

STATE OF NEW YORK

7849--A

IN SENATE

June 13, 2014

Introduced by Sens. LANZA, MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Cities -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT relating to joint bidding on contracts for public work projects and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. This act shall only apply to a city with a population of
2 one million or more.

3 § 2. a. "Utility interference work" shall mean any work that is
4 deemed necessary or desirable for the completion of a public work
5 project that requires the maintenance, support, protection or other
6 accommodation of energy, telecommunications or other private facilities
7 or structures not publicly owned which are located within, traversing or
8 adjacent to the construction area of such project, whether above, below
9 or at ground level, including the removal, relocation, alteration,
10 replacement, reconstruction or improvement of such facilities or struc-
11 tures.

12 b. "New York city utility interference work project" shall mean any
13 public work project within the city of New York for which the city
14 awards a contract which includes utility interference work in such
15 contract.

16 § 3. a. Notwithstanding any general, special or local law or rule or
17 regulation to the contrary, the city of New York may include utility
18 interference work in any contract for a public work project, provided
19 however that chapter 357 of the laws of 1988, known as the "gas facility
20 cost allocation act", shall continue to apply as set forth therein. If
21 the city of New York undertakes a New York city utility interference
22 work project, the city shall award the contract to the lowest responsi-
23 ble bidder. In the event that the utility interference work is not
24 included in the city's contract, nothing in this subdivision shall
25 prevent the city from including provisions in its contracts requiring

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

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1 contractors to engage in alternate methods of dispute resolution regard-
2 ing utility interference work. Further, nothing in this section is to be
3 deemed to alter, modify, amend, or revoke any of the rules presently
4 existing that govern the responsibility between the metropolitan trans-
5 portation authority and the public utilities for the payment of any of
6 the costs required for the maintenance, support, protection, or other
7 accommodation of any energy, telecommunication, or other private facili-
8 ties or structures.

9 b. Notwithstanding any general, special or local law or rule or regu-
10 lation to the contrary, when the city awards a contract for a New York
11 city utility interference work project the city shall require contrac-
12 tors and subcontractors to have, prior to entering into such contracts,
13 a record of maintaining harmonious labor relations, a commitment to
14 working with minority- and women-owned businesses through joint ventures
15 or subcontractor relationships, and a record of protecting the health
16 and safety of workers on construction projects and job sites demon-
17 strated by their experience modification rates for each of the last
18 three years. In addition, when the city awards a contract for a New York
19 city utility interference work project that exceeds one million dollars,
20 the city shall require contractors and subcontractors to have, prior to
21 entering into such contracts, apprenticeship agreements appropriate for
22 the type and scope of work to be performed, that have been registered
23 with and approved by the commissioner of the department of labor, and
24 that have been in successful operation for a period of not less than
25 three years.

26 c. Contracts awarded pursuant to this act are contracts subject to the
27 requirements of local law number 1 of the city of New York for the year
28 2013.

29 d. A New York city utility interference work project shall not be
30 subject to the provisions of this act where compliance with the
31 provisions of this act would violate the terms or conditions of any
32 applicable federal law or regulation.

33 § 4. Notwithstanding any provisions to the contrary in this act, any
34 Lower Manhattan redevelopment project, as defined in section 3 of chap-
35 ter 259 of the laws of 2004, known as the Coordinated Construction Act
36 for Lower Manhattan, as amended, shall be governed by such act while
37 such act remains in effect.

38 § 5. With respect to any project subject to this act involving natural
39 gas, all employees performing such work must be certified as qualified
40 by the federal department of transportation gas operator qualification
41 certification for the region.

42 § 6. Severability. If any clause, sentence, paragraph, section or part
43 of this act shall be adjudged by any court of competent jurisdiction to
44 be invalid such judgment shall not affect, impair or invalidate the
45 remainder thereof, but shall be confined in its operation to the clause,
46 sentence, paragraph, section or part thereof directly involved in the
47 controversy in which such judgment shall have been rendered. It is here-
48 by declared to be the intent of the legislature that this act would have
49 been enacted even if such invalid provisions had not been included here-
50 in.

