

HOUSE BILL NO. 260
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Appropriations
on _____)
(Patron Prior to Substitute—Delegate Simonds)

A BILL to amend the Code of Virginia by adding in Chapter 3 of Title 40.1 an article numbered 1.2, consisting of sections numbered 40.1-28.13 through 40.1-28.16, relating to prevailing wage rate; underground infrastructure work; public service companies.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 3 of Title 40.1 an article numbered 1.2, consisting of sections numbered 40.1-28.13 through 40.1-28.16, as follows:

Article 1.2.

Prevailing Wage for Underground Infrastructure Work.

§ 40.1-28.13. Definitions.

As used in this article, unless the context requires a different meaning:

"Prevailing wage rate" means the rate, amount, or level of wages, salaries, benefits, and other remuneration prevailing for the corresponding class of mechanics, laborers, or workers employed for the same work in the same trade or occupation in the locality where the facility or immovable property that is the subject of underground infrastructure work is located, as determined by the Commissioner on the basis of applicable prevailing wage rate determinations made by the U.S. Secretary of Labor under the provisions of the Davis-Bacon Act, 40 U.S.C. § 276 et seq., as amended.

"Public service company" means the same as that term is defined in § 56-1, except that "public service company" does not include any communications service provider, as defined in § 58.1-647, or any entity organized under Chapter 9.1 (§ 56-231.15 et seq.) of Title 56.

"Underground infrastructure work" means any construction, reconstruction, demolition, alteration, or repair work, other than maintenance work, related to an underground system of distribution, conveyance, transmission, diversion, collection, treatment, or storage that is owned, used, or maintained by a public service company.

§ 40.1-28.14. Prevailing wage rate for underground infrastructure work.

A. Each public service company, when procuring services or letting contracts for underground infrastructure work, or when overseeing or administering such contracts for underground infrastructure work, shall ensure that its bid specifications or other contracts applicable to underground infrastructure

work require bidders, offerors, contractors, and subcontractors to pay wages, salaries, benefits, and other remuneration to any mechanic, laborer, or worker employed, retained, or otherwise hired to perform services in connection with the contract for underground infrastructure work at the prevailing wage rate. Each contract for underground infrastructure work by a public service company shall contain a provision requiring that the remuneration to any individual performing the work of any mechanic, laborer, or worker on the work contracted to be done shall be at a rate equal to the prevailing wage rate.

B. A public service company subject to the requirements of this article shall, prior to entering into or modifying a contract for underground infrastructure work, request and obtain the prevailing minimum wage and benefit rates for highway and road construction determined by the Commissioner and make them available to the public service company's contractors. A contractor or subcontractor who performs underground infrastructure work shall pay not less than the prevailing minimum wage and fringe benefit rates for highway and road construction determined by the Commissioner to every worker in every trade or craft employed on an underground infrastructure work project.

C. Contractors and subcontractors performing underground infrastructure work shall post the general prevailing wage rate for highway and road construction involved, as determined by the Commissioner, including the effective date of any changes thereof, in a prominent and easily accessible place at the work site or any such place used by the contractor or subcontractor to pay workers their wages. A contractor or subcontractor of a public service company shall, for each craft or trade employed on the project, (i) specify the total hourly amount to be paid to employees, including wages and applicable fringe benefits; (ii) provide an itemization of the amount paid in wages and each applicable benefit; and (iii) list the names and addresses of any third-party fund, plan, or program to which benefit payments will be made on behalf of employees.

§ 40.1-28.15. Recordkeeping required.

Each contractor or subcontractor subject to the provisions of this article shall keep, maintain, and preserve (i) records relating to the wages paid to and hours worked by each individual performing the work of any mechanic, laborer, or worker and (ii) a schedule of the occupation or work classification at which each individual performing the work of any mechanic, laborer, or worker on the underground infrastructure work project is employed during each work day and week. The contractor or subcontractor shall preserve these records for a minimum of six years and make such records available to the Department within 10 days of a request and shall certify that records reflect the actual hours worked and the amount paid to its workers 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 work 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 *2027.*