

SUBJECT: APPROVING A WAIVER UNDER MSB 2.71.090 FOR ASSEMBLYMEMBER TIM HALE (DISTRICT 1) TO ALLOW EMPLOYMENT THROUGH OPERATING ENGINEERS LOCAL 302 IN THE EVENT THAT A CONTRACTOR OBTAINING WORKERS THROUGH ENGINEERS LOCAL 302 IS PERFORMING WORK ON BEHALF OF THE MATANUSKA-SUSITNA BOROUGH.

AGENDA OF: May 5, 2020

ASSEMBLY ACTION:

MANAGER RECOMMENDATION: Present to the Assembly for consideration.

APPROVED BY JOHN MOOSEY, BOROUGH MANAGER: _____

Route To:	Department/Individual	Initials	Remarks
	Originator	NS	For Assemblymember Hale
	Borough Attorney	NS	
	Borough Clerk	<i>Sum</i> 4/28/20	

ATTACHMENT (S): Fiscal Note: Yes _____ No X

SUMMARY STATEMENT: On October 15, 2019, the Matanuska-Susitna Borough Assembly passed ordinance 19-088 which amended the MSB ethics code at MSB 2.71.090 to prohibit elected officials from employment, holding contracts, or having any interest in contracts while in office and for three years after leaving office unless the Borough Assembly. This code section was written to be extremely broad in scope and specifically applies to any entity employing an elected official.

Specifically, MSB 2.71.090(B) now reads:

(B) Except for salary, benefits, and expense reimbursement applicable to each elected official in the course of performing their duties of elected office, an elected official of the borough, an entity employing an elected official, or an entity in which the elected official exercises any control, management, or operational decision making authority shall not be eligible to be employed, represent, advise, or assist

the borough for compensation in any manner, or have any interest in a contract to provide services or supplies to the borough while the elected official is in office or within three years after leaving office. The borough assembly, in its sole and absolute discretion, may waive application of this section in advance of any bid, response, or offer being placed.

Assemblymember Tim Hale representing District 1 is a line and grade technician. That work generally entails verifying measurements to ensure proper locations and elevations of civil construction projects. Assemblymember Hale's work is obtained through his membership in a union, specifically, Operating Engineers Local 302. Assemblymember Hale is not part of any bid preparation and has no input as to the overall project management or supervision for any company. In short, Assemblymember Hale is a front-line worker who simply does his work and gets paid. Assemblymember Hale's work assignments are handled through his union and he is assigned to certain jobs with companies who make requests through the union.

This Action Memorandum is being presented because MSB 2.71.090(B) prohibits an Assemblymember's employer from bidding or doing business with the Borough unless approved in advance by the Assembly. At this time, Assemblymember Hale is not employed by any contractor doing business with the Matanuska-Susitna Borough. However, based upon past experience, Assemblymember Hale expects to have future employment, assigned through the union, to one or more contractors who may be working on Borough projects. Potential contractors and contractors whom Assemblymember Hale have worked for in the past are Scarsella Brothers, Bush Construction, Hickel Construction, and Exclusive Paving. Assemblymember Hale has no preference among the contractors for whom he works, and these contractors are also competitors at times.

Approval of this Action Memorandum will be the Matanuska-Susitna Borough Assembly's approval for Assemblymember Hale's work as a front line worker in the event work through his union is obtained and the contractor is performing work on behalf of the Matanuska-Susitna Borough.

In the unlikely event that Assemblymember Hale is working for a contractor and that contractor bids another project during his work period, Assemblymember Hale will disclose that fact (if he is aware of it) to the Assembly and Mayor and ask to be excused from the vote as to any potential award.

RECOMMENDATION OF ADMINISTRATION: Adoption of Action Memorandum.