51 § 7. This act shall take effect immediately and shall expire and be
52 deemed repealed December 31, 2024.

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S7849A

SPONSOR: LANZA

TITLE OF BILL: An act relating to joint bidding on contracts for public work projects and providing for the repeal of such provisions upon expiration thereof

PURPOSE: This bill would authorize the City of New York (NYC) to include utility interference work in certain contracts for public work projects.

SUMMARY OF PROVISIONS: This bill would: define "Utility interference work" (UIW) as any work that is deemed necessary or desirable for the completion of a public work project that requires the maintenance, support, protection or other accommodation of energy, telecommunications or other private facilities or structures not publicly owned which are located within, traversing or adjacent to the construction area of such project, whether above, below or at ground level, including the removal, relocation, alteration, replacement, reconstruction or improvement of such facilities or structures;

define "New York city utility interference work project" (NYCUIWP) to mean any public work project within the city of New York for which the city awards a contract which includes utility interference work in such contract;

authorize NYC to include UIW in any contract for a public work project;

require, if the UIW is included in the public contract, the contract to be awarded to the lowest responsible bidder

require, when NYC awards a contract for a NYCUIWP, contractors and subcontractors to have a record of maintaining harmonious labor relations, a commitment to working with minority- and women-owned businesses and a record of protecting the health and safety of workers on construction projects demonstrated by their experience modification rates from the last three years;

require, when NYC awards a contract for a NYCUIWP that exceeds \$1 million, contractors and subcontractors to have apprenticeship agreements that have been registered with and approved by the commissioner of the department of labor, and that have been in successful operation for a period of not less than three years;

require contracts awarded pursuant to this act to be subject Local Law 1 of the City of New York for the year 2013 (participation of MWBEs in State contracts);

require, any Lower Manhattan Redevelopment Project, as defined in section 3 of the Chapter 259 of the Laws of 2004, as amended, to be

governed by such act while such act remains in effect; and, require, with respect to any project subject to this act involving natural gas, all employees performing such work to be certified as qualified by the federal Department of Transportation gas operator qualification certification for the region.

JUSTIFICATION: Currently, when the City of New York undertakes a public works project, utility interference work is often needed to complete the project. This legislation would allow public work projects within NYC to include utility interference work in the public work project contract to administer a timely, efficient and cost effective public work project.

LEGISLATIVE HISTORY: This is new legislation.

FISCAL IMPLICATIONS: None to the state.

EFFECTIVE DATE: This act shall take effect immediately and shall expire on December 31, 2024.

STATE OF NEW YORK

10021--B

IN ASSEMBLY

June 9, 2014

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Silver, Brennan, Rodriguez) -- read once and referred to the Committee on Cities -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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

1 Section 1. This act shall only apply to a city with a population of
2 one million or more.

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4 deemed necessary or desirable for the completion of a public work
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7 or structures not publicly owned which are located within, traversing or
8 adjacent to the construction area of such project, whether above, below
9 or at ground level, including the removal, relocation, alteration,
10 replacement, reconstruction or improvement of such facilities or struc-
11 tures.

12 b. "New York city utility interference work project" shall mean any
13 public work project within the city of New York for which the city
14 awards a contract which includes utility interference work in such
15 contract.

16 § 3. a. Notwithstanding any general, special or local law or rule or
17 regulation to the contrary, the city of New York may include utility
18 interference work in any contract for a public work project, provided
19 however that chapter 357 of the laws of 1988, known as the "gas facility
20 cost allocation act", shall continue to apply as set forth therein. If
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22 work project, the city shall award the contract to the lowest responsi-
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1 included in the city's contract, nothing in this subdivision shall
2 prevent the city from including provisions in its contracts requiring
3 contractors to engage in alternate methods of dispute resolution regard-
4 ing utility interference work. Further, nothing in this section is to be
5 deemed to alter, modify, amend, or revoke any of the rules presently
6 existing that govern the responsibility between the metropolitan trans-
7 portation authority and the public utilities for the payment of any of
8 the costs required for the maintenance, support, protection, or other
9 accommodation of any energy, telecommunication, or other private facili-
10 ties or structures.

