

Introduced by: Assembly, Mr. Stephens
Date: Apr. 19, 1983
Hearing: Apr. 19, 1983
Vote: 13 Yes, 2 No
Action: Enacted as Amended

KENAI PENINSULA BOROUGH

ORDINANCE 83-21 (SUBSTITUTE)

PROVIDING FOR A BONUS PAYMENT TO CONTRACTORS WHO PROVIDE LOCAL HIRE PREFERENCE FOR PUBLIC WORKS CONSTRUCTION CONTRACTS WITHIN THE KENAI PENINSULA BOROUGH.

WHEREAS, AS 36.10.010 requires contracts let by political subdivisions of the State and regional school boards to employ 95 percent State residents where available and qualified; and

WHEREAS, AS 36.10.010 and AS 36.10.030 grants a "first hire last terminated" employment preference to qualified State residents in all Public Works Construction Contracts; and

WHEREAS, the State Department of Labor reports the construction industry skills level on the Kenai Peninsula Borough is generally high in comparison to the rest of the State; and

WHEREAS, the State Department of Labor reports that the construction industry work force has a typically high unemployment on the Kenai Peninsula; and

WHEREAS, unemployment in the Kenai Peninsula Borough during 1982 ranged from a high of 19.5% to a low of 10.4% for a mean average of 15.7% as compared to the State wide rates of a high of 12.2% and a low of 7.6% for a mean average 10.1%; and

WHEREAS, the employment of residents of the Kenai Peninsula Borough for Public Works Construction Contracts would stimulate the local economy and reduce unemployment; and

WHEREAS, the employment of residents of the Kenai Peninsula Borough for Public Works Construction Contracts would be consistent with the requirements of State resident hire laws;

NOW THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

Section 1. That the KPB Code of Ordinances is amended by adding a new Chapter 18 and shall read as follows:

18.10.010 Intent - Local hire policy. A. It is hereby declared to be the policy of the Assembly of the Kenai Peninsula Borough that a bonus be provided in all Public Works Construction Contracts over \$500,000 within the Kenai Peninsula Borough to any contractor who hires persons domiciled in the Kenai Peninsula Borough.

B. The provisions of this chapter may be made applicable to Public Works Construction Contracts for less than \$500,000 or for projects funded by service areas at the discretion of the Mayor.

C. The provisions of this chapter shall not apply to any project involving State grant funds where the terms of the grant prohibit such bonus payments unless authorized by the Assembly.

18.10.020 Application for bonus. A. Contractors desiring to apply for the local hire bonus must submit the complete application on the form provided for by the Mayor at the time of filing the notice of completion.

B. A contractor applying for the bonus may offer any part of a bonus he may receive to any subcontractor.

18.10.030 Computation of bonus. A. The bonus shall be computed by the application of the applicable formula:

1. Two and one-half (2 1/2%) percent of the bid award up to a bid award amount of \$500,000; or

2. \$12,500 plus one (1%) percent of the amount of bid award which is over \$500,000 but less than \$1,500,000; or

3. \$22,500 plus one-half (1/2%) percent of the bid award amount for bid awards of \$1,500,000 or over.

18.10.040 Certification of compliance. A. The local hire bonus shall be payable to any contractor who certifies personally or by authorized agent, under penalty of perjury, on the forms provided by the Mayor, that not less than 90% of the nonexempted total payroll hours paid for hourly payroll personnel employed after the contract bid award, was paid to persons who were at the time of hire residents of the Kenai Peninsula Borough as defined by this chapter.

B. In the event that the contractor can demonstrate that there were no qualified and available residents of the Kenai Peninsula Borough for a specific position or vacancy as defined in this chapter, the Mayor shall grant an exemption for that position or vacancy in computing the percentage of payroll hours necessary for compliance.

C. The contractor shall also certify that he posted a copy of this ordinance at a public location at

or near the job site during the entire term of the contract.

D. For the purpose of this section, a resident of the Kenai Peninsula Borough is defined as a person who certifies in writing, under penalty of perjury, on forms provided by the Mayor, that he or she is a bonafided resident of the Kenai Peninsula Borough by reason of: 1) maintaining a primary place of residence within the Kenai Peninsula Borough; 2) residency within the Kenai Peninsula Borough sufficient to qualify for voting, whether or not the person is registered to vote in Borough elections; 3) no claim of residency elsewhere; and 4) an intent to remain indefinitely.

E. A contractor may rely upon an individual's certification that he or she is a bonafided resident, whether or not the certification is true-in-fact, provided that the contractor reports all facts indicating the contrary to the Mayor within 10 days of discovery.

18.10.050 Audit. The Mayor or his delegee may audit a contractor's employment records for the purpose of determining compliance with this chapter at any time before bonus payment upon giving 48 hours advance notice, and at any time provided by law upon giving reasonable written notice.

18.10.060 Unavailability. For the purposes of this chapter it shall be conclusively presumed that there are no qualified and available domiciliaries for a given job classification or skill if none are listed in any state or private employment or placement agency within the Borough; there are no responses from or referrals by any state or private employment agency or other employment organization within 15 work days from the date of written inquiry; and no applications are received within 15 days from publication of a help wanted advertisement in a newspaper of general circulation within the Borough, provided however that in filling vacancies created after commencement of the project, publication shall not be required and the referral response time shall be 72 hours.

18.10.070 Severability--Merger with Federal and State laws. The requirements of this chapter shall be interpreted and applied in a manner consistent with other Federal and State laws, and any provision in conflict therewith shall be waived or applied in such manner as may be required to merge this chapter with the requirements of other State or federal laws.

Section 2. This ordinance shall be effective upon enactment but shall not apply to any school construction project for which the Assembly has given final approval of construction contract documents at the time of enactment of this ordinance.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON
THIS 19th DAY OF April, 1983.

Donald L. McCloud
Donald L. McCloud, Assembly President

ATTEST:

Frances Guyon
Borough Clerk