

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding in Chapter 3 of Title 40.1 an article numbered 1.2,*
3 *consisting of sections numbered 40.1-28.13 through 40.1-28.16, relating to prevailing wage rate;*
4 *underground infrastructure works; public service companies.*

5 [H 2743]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That the Code of Virginia is amended by adding in Chapter 3 of Title 40.1 an article numbered 1.2,**
9 **consisting of sections numbered 40.1-28.13 through 40.1-28.16, as follows:**10 *Article 1.2.*11 *Prevailing Wage for Underground Infrastructure Works.*12 **§ 40.1-28.13. Definitions.**13 *As used in this article, unless the context requires a different meaning:*14 *"Prevailing wage rate" means the rate, amount, or level of wages, salaries, benefits, and other*
15 *remuneration prevailing for the corresponding class of mechanics, laborers, or workers employed for the*
16 *same work in the same trade or occupation in the locality where the facility or immovable property that is the*
17 *subject of underground infrastructure works is located, as determined by the Commissioner on the basis of*
18 *applicable prevailing wage rate determinations made by the U.S. Secretary of Labor under the provisions of*
19 *the Davis-Bacon Act, 40 U.S.C. § 276 et seq., as amended.*20 *"Public service company" means the same as that term is defined in § 56-1, except that "public service*
21 *company" does not include any communications service provider, as defined in § 58.1-647, or any utility*
22 *formed under or subject to the Utility Consumer Services Cooperatives Act (§ 56-231.15 et seq.) and subject*
23 *to regulation as to rates and service by the Commission.*24 *"Underground infrastructure works" means any construction, reconstruction, demolition, alteration, or*
25 *repair work, other than maintenance work, including traffic control, related to an underground system of*
26 *distribution, conveyance, transmission, diversion, collection, treatment, or storage that is owned, used, or*
27 *maintained by a public service company.*28 **§ 40.1-28.14. Prevailing wage rate for underground infrastructure works.**29 *A. Each public service company, when procuring services or letting contracts for underground*
30 *infrastructure works, or when overseeing or administering such contracts for underground infrastructure*
31 *works, shall ensure that its bid specifications or other contracts applicable to underground infrastructure*
32 *works require bidders, offerors, contractors, and subcontractors to pay wages, salaries, benefits, and other*
33 *remuneration to any mechanic, laborer, or worker employed, retained, or otherwise hired to perform services*
34 *in connection with the contract for underground infrastructure works at the prevailing wage rate. Each*
35 *contract for underground infrastructure works by a public service company shall contain a provision*
36 *requiring that the remuneration to any individual performing the work of any mechanic, laborer, or worker*
37 *on the work contracted to be done shall be at a rate equal to the prevailing wage rate. The Department shall*
38 *determine and make available the prevailing wage rate for underground infrastructure work.*39 *B. A public service company subject to the requirements of this article shall, prior to entering into or*
40 *modifying a contract for underground infrastructure work, request and obtain the prevailing minimum wage*
41 *and benefit rates for highway and road construction determined by the Commissioner and make them*
42 *available to the public service company's contractors. A contractor or subcontractor who performs*
43 *underground infrastructure work shall pay not less than the prevailing minimum wage and fringe benefit*
44 *rates for highway and road construction determined by the Commissioner to every worker in every trade or*
45 *craft employed on an underground infrastructure works project.*46 *C. Contractors and subcontractors performing underground infrastructure work shall post the general*
47 *prevailing wage rate for highway and road construction involved, as determined by the Commissioner,*
48 *including the effective date of any changes thereof, in a prominent and easily accessible place at the work site*
49 *or any such place used by the contractor or subcontractor to pay workers their wages. A contractor or*
50 *subcontractor of a public service company shall, for each craft or trade employed on the project, (i) specify*
51 *the total hourly amount to be paid to employees, including wages and applicable fringe benefits; (ii) provide*
52 *an itemization of the amount paid in wages and each applicable benefit; and (iii) list the names and*
53 *addresses of any third-party fund, plan, or program to which benefit payments will be made on behalf of*
54 *employees.*55 **§ 40.1-28.15. Recordkeeping required.**56 *Each contractor or subcontractor subject to the provisions of this article shall keep, maintain, and*

57 *preserve (i) records relating to the wages paid to and hours worked by each individual performing the work*
58 *of any mechanic, laborer, or worker and (ii) a schedule of the occupation or work classification at which*
59 *each individual performing the work of any mechanic, laborer, or worker on the underground infrastructure*
60 *works project is employed during each work day and week. The contractor or subcontractor shall preserve*
61 *these records for a minimum of six years and make such records available to the Department within 10 days*
62 *of a request and shall certify that records reflect the actual hours worked and the amount paid to its workers*
63 *for whatever time period the Department requests.*

64 **§ 40.1-28.16. Application of article.**

65 *A. The provisions of this article shall not apply to any contract for underground infrastructure works of*
66 *\$250,000 or less.*

67 *B. The provisions of this article shall apply to underground infrastructure work by a public service*
68 *company that is performed under a contract that is entered into, amended, or modified on or after July 1,*
69 *2025.*