11 b. Notwithstanding any general, special or local law or rule or regu-
12 lation to the contrary, when the city awards a contract for a New York
13 city utility interference work project the city shall require contrac-
14 tors and subcontractors to have, prior to entering into such contracts,
15 a record of maintaining harmonious labor relations, a commitment to
16 working with minority- and women-owned businesses through joint ventures
17 or subcontractor relationships, and a record of protecting the health
18 and safety of workers on construction projects and job sites demon-
19 strated by their experience modification rates for each of the last
20 three years. In addition, when the city awards a contract for a New York
21 city utility interference work project that exceeds one million dollars,
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23 entering into such contracts, apprenticeship agreements appropriate for
24 the type and scope of work to be performed, that have been registered
25 with and approved by the commissioner of the department of labor, and
26 that have been in successful operation for a period of not less than
27 three years.

28 c. Contracts awarded pursuant to this act are contracts subject to the
29 requirements of local law number 1 of the city of New York for the year
30 2013.

31 d. A New York city utility interference work project shall not be
32 subject to the provisions of this act where compliance with the
33 provisions of this act would violate the terms or conditions of any
34 applicable federal law or regulation.

35 § 4. Notwithstanding any provisions to the contrary in this act, any
36 Lower Manhattan redevelopment project, as defined in section 3 of chap-
37 ter 259 of the laws of 2004, known as the Coordinated Construction Act
38 for Lower Manhattan, as amended, shall be governed by such act while
39 such act remains in effect.

40 § 5. With respect to any project subject to this act involving natural
41 gas, all employees performing such work must be certified as qualified
42 by the federal department of transportation gas operator qualification
43 certification for the region.

44 § 6. Severability. If any clause, sentence, paragraph, section or part
45 of this act shall be adjudged by any court of competent jurisdiction to
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47 remainder thereof, but shall be confined in its operation to the clause,
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49 controversy in which such judgment shall have been rendered. It is here-
50 by declared to be the intent of the legislature that this act would have
51 been enacted even if such invalid provisions had not been included here-
52 in.

53 § 7. This act shall take effect immediately and shall expire and be
54 deemed repealed December 31, 2024.

**NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)**

BILL NUMBER: A10021B

SPONSOR: Rules (Silver)

TITLE OF BILL: An act relating to joint bidding on contracts for public work projects and providing for the repeal of such provisions upon expiration thereof

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require, when NYC awards a contract for a NYCUIWP, contractors and subcontractors to have a record of maintaining harmonious labor relations, a commitment to working with minority- and women-owned businesses and a record of protecting the health and safety of workers on construction projects demonstrated by their experience modification rates from the last three years;

require, when NYC awards a contract for a NYCUIWP that exceeds \$1 million, contractors and subcontractors to have apprenticeship agreements that have been registered with and approved by the commissioner of the department of labor, and that have been in successful operation for a period of not less than three years; require contracts awarded pursuant to this act to be subject Local Law 1 of the, City of New York for the year 2013 (participation of MWBEs in State contracts);

require, any Lower Manhattan Redevelopment Project, as defined in section 3 of the Chapter 259 of the Laws of 2004, as amended, to be governed by such act while such act remains in effect; and,

require, with respect to any project subject to this act involving natural gas, all employees performing such work to be certified as qualified by the federal Department of Transportation gas operator qualification certification for the region.

JUSTIFICATION: Currently, when the City of New York undertakes a public works project, utility interference work is often needed to complete the project. This legislation would allow public work projects within NYC to include utility interference work in the public work project contract to administer a timely, efficient and cost effective public work project.

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FISCAL IMPLICATIONS: None to the state.

EFFECTIVE DATE: This act shall take effect immediately and shall expire on December 31, 2024.
