

# STATE OF NEW YORK

6970

2011-2012 Regular Sessions

## IN ASSEMBLY

April 6, 2011

Introduced by M. of A. WRIGHT -- 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:

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 28 to read as  
4 follows:

5 § 28. Workers on excavations. Utility companies or their contractors,  
6 to whom a permit may be issued by the state, a county or a municipality  
7 to use or open a street, shall be required, before such permit shall be  
8 issued, to enter into an agreement that only competent workers skilled  
9 in the work required of them, shall be employed on the project for which  
10 such permit to use or open a street was issued, and that the prevailing  
11 wage for similar titles as established by the fiscal officer pursuant to  
12 section two hundred twenty of this chapter, be paid to those so  
13 employed. No permit shall be issued until such agreement shall have been  
14 entered into with the appropriate state, county or municipal agency, and  
15 all permits issued after the effective date of this section shall  
16 include therein a copy of this section. When permits are issued to  
17 utility companies or their contractors, the power to enforce the terms  
18 of this section shall be vested with the department consistent with the  
19 provisions of section two hundred twenty of this chapter.

20 § 3. This act shall take effect on the thirtieth day after it shall  
21 have become a law.

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

LBD00110-03-1

BILL NUMBER: A6970

SPONSOR: Wright

TITLE OF BILL: An act to amend the labor law, in relation to enacting the "roadway excavation quality assurance act"

PURPOSE:

Provides that utility companies shall use competent workers and shall pay the prevailing wage on projects where a permit to use or open a street is issued.

SUMMARY OF PROVISIONS:

Section one of the bill amends the labor law by providing a new section entitled, "Workers on Excavations." It provides that utility companies or their contractors, to whom a permit to use or open a street has been issued, shall use only competent workers skilled in the required work, and that the prevailing wage for similar titles shall be paid.

EXISTING LAW:

Subdivision 3-a(e) of section 220 of the labor law requires utility companies and their contractors and subcontractors to agree to use competent, skilled workers and to pay prevailing wages where required by local law as a condition for issuance of a permit to use or open a street.

JUSTIFICATION:

Currently, utility companies and their contractors are required to use skilled, competent workers and pay prevailing wages in localities that require these conditions to obtain a work permit to use or open a street. Existing regulations by OSHA and the State Department of Labor additionally require utility contractors throughout New York to provide training in safe-practices to their workers. Street excavation is dangerous for both workers and the public when the individuals performing the excavation are unskilled. Broken gas lines or communication cables can cause great disruption to local neighborhoods. The success of a similar law passed by New York city led the Legislature to support similar efforts by other municipalities with the enactment of chapter 591 of the laws of 2008. This bill will extend protection to the public and workers throughout New York whenever state contracts require the use of dangerous excavation work.

FISCAL IMPLICATIONS:

None.

LEGISLATIVE HISTORY:

A.404B of 2010: Passed Assembly  
A.3628 of 2008: Passed Assembly  
A.6624 of 2006: Passed Assembly  
A.8168 of 2003: Reported to Labor  
A.7431 of 2002: Referred to Labor  
A.7075 of 2000: Referred to Labor

EFFECTIVE DATE:

Thirty days following enactment.