

JAN 25 1990

Place On Calendar

HOUSE FILE 2177

BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 532)

Passed House, Date 2-2-90 (p. 299) Passed Senate, <sup>as amended</sup> Date 3/22/90 (p. 1262)

Vote: Ayes 93 Nays 0 Vote: Ayes 44 Nays 0

Approved April 3, 1990

*Repassed House as amended (H-5842)  
3/26/90 (p. 1416)*

92-0

**A BILL FOR**

1 An Act relating to the operation of state hospital-schools under  
2 the control of the department of human services by authorizing  
3 the offering of goods and services to the public as part of  
4 client training programs and by deleting the requirement of  
5 maintaining daily records of time worked by institutional  
6 staff.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

**HOUSE FILE 2177**

HF 2177

**S-5303**

1 Amend House File 2177, as passed by the House, as  
2 follows:  
3 1. Page 1, line 10, by inserting after the word  
4 "county" the following: "or counties contiguous to  
5 the county".

By COMMITTEE ON HUMAN RESOURCES  
BEVERLY A. HANNON, Chairperson

**S-5303 FILED MARCH 1, 1990**

*6/15 3/22 (p. 1261)*

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1 Section 1. Section 23A.2, subsection 10, Code 1989, is  
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. 1. The offering of goods and services to  
4 the public as part of a client training program operated by a  
5 state hospital-school under the control of the department of  
6 human services provided that both of the following conditions  
7 are met:

8 (1) Prior to operating any off-campus work and training  
9 program, a state hospital-school shall offer private providers  
10 of work and training services serving the county where the  
11 hospital-school would offer the service an opportunity on a  
12 cost-effective basis to provide the off-campus service to the  
13 hospital-school's clients. If a private provider cannot  
14 provide the off-campus service, the hospital-school may  
15 provide the service. The hospital-school must offer on an  
16 annual basis any private provider an opportunity to provide  
17 the service.

S-5303

18 (2) The price of any goods and services offered to anyone  
19 other than a state agency or a political subdivision shall be  
20 at a minimum sufficient to cover the cost of any materials and  
21 supplies used in the program and to cover client wages as  
22 established in accordance with the federal Fair Labor  
23 Standards Act.

24 Sec. 2. Section 218.18, Code 1989, is repealed.

25 EXPLANATION

26 Section 1 of this bill exempts goods and services offered  
27 to the public as part of a client training program operated by  
28 a state hospital-school under the control of the department of  
29 human services from the provision of the Code prohibiting  
30 state agencies from competing with private enterprise in the  
31 sale or production of goods or services on the following  
32 conditions: (1) A private provider of work and training  
33 services was first offered an opportunity to provide service  
34 to the hospital-school's clients but could not do so, and (2)  
35 The price of any goods or services offered by the hospital-

1 school's training program is at least sufficient to cover the  
2 cost of materials and supplies, and client wages established  
3 in accordance with the federal Fair Labor Standards Act.

4 Section 2 repeals a Code provision requiring department of  
5 human services institutional staff to maintain daily records  
6 of time worked.

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## SENATE AMENDMENT TO HOUSE FILE 2177

H-5842

1 Amend House File 2177, as passed by the House, as  
2 follows:

3 1. Page 1, line 6, by striking the word "both"  
4 and inserting the following: "all".

5 2. Page 1, by striking lines 8 through 17 and  
6 inserting the following:

7 "(1) Any off-campus vocational or employment  
8 training program developed or operated by the  
9 department of human services for clients of a state  
10 hospital-school is a supported vocational training  
11 program or a supported employment program offered by a  
12 community-based provider of services or other employer  
13 in the community.

14 (2) (a) If a resident of a state hospital-school  
15 is to participate in an employment or training program  
16 which pays a wage in compliance with the federal Fair  
17 Labor Standards Act, the state hospital-school shall  
18 develop a community placement plan for the resident.  
19 The community placement plan shall identify the  
20 services and supports the resident would need in order  
21 to be discharged from the state hospital-school and to  
22 live and work in the community. The state hospital-  
23 school shall make reasonable efforts to implement the  
24 community placement plan including referring the  
25 resident to community-based providers of services.

