZ, COLTON, CARROLL, CRUZ, DICKENS, EPSTEIN, DURSO, GALLAGHER, GUNTHER, BURDICK, BRONSON, McMAHON, LAVINE, JOYNER, WALLACE, SEAWRIGHT, SIMON, DeSTEFANO, OTIS, L. ROSENTHAL, SILLITTI, STECK, STERN, BRABENEC, JACOBSON, JEAN-PIERRE, THIELE, FORREST, GANDOLFO, BRAUNSTEIN, MAMDANI, MAGNARELLI, SEPTIMO, JACKSON, RIVERA, ZINERMAN, DARLING, KELLES, MIKULIN -- Multi-Sponsored by -- M. of A. LUPARDO, McDONOUGH, MILLER -- read once and referred to the Committee on Labor

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:

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

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

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

a. "Covered excavation project" shall mean construction work for which a permit may be issued to a contractor or subcontractor of a utility company by the state, a county or a municipality to use, excavate, or open a street. A "covered excavation project" shall exclude construction work for which a permit may be issued to a service provided as defined by subdivision twenty-three of section one thousand twenty-b of the public authorities law.

b. "Department of jurisdiction" shall mean the department of the state, board or officer in the state, or municipal corporation or commission or board appointed pursuant to law, whose duty it is to issue a permit to a utility company, or its contractors or subcontractors, for a covered excavation project.

c. "Fiscal officer" shall mean the commissioner; except for covered excavation projects performed pursuant to a permit issued by a city with

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

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a population in excess of one million in which case the "fiscal officer" shall be the comptroller or other analogous officer of such city.

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

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

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

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

§ 3. Paragraph e of subdivision 3-a of section 220 of the labor law, as added by chapter 591 of the laws of 2008, is amended to read as follows:

e. (i) Utility companies [~~and their contractors and subcontractors~~] who, under local law or ordinance, are required, as a condition of issuance of a permit to use or open a street, to agree that none but competent workers, skilled in the work required of them shall be employed thereon and that prevailing scale of union wages shall be the prevailing wage for the similar titles as established by the fiscal officer pursuant to this section, paid to those so employed, shall be required to keep original payrolls or transcripts thereof, subscribed and sworn to or affirmed by him or her as true under the penalties of perjury, setting forth the names and addresses and showing for each workman, laborer, or mechanic the hours and days worked, the occupations worked, the hourly wage rates paid and the supplements paid or provided as, and in the manner required by paragraphs a, b and c of this subdivision.

(ii) Utility company contractors and subcontractors to whom a permit may be issued, to use or open a street, shall be required to comply with section two hundred twenty-four-f of this article, as a condition of the issuance of a permit to use or open a street, to agree that none but competent workers, skilled in the work required of them shall be employed thereon and that prevailing scale of union wages shall be the prevailing wage for the similar titles as established by the fiscal officer pursuant to this section, paid to those so employed, shall be required to keep original payrolls or transcripts thereof, subscribed and sworn to or affirmed by him or her as true under the penalties of perjury, setting forth the names and addresses and showing for each workman, laborer, or mechanic the hours and days worked, the occupations

worked, the hourly wage rates paid and the supplements paid or provided as, and in the manner required by paragraphs a, b and c of this subdivision.

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