

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Keet**

A Bill

ACT 291 OF 1993
SENATE BILL 320

For An Act To Be Entitled

8 "AN ACT TO REQUIRE THE INCLUSION IN ALL BIDS FOR PUBLIC
9 WORKS PROJECTS A SEPARATE PRICE PAY ITEM FOR TRENCH OR
10 EXCAVATION SAFETY SYSTEMS; TO INVALIDATE BIDS WHICH DO NOT
11 CONTAIN SUCH PROVISIONS; TO DECLARE AN EMERGENCY; AND FOR
12 OTHER PURPOSES."

Subtitle

14 **"AN ACT TO REQUIRE THE INCLUSION IN ALL BIDS FOR**
15 **PUBLIC WORKS PROJECTS A SEPARATE PRICE PAY ITEM**
16 **FOR TRENCH OR EXCAVATION SAFETY SYSTEMS."**

18
19 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:**

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21 **SECTION 1. Whenever any agency of this state or of any county, municipality, or**
22 **school district, or other local taxing unit or improvement district enters into a contract covered**
23 **by the provisions of Arkansas Code §§ 22-9-202 - 22-9-204 for the making of repairs or**
24 **alterations or the erection of buildings or for the making of any other improvements, or for the**
25 **construction or improvement of highways, roads, streets, sidewalks, curbs, gutters, drainage or**
26 **sewer projects, or for any other construction project in which the public work or public**
27 **improvement construction project involves any trench or excavation which equals or exceeds**
28 **five (5) feet in depth, the agency, county, municipality, school district, local taxing unit or**
29 **improvement district shall require:**

30 ***(1) the current edition of Occupational Safety and Health Administration***
31 ***Standard for Excavation and Trenches Safety System, 29 CFR 1926, Subpart P, be***
32 ***specifically incorporated into the specifications for the project; and***

33 ***(2) the contract bid form to include a separate pay item for trench or***
34 ***excavation safety systems and be included in the base bid.***

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36 **SECTION 2. In the event a contractor fails to complete a separate pay item in**

1 ***accordance*** with the applicable provisions of Section I of this act, the agency, county,
2 **municipality, school district, local taxing unit or improvement district shall declare that the**
3 **bid fails to comply fully with the provisions of the specifications and bid documents and will be**
4 **considered invalid as a non-responsive bid. *The owners of the above stated project shall notify***
5 ***the State Department of Labor (Safety Division) of the award of a contract covered by this***
6 ***act.***

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8 **SECTION 3. All provisions of this act of general and permanent nature are**
9 **amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision**
10 **Commission shall incorporate the same in the Code.**

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12 **SECTION 4. If any provisions of this act or the application thereof to any person or**
13 **circumstance is held invalid, the invalidity shall not affect other provisions or applications of**
14 **the act which can be given effect without the invalid provisions or application, and to this end**
15 **the provisions of this act are declared to be severable.**

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17 **SECTION 5. All laws and parts of laws in conflict with this act are hereby repealed.**

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19 **SECTION 6. Emergency. It is hereby found and determined by the Seventy-Ninth**
20 **General Assembly of the State of Arkansas that the well-being of Arkansas' craft workers are**
21 **unnecessarily exposed to the hazards of trench excavation and the immediate passage of this**
22 **act is necessary in order to protect the health and safety of the Arkansas worker. Therefore, an**
23 **emergency is hereby declared to exist, and this act being necessary for the immediate**
24 **preservation of the public peace, health, and safety, shall be in full force and effect from and**
25 **after its passage and approval.**

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/s/ Senator Keet

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APPROVED: 03/01/93