26 (b) If a community-based provider of services is  
27 unable to accept a resident who is referred by the  
28 state hospital-school, the state hospital-school shall  
29 request and the provider shall indicate in writing to  
30 the state hospital-school the provider's reasons for  
31 its inability to accept the resident and describe what  
32 is needed to accept the resident.

33 (c) A resident who cannot be placed in a community  
34 placement plan with a community-based provider of  
35 services may be placed by the state hospital-school in  
36 an on-campus or off-campus vocational or employment  
37 training program. However, prior to placing a  
38 resident in an on-campus vocational or employment  
39 training program, the state hospital-school shall seek  
40 an off-campus vocational or employment training  
41 program offered by a community-based provider who  
42 serves the county in which the state hospital-school  
43 is based or the counties contiguous to the county,  
44 provided that the resident will not be required to  
45 travel for more than thirty minutes one way to obtain  
46 services.

47 If off-campus services cannot be provided by a  
48 community-based provider, the state hospital-school  
49 shall offer the resident an on-campus vocational or  
50 employment training program. The on-campus program

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Page 2

1 shall be operated in compliance with the federal Fair  
2 Labor Standards Act. At least semiannually, the state  
3 hospital-school shall seek an off-campus community-  
4 based vocational or employment training option for  
5 each resident placed in an on-campus program. The  
6 state hospital-school shall not place a resident in an  
7 off-campus program in which the cost to the state  
8 hospital-school would be in excess of the provider's  
9 actual cost as determined by purchase of service rules  
10 or if the service would not be reimbursed under the  
11 medical assistance program."

12 3. Page 1, by inserting after line 23 the fol-  
13 lowing:

14 "(4) Nothing in this paragraph shall be construed  
15 to prohibit a state hospital-school from providing a  
16 service a resident needs for compliance with  
17 accreditation standards for intermediate care  
18 facilities for the mentally retarded."

19 4. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-5842 FILED MARCH 23, 1990

*House concurred 3/26 (7 1414)*

## HOUSE FILE 2177

S-5660

- 1 Amend House File 2177, as passed by the House, as  
2 follows:
- 3 1. Page 1, line 6, by striking the word "both"  
4 and inserting the following: "all".
- 5 2. Page 1, by striking lines 8 through 17 and  
6 inserting the following:
- 7 "(1) Any off-campus vocational or employment  
8 training program developed or operated by the  
9 department of human services for clients of a state  
10 hospital-school is a supported vocational training  
11 program or a supported employment program offered by a  
12 community-based provider of services or other employer  
13 in the community.
- 14 (2) (a) If a resident of a state hospital-school  
15 is to participate in an employment or training program  
16 which pays a wage in compliance with the federal Fair  
17 Labor Standards Act, the state hospital-school shall  
18 develop a community placement plan for the resident.  
19 The community placement plan shall identify the  
20 services and supports the resident would need in order  
21 to be discharged from the state hospital-school and to  
22 live and work in the community. The state hospital-  
23 school shall make reasonable efforts to implement the  
24 community placement plan including referring the  
25 resident to community-based providers of services.
- 26 (b) If a community-based provider of services is  
27 unable to accept a resident who is referred by the  
28 state hospital-school, the state hospital-school shall  
29 request and the provider shall indicate in writing to  
30 the state hospital-school the provider's reasons for  
31 its inability to accept the resident and describe what  
32 is needed to accept the resident.
- 33 (c) A resident who cannot be placed in a community  
34 placement plan with a community-based provider of  
35 services may be placed by the state hospital-school in  
36 an on-campus or off-campus vocational or employment  
37 training program. However, prior to placing a  
38 resident in an on-campus vocational or employment  
39 training program, the state hospital-school shall seek  
40 an off-campus vocational or employment training  
41 program offered by a community-based provider who  
42 serves the county in which the state hospital-school  
43 is based or the counties contiguous to the county,  
44 provided that the resident will not be required to  
45 travel for more than thirty minutes one way to obtain  
46 services.
- 47 If off-campus services cannot be provided by a  
48 community-based provider, the state hospital-school  
49 shall offer the resident an on-campus vocational or  
50 employment training program. The on-campus program

