

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: Representative Mitchell**

# A Bill

**HOUSE BILL**

## **For An Act To Be Entitled**

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

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14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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16 SECTION 1. (a) Whenever any agency of this state or of any county,  
17 municipality, or school district, or other local taxing unit or improvement  
18 district enters into a contract covered by the provisions of Arkansas Code §§  
19 22-9-202 - 22-9-204 for the making of repairs or alterations or the erection  
20 of buildings or for the making of any other improvements, or for the  
21 construction or improvement of highways, roads, streets, sidewalks, curbs,  
22 gutters, drainage or sewer projects, or for any other construction project in  
23 which the public work or public improvement construction project involves any  
24 trench or excavation which equals or exceeds five (5) feet in depth, the  
25 agency, county, municipality, school district, local taxing unit or  
26 improvement district shall require the construction contractor shall submit as  
27 part of his bid:

28 (1) standard plans and specifications for trench or excavation  
29 safety systems that meet or exceed federal Occupational Safety and Health  
30 Administration Standards as shown in 29 CFR Part 1926, Subpart P on the  
31 effective date of this act; and

32 (2) written assurance that such contractor will comply with the  
33 applicable trench safety protective measures.

34 (b) The contract bid form shall include a separate pay item for such  
35 trench or excavation safety systems.

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SECTION 2. In the event a contractor fails to comply with the applicable provisions of Section 1 of this act, the agency, county, municipality, school district, local taxing unit or improvement district shall declare that the bid fails to comply fully with the provisions of the specifications and bid documents and will be considered invalid as a non-responsive bid.

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

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

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

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

