

~~EXHIBIT~~
SMALL BUS. & EC. DEV.
Amend for 5078 & Do Pass 2/9/90 (p. 106)

FILED FEB 21 1989

SENATE FILE 257
BY PETERSON

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to state agencies' and certain other tax-exempt
2 or tax-supported entities' competition with for-profit private
3 enterprise, by restricting the commercial activities of the
4 state board of regents' institutions, changing provisions with
5 regard to generally accepted accounting principles, altering
6 the authority of the citizens' aide to investigate claims of
7 unfair competition and make recommendations, and subjecting
8 tax-exempt nonprofit entities to reporting requirements
9 regarding competition with for-profit enterprises, imposing
10 restrictions, and providing penalties.
11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 257

S-5078

- 1 Amend Senate File 257 as follows:
- 2 1. Page 1, by striking lines 11 through 16.
- 3 2. Page 1, lines 31 and 32, by striking the words
- 4 "and licenses" and inserting the following:
- 5 "licenses, and insurance".
- 6 3. By striking page 2, line 8 through page 3,
- 7 line 10.
- 8 4. Title page, line 5, by inserting after the
- 9 word "principles," the following: "and".
- 10 5. Title page, by striking lines 7 through 10 and
- 11 inserting the following: "unfair competition and make
- 12 recommendations."

By COMMITTEE ON SMALL BUSINESS
AND ECONOMIC DEVELOPMENT
LEONARD L. BOSWELL, Chairperson

S-5078 FILED FEBRUARY 9, 1990

1 Section 1. Section 23A.2, Code 1989, is amended by adding
2 the following new subsection after subsection 2:

3 NEW SUBSECTION. 2A. The state board of regents shall, by
4 January 1, 1992, cease operations of the following business
5 enterprises or practices:

6 a. The sale of computers and software.

7 b. The direct or indirect dispensing of durable medical
8 equipment or devices sold or leased for use off the premises
9 of an institution, school, or university of Iowa hospital or
10 clinic.

5078 11 c. Commercial food or lodging facilities made available to
12 the public at large who are not students, faculty, staff, or
13 guests of the institution or school.

14 d. Offering of credit or charge account services to
15 students through the student identification (ID) system at
16 college stores.

17 Sec. 2. Section 23A.2, subsection 3, Code 1989, is amended
18 to read as follows:

19 3. After July 1, 1988, before a state agency is permitted
20 to continue to engage in an existing practice specified in
21 subsection 1, that state agency must prepare for public
22 examination documentation showing that the state agency can
23 provide the goods or services at a competitive price. The
24 documentation required by this subsection shall be in
25 ~~accordance with that required by generally accepted accounting~~
26 principles disclose all direct and indirect costs including,
27 but not limited to wages, employee pensions, and other
28 benefits, cost of utilities including heat and light,
29 machinery, and other equipment used in the operation,
30 equivalent floor plan rental costs, materials, and a prorated
5078 31 estimate of property taxes, sales, and income taxes, fees, and
5078 32 licenses that would be required if the enterprise were
33 operated in the private sector.

34 Sec. 3. Section 23A.4, unnumbered paragraph 3, is amended
35 to read as follows:

1 Chapter 17A and this section are the exclusive remedy for
2 violations of this chapter. However, the office of the
3 citizens' aide ~~may review violations of this chapter and make~~
4 ~~recommendations as provided in chapter 6016~~ may investigate
5 claims of unfair competition in violation of this chapter and
6 make recommendations to the attorney general for enforcement
7 action.

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8 Sec. 4. NEW SECTION. 23A.5 TAX-EXEMPT COMPETITION.

9 1. On or after January 1, 1992, a nonprofit entity
10 registered in Iowa under chapter 504 or 504A shall provide
11 full reporting to the Iowa department of revenue and finance,
12 and to the office of citizens' aide, of sales transactions
13 with the general public which are not directly related to
14 their statement of business, objects, or purposes in the
15 articles of incorporation as outlined in sections 504.1 and
16 504A.29, subsection 3. The report shall not include goods or
17 services to members or primary clientele of the nonprofit
18 entity.

19 2. On or after January 1, 1993, all unrelated business
20 shall be established as separate, for-profit subsidiaries of
21 the parent nonprofit entity, or shall be established as
22 separate, unaffiliated corporations, and shall be liable for
23 all licenses, taxes, fees, and other governmental charges
24 applicable to private enterprises, including property taxes on
25 all or part of buildings or grounds used for competing with
26 unrelated for-profit business enterprises.

27 3. The mixing or commingling of revenues or cross
28 subsidization between a nonprofit entity registered under
29 chapter 504 or 504A and a for-profit subsidiary is prohibited.
30 Goods, services, or any other assets shared by a nonprofit
31 entity and a for-profit entity are subject to full reporting
32 and shall be priced at fair market value as determined by a
33 survey of prices for similar services or products charged by
34 private enterprise within the intended service area.

35 4. PENALTIES. A tax-exempt entity found to be in

1 violation of this chapter by the department of revenue and
2 finance, citizens' aide, or attorney general, is liable for
3 all fees and other expenses as defined in section 625.28 in
4 addition to a civil penalty not to exceed one thousand dollars
5 per day for each day that prohibited activity continues past
6 the date of notification of violation.

7 5. This chapter does not limit incidental fund-raising
8 activities or "casual sales" as defined in section 422.42. A
9 nonprofit entity shall not be allowed more than six specific
10 fund-raising events or activities in a single calendar year.

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11 EXPLANATION

12 This bill further restricts the board of regents'
13 institutions' ability to offer specific services and goods in
14 competition with private enterprise. The bill also changes
15 the existing reporting requirements by specifying the minimum
16 disclosures required. The office of citizens' aide is
17 permitted to recommend violations for enforcement action by
18 the attorney general. Tax-exempt, nonprofit entities are
19 subjected to new reporting requirements on activities in
20 competition with for-profit, private enterprise. On or after
21 January 1, 1993, all unrelated businesses of a tax-exempt,
22 nonprofit entity are required to be organized as separate
23 subsidiaries or independent corporations, subject to all
24 licenses, taxes, fees, and other governmental charges which a
25 for-profit, private enterprise engaged in the same activity is
26 subject to. Cross subsidization or commingling of funds
27 between nonprofit and for-profit affiliates is prohibited.
28 The maximum penalty for each violation is \$1,000 per day for
29 each violation after notice of a violation, and payment of any
30 fees, taxes, or other governmental charges due. No more than
31 six fund-raising activities or events are permitted by a tax-
32 exempt, nonprofit entity per year.

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