

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

A Bill

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 PUBLIC
15 WORKS PROJECTS A SEPARATE PRICE PAY ITEM FOR TRENCH OR
16 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,
22 municipality, or school district, or other local taxing unit or improvement
23 district enters into a contract covered by the provisions of Arkansas Code §§
24 22-9-202 - 22-9-204 for the making of repairs or alterations or the erection
25 of buildings or for the making of any other improvements, or for the
26 construction or improvement of highways, roads, streets, sidewalks, curbs,
27 gutters, drainage or sewer projects, or for any other construction project in
28 which the public work or public improvement construction project involves any
29 trench or excavation which equals or exceeds five (5) feet in depth, the
30 agency, county, municipality, school district, local taxing unit or
31 improvement district shall require:

32 (1) *the current edition of Occupational Safety and Health*
33 *Administration Standard for Excavation and Trenches Safety System, 29 CFR*
34 *1926, Subpart P, be specifically incorporated into the specifications for the*
35 *project; and*

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

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4 SECTION 2. In the event a contractor fails to complete a separate pay
5 item in accordance with the applicable provisions of Section 1 of this act,
6 the agency, county, municipality, school district, local taxing unit or
7 improvement district shall declare that the bid fails to comply fully with the
8 provisions of the specifications and bid documents and will be considered
9 invalid as a non-responsive bid. The owners of the above stated project shall
10 notify the State Department of Labor (Safety Division) of the award of a
11 contract covered by this act.

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13 SECTION 3. All provisions of this act of general and permanent nature
14 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
15 Revision Commission shall incorporate the same in the Code.

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17 SECTION 4. If any provisions of this act or the application thereof to
18 any person or circumstance is held invalid, the invalidity shall not affect
19 other provisions or applications of the act which can be given effect without
20 the invalid provisions or application, and to this end the provisions of this
21 act are declared to be severable.

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

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26 SECTION 6. Emergency. It is hereby found and determined by the
27 Seventy-Ninth General Assembly of the State of Arkansas that the well-being of
28 Arkansas' craft workers are unnecessarily exposed to the hazards of trench
29 excavation and the immediate passage of this act is necessary in order to
30 protect the health and safety of the Arkansas worker. Therefore, an emergency
31 is hereby declared to exist, and this act being necessary for the immediate
32 preservation of the public peace, health, and safety, shall be in full force
33 and effect from and after its passage and approval.

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/s/ Senator Keet

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