

**BRIEF**

ABC chapter sues Florida city over construction hiring requirements

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Dive Brief:

- The Florida Gulf Coast Chapter of the Associated Builders and Contractors (ABC) is suing the City of St. Petersburg, Florida, challenging the requirement that contractors use apprentices and disadvantaged workers on major projects valued at \$1 million or more. The ABC is asking the court for an injunction to keep the city from enforcing the ordinances.
- The apprentice and disadvantaged worker ordinances require that 15% of all hours worked be set aside for each of these classes of individuals. They must also pay these workers at an hourly rate — also referred to as the prevailing wage — set forth by the Davis Bacon Act. Subcontractors are also obligated to comply with these requirements for major public projects.
- The ABC maintains that Florida law prohibits agencies from requiring apprenticeships as a condition of bidding on public projects and that St. Petersburg's ordinance has expanded the definition of apprenticeships beyond what the state intended. By requiring contractors to maintain apprenticeship programs and hire disadvantaged workers, the lawsuit said, the city is in violation of Florida bidding laws, which require agencies to award projects to the responsive bidder with the lowest price.

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The suit also said that Florida law prohibits a municipality from requiring a minimum wage other than what is set forth by state or federal law and that the ordinances violate the Equal Protection Clause and the Due Process Clause of the Florida Constitution.

In addition, the lawsuit claims that these ordinances:

- Put contractors, who must factor the cost of using these workers into their bids, at a competitive disadvantage;
- Exclude contractors without apprenticeship programs and who do not hire disadvantaged workers from bidding on major projects;
- Force contractors to bear the extra expense of apprenticeship training programs;
- Expose contractors to the extra risks that comes with being forced to use inexperienced workers; and
- Force contractors to exclude from employment on major projects the experienced workers that do not fall under the apprentice or disadvantaged classification.

On the city's part, the ordinances are aimed at replacing a retiring workforce with a fresh supply of skilled workers that can staff local capital projects in the future. Penalties for contractors that fail to use apprentices and disadvantaged workers include financial penalties and not being able to bid on city projects for one to three years.

Other states are grappling with a limited pool of skilled workers as well and have instituted similar programs.

This year, the City of Denver launched its three-year Denver Construction Career Pilot Program, which required that

apprentices make up 15% of the hours on 15 projects worth almost \$1 billion. In addition, 25% of apprentices must come from targeted areas of Denver and another 15% must be first-year apprentices to ensure that the program is bringing in new workers.

The first project to use apprentices under the Denver program is the \$200 million expansion of the Colorado Convention Center. Projects that must use apprentices are those valued at \$10 million or more. Those projects that are primarily paving or concrete are excluded from the requirement.