

  
Chairman Phil Mendelson

  
Councilmember Kenyan R. McDuffie

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To establish an Underground Utility Work minimum wage for workers employed on underground projects by contractors, and subcontractors of the electrical company, which is regulated by the Public Service Commission of the District of Columbia; establish a prevailing wage track for workers employed on underground projects by electric utility contractors and subcontractors; and provide for wage enforcement by the government of the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Electrical Utility Underground Work Wage Act of 2023”.

Title 34, Subtitle 3 of the DC Official Code is amended by adding a new Chapter 16 to read as follows:

“Sec. 2. Definitions

“(1) "Electric company" shall have the same meaning as provided in D.C. Official Code § 34-207; and

“(2) “Underground Utility Work” shall mean work on contracts awarded by the electric company in an amount over \$250,000 that requires the District to issue a permit pursuant

32 to D.C. Official Code § 47-2718 to perform underground excavation utility construction work.

33 Sec. 3. Electric Company Contractor and Subcontractor Underground Utility Work

34 Minimum Wage

35 “(a) For the purposes of this section, the Underground Utility Work minimum wage shall  
36 be \$20 per hour.

37 “(1) The Underground Utility Work minimum wage shall increase by \$1 on  
38 January 1 each subsequent year until the Underground Utility Work minimum wage is \$22 per  
39 hour, after which the Department of Employment Services shall adjust the Underground Utility  
40 Work minimum wage rate for the previous calendar year, on an annual basis by the annual  
41 average increase, if any, in the Consumer Price Index for all Urban Consumers in the  
42 Washington Metropolitan Statistical Area published by the Bureau of Labor Statistics of the  
43 United States Department of Labor up to 3%. The Department shall calculate the adjustment to  
44 the nearest multiple of \$.05 and shall publish the adjusted rate not later than March 1 of each  
45 year.

46 “(b) All recipients of contracts for Underground Utility Work awarded by the electric  
47 company in an amount over \$250,000 shall pay workers directly performing duties pursuant to  
48 those contracts no less than the Underground Utility Work minimum wage, provided that the  
49 electric company contract requires the District to issue a permit to D.C. Official Code § 47-2718  
50 to perform underground excavation work.

51 “(c) All subcontractors of recipients of contracts for Underground Utility Work  
52 described in subsection (b) shall pay their workers directly performing duties pursuant to those  
53 contracts no less than the Underground Utility Work minimum wage, provided that the

54 subcontractor receives over \$50,000 from a recipient and that the receipt of funds is from the  
55 electric company contract.

56           Sec. 4. Electric Company Contractor and Subcontractor Underground Utility Work  
57 Prevailing Wage

58           “(a) For the purposes of this section, the underground utility work prevailing wage shall  
59 be the equivalent of the prevailing wage, exclusive of fringe and benefits, published in the wage  
60 determination for Washington DC published by the U.S. Department of Labor for the following  
61 categories of workers:

62                   “(1) Foreman (Group 5 of Laborers (Heavy & Highway & Sewer & Water Line  
63 Construction);

64                   “(2) Crew Leader (Group 3 of Laborers (Heavy & Highway & Sewer and Water  
65 Lines)

66                   “(3) Skilled Laborer/Pipe Layer (Group 1 Laborers (Heavy & Highway & Sewer  
67 and Water Lines);

68                   “(4) Laborer (Paving/Incidental Grading), unless the Underground Utility Work  
69 minimum wage in Sec. 3 of this act is higher;

70                   “(5) Operator (Group 3 (Sewer, Gas, Waterline Construction); and

71                   “(6) Truck Driver (Heavy & Highway).

72           “(b) All recipients of contracts awarded by the electric company in an amount over  
73 \$250,000 or more shall pay workers described subsection (a)(1-4), performing duties directly  
74 pursuant to those contracts, no less than the underground utility work prevailing wage, provided  
75 that the electric company contract requires the District to issue a permit pursuant to D.C. Official  
76 Code § 47-2718 to perform underground excavation work.

77           “(c) All subcontractors of recipients described in subsection (b) shall pay their applicable  
78 workers directly performing duties pursuant to those contracts no less than the Underground  
79 Utility Work prevailing wage described in this section, provided that the subcontractor receives  
80 over \$50,000 from a recipient and that the receipt of funds is from the electric company contract.

81           “(d) Notwithstanding the adoption of the Davis-Bacon rates, the enforcement provisions  
82 of the Davis-Bacon Act and its implementing regulations shall not apply to this Law. This law  
83 shall be enforced in the manner set forth in Section 6, below.

#### 84           Sec. 5. Implementation and Guidelines

85           “(a) Each recipient of an electric company contract subject to this act shall notify each  
86 subcontractor of applicable wage requirements.

87                   “(1) The notification shall be in writing.

88           “(b) Contractors and subcontractors subject to this act shall retain payroll records created  
89 and maintained in the regular course of business under District of Columbia law for a period of  
90 at least 3 years or the prevailing federal standard at the time the record is created, whichever is  
91 greater.

92           “(c) Any wage established under an existing collective bargaining agreement or by the  
93 recipients of a federal law or grant shall continue as long as that agreement, law, or grant shall  
94 remain in effect. This law shall not apply to vary or contradict an existing collective bargaining  
95 agreement.

96           “(d) The Covered Employers acknowledge the rights of employees under the National  
97 Labor Relations Act, 29 U.S.C. 157.

#### 98           “Sec. 6. Enforcement

99           “(a) Enforcement of this act shall be consistent with existing wage enforcement in the

100 District.

101 (1) The electric company shall not be liable for any claims pursuant to this act.

102 “(b) The Mayor shall annually publish a year-long wage schedule in the District of  
103 Columbia Register based on the requirements of this act.

104 “(c) The Mayor shall promulgate rules or issue guidance as necessary for the  
105 implementation of this act.

106 “Sec. 7. Applicability

107 “(a) Section 3 of this act shall take effect 90 days after the effective date of this act.

108 “(b) Section 4 of this act shall take effect one year after the effective date of Section 3.

109 “Sec. 8. Fiscal impact statement.

110 “The Council adopts the fiscal impact statement in the committee report as the fiscal  
111 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,  
112 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).”

113 Sec. 9. Effective date.

114 This act shall take effect following approval by the Mayor (or in the event of veto by the  
115 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as  
116 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
117 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of  
118 Columbia Register.