



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-6067/1
EHS:skw

2021 ASSEMBLY BILL 1132

March 10, 2022 - Introduced by Representatives HEBL, BALDEH, CABRERA, HESSELBEIN, OHNSTAD, POPE, S. RODRIGUEZ, SINICKI, SPREITZER and VRUWINK, cosponsored by Senator AGARD. Referred to Committee on Rules.

- 1 **AN ACT** *to create* 182.0175 (1) (bv) and 182.0175 (2) (ad) and (ag) of the statutes;
2 **relating to:** excavation requirements.

Analysis by the Legislative Reference Bureau

Current law requires persons who engage in excavations to provide advance notice to the state's one-call system, commonly known as the digger's hotline, and comply with other requirements for planning and performing excavations. This bill imposes additional requirements. First, if a person is a foreign corporation, limited liability company, limited partnership, or partnership, the person must be authorized or registered to do business in this state before engaging in an excavation. Second, a person may not engage in an excavation if the person has been debarred from any government contract in any jurisdiction within the previous 10 years. Third, a person may not engage in an excavation unless the person has in place a written program for the prevention of substance abuse among all employees of the person who engage in excavations. The program must comply with requirements that are similar to requirements that apply under current law to programs for employees of public works contractors.

The bill also provides that all of the following are persons who are subject to excavation requirements under current law and the bill: individuals, corporations, associations, business enterprises, political subdivisions, local governmental units, state agencies, contractors, subcontractors, and other public or private legal entities.

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For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 182.0175 (1) (bv) of the statutes is created to read:

2 182.0175 (1) (bv) “Person” means any individual, corporation, association,
3 business enterprise, political subdivision, local governmental unit, state agency,
4 contractor, subcontractor, or other public or private legal entity.

5 **SECTION 2.** 182.0175 (2) (ad) and (ag) of the statutes are created to read:

6 182.0175 (2) (ad) *Prohibitions.* No person may engage in an excavation unless
7 the person satisfies all of the following:

8 1. The person is authorized or registered to transact business in this state by
9 the department of financial institutions, if the person is required to be authorized or
10 registered under ch. 178, 179, 180, 181, or 183.

11 2. The person has not been debarred from any government contract in any
12 jurisdiction within the 10 years preceding engagement in the excavation.

13 3. The person has in place a written program that complies with par. (ag) for
14 the prevention of substance abuse among all employees of the person who engage in
15 excavations.

16 (ag) *Substance abuse prevention programs.* 1. In this paragraph:

17 a. “Accident” means an incident caused by, contributed to by, or otherwise
18 involving an employee that resulted or could have resulted in death, personal injury,
19 or property damage and that occurred while the employee was performing work on
20 an excavation.

21 b. “Alcohol” has the meaning given in s. 340.01 (1q).

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1 c. "Drug" means any controlled substance, as defined in s. 961.01 (4), or
2 controlled substance analog, as defined in s. 961.01 (4m), for which testing is
3 required under a program.

4 d. "Program" means a substance abuse prevention program required under par.
5 (ad) 3.

6 2. At a minimum, a program shall include all of the following:

7 a. A prohibition against an employee using, possessing, attempting to possess,
8 distributing, delivering, or being under the influence of a drug, or using or being
9 under the influence of alcohol, while engaging in an excavation. An employee is
10 considered to be under the influence of alcohol for purposes of this subd. 2. a. if he
11 or she has an alcohol concentration that is equal to or greater than the amount
12 specified in s. 885.235 (1g) (d).

13 b. A requirement that employees engaging in excavations submit to random,
14 reasonable-suspicion, and post-accident drug and alcohol testing and to drug and
15 alcohol testing before commencing work on an excavation, except that testing of an
16 employee before commencing work on an excavation is not required if the employee
17 has been participating in a random testing program during the 90 days preceding the
18 date on which the employee commences work on the excavation.

19 c. A procedure for notifying an employee who violates a prohibition under subd.
20 2. a., who tests positive for the presence of a drug or a prohibited amount of alcohol
21 in his or her system, or who refuses to submit to drug or alcohol testing as required
22 under the program that the employee may not perform work on an excavation until
23 he or she tests negative for the presence of drugs in his or her system and is not under
24 the influence of alcohol as described in subd. 2. a.

25 **SECTION 3. Effective date.**

