


## AGENDA ITEM SUMMARY

☐ **Consent**      ☒ **Regular**  
☐ **Workshop**    ☐ **Public Hearing**

**Submitted For: Administration**

**Background and Policy Issues:** Building trades apprentice programs are sanctioned by the State and are operated by various entities including unions and contractor organizations. It is widely agreed that these programs are beneficial for the apprentices, industry and the public. While several other small local governments have adopted preferences to encourage these programs, their magnitude of work is much smaller than ours. St. Lucie County adopted a program by resolution, which we think is legally insufficient, with various waivers of requirements.

- ## 1. Legal ruling

Approved By:  9/24/14  
County Administrator Date

## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

Fiscal Years	2015	2016	2017	2018	2019
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	*****	*****	*****	*****	*****
# ADDITIONAL FTE POSITIONS (Cumulative	_____	_____	_____	_____	_____

Is Item Included In Current Budget? Yes \_\_\_\_\_ No. \_\_\_\_\_

Budget Account No.: Fund \_\_\_\_\_ Agency \_\_\_\_\_ Org. \_\_\_\_\_ Object \_\_\_\_\_  
Reporting Category \_\_\_\_\_

### B. Recommended Sources of Funds/Summary of Fiscal Impact:

### C. Department Fiscal Review: \_\_\_\_\_

## III. REVIEW COMMENTS

### A. OFMB Fiscal and/or Contract Administration Comments:

\* No Fiscal Impact  
*[Signature]*  
OFMB  
9/24/14  
for *Barbara Wheeler 9-29-14*  
Contract Dev. and Control

### B. Legal Sufficiency:

*[Signature]* 9/30/14  
Assistant County Attorney

### C. Other Department Review:

\_\_\_\_\_  
Department Director

This summary is not to be used as a basis for payment.

**From:** Carol Bowen [mailto:cbowen@abceastflorida.com]  
**Sent:** Monday, July 28, 2014 12:24 PM  
**To:** Robert Weisman  
**Subject:** Apprenticeship Mandates

Good Afternoon Robert,

I wanted to send the below article to you regarding apprenticeship mandates. It's a little difficult to tell from the article exactly what the mandate entailed so I included the court's decision as an attachment for your review and consideration. You'll recall that I've previously referenced both in our smaller industry meetings and with commissioners that these types of ordinance have typically been thrown out by the courts and that the County would need to take that into consideration as they moved forward with their own form of a mandate.

I send this to you as current information that could be useful as staff moves forward to meet the directives imposed by the commission.

Please do not hesitate to contact me with any questions you might have.

All the best,

Carol Bowen, J.D.  
Vice President of Government Affairs  
Associated Builders and Contractors Florida East Coast Chapter, Inc.

By Patrick Ronan

## Appeals court upholds ban on union-favored hiring practice

BOSTON – A federal appeals court has ruled that communities in four New England states, including Massachusetts, cannot require companies bidding for public construction jobs to have employee-apprentice programs, a blow to trade unions that have traditionally benefited from such policies.

On Wednesday, the U.S. Court of Appeals for the First Circuit ruled against the city of Quincy's challenge of a lower-court ruling that sided with Merit Construction Alliance, a Kingston-based nonprofit that represents 75 non-union contractors.

Last year, U.S. District Court Judge Rya Zobel ruled that Quincy's ordinance requiring contractors bidding on public works jobs to have a state-approved apprentice program – used by most trade unions – violates the federal Employee Retirement Income Security Act, which sets minimum labor standards for private employers.

The appeals court decision essentially means cities and towns in the First Circuit, consisting of Massachusetts, Rhode Island, Maine, New Hampshire and Puerto Rico, can no longer narrow the bidding process by requiring apprentice training.

Ronald N. Cogliano, president of the Merit Construction Alliance, said the ruling creates an even playing field for non-union shops that have been passed over for public jobs. Many such shops don't have apprentice-training programs.

**ATTACHMENT 1**

“It’s a big victory for merit shops and, in general, for taxpayers, as well,” Cogliano said. “When you artificially limit competition in any market, prices go up. Fewer bidders means higher prices. It’s Economics 101.”

On Thursday, City Councilor James Timmins said Quincy’s apprentice requirement was meant to ensure that all construction workers were properly trained.

“The apprenticeship training programs have been a very productive part of our community and workforce development,” Timmins said Thursday. “It’s a loss that goes beyond the trade unions and into the community.”

On Friday morning, Bob Rizzi, president of the Quincy and South Shore Building Trades Council, said the court’s decision is bad for the city of Quincy, for construction workers and for taxpayers.

“It’s a great win for low wages,” Rizzi said. “Kinds who wanted to go to apprentice school instead of college just got that dream taken away from them.”

In 2012, the Merit Construction Alliance sued Quincy as it was about to open the bidding process for a \$50 million Central Middle School project. The group contended that Quincy’s “responsible employer ordinance,” which sets the terms under which the city awards contracts, contained illegal provisions.

The suit pointed to elements of the Quincy ordinance that mirror ones in Fall River that a federal judge struck down in 2011. The Quincy and Fall River cases are part of a broader push to challenge ordinances, which in many ways mirror employment conditions set by labor unions, across the state.

In response to Merit’s lawsuit, the city agreed to stop requiring that contractors’ crews be at least one-third Quincy residents for city projects. In a 2011 ruling on a similar Fall River ordinance, Zobel ruled that such requirements give contractors with local employees an unfair advantage in securing municipal work.

Quincy scored a minor victory Wednesday when the appeals court said the city did not have to pay Merit’s attorney’s fees – at least not yet. Last August, Zobel ordered the city to pay about \$81,000 in attorneys’ fees for Merit.

Although the city agreed to pay \$20,725 that corresponded to the plaintiff’s successful efforts against the city residency requirement, it is arguing that it should not have to pay the remaining \$60,000.

The appeals court directed the district court to revisit the attorney’s-fees decision and determine whether Quincy has to pay the remainder of the costs.

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