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Page 2

1 shall be operated in compliance with the federal Fair  
2 Labor Standards Act. At least semiannually, the state  
3 hospital-school shall seek an off-campus community-  
4 based vocational or employment training option for  
5 each resident placed in an on-campus program. The  
6 state hospital-school shall not place a resident in an  
7 off-campus program in which the cost to the state  
8 hospital-school would be in excess of the provider's  
9 actual cost as determined by purchase of service rules  
10 or if the service would not be reimbursed under the  
11 medical assistance program."

12 3. Page 1, by inserting after line 23 the fol-  
13 lowing:

14 "(4) Nothing in this paragraph shall be construed  
15 to prohibit a state hospital-school from providing a  
16 service a resident needs for compliance with  
17 accreditation standards for intermediate care  
18 facilities for the mentally retarded."

19 4. By renumbering as necessary.

By MAGGIE TINSMAN  
BEVERLY A. HANNON  
MARK R. HAGERLA

S-5660 FILED MARCH 22, 1990

ADOPTED (p. 1262)

HOUSE FILE 2177

BY (PROPOSED DEPARTMENT OF  
HUMAN SERVICES BILL)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the operation of institutions under the  
2 control of the department of human services by authorizing the  
3 offering of goods and services to the public as part of client  
4 training programs and by deleting the requirement of  
5 maintaining daily records of time worked by institutional  
6 staff.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 23A.2, subsection 10, Code 1989, is  
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. 1. The offering of goods and services to  
4 the public as part of a client training program operated by an  
5 institution of the department of human services.

6 Sec. 2. Section 218.18, Code 1989, is amended by striking  
7 the section.

8 EXPLANATION

9 Section 1 of this bill exempts goods and services offered  
10 to the public as part of a client training program operated by  
11 an institution of the department of human services from the  
12 provision of the Code prohibiting state agencies from  
13 competing with private enterprise in the sale or production of  
14 goods or services.

15 Section 2 repeals a Code provision requiring department of  
16 human services institutional staff to maintain daily records  
17 of time worked.

18 BACKGROUND STATEMENT

19 SUBMITTED BY THE AGENCY

20 Section 1 -- Many institution training programs involve the  
21 manufacture of products or the provision of services which are  
22 offered to the public. Chapter 23A enacted by the 1988  
23 General Assembly created a complete ban on state agencies  
24 doing anything that "competes" with private industry.

25 Historically the institutions have operated client training  
26 programs that involve the manufacture of small products that  
27 have been sold to cover the cost of materials and provide some  
28 income for the client. More recently, institutions have been  
29 developing programs that offer services to the general public,  
30 i.e., cleaning.

31 Accrediting bodies are expecting client training programs  
32 to be real work. Something that is comparable to a job that  
33 would be done in the normal work world. The product is to be  
34 something that is in fact useful and not just "makework". A  
35 strict enforcement of chapter 23A would severely restrict our

1 ability to develop appropriate training programs.

2 Section 2 -- Section 218.18 of the Code requires daily time  
3 records for all employees of department of human services'  
4 institutions regardless of pay status. It is not appropriate  
5 to require salaried employees who are not eligible for  
6 overtime and who do not have set hours to maintain daily time  
7 records. Such employees in central office do not maintain  
8 daily records. The language is old and has not been updated  
9 to reflect current practice. The language says the purpose of  
10 the record is to prepare the semimonthly payroll. The state  
11 has not used a semimonthly payroll for years.

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HOUSE FILE 2177

AN ACT

RELATING TO THE OPERATION OF STATE HOSPITAL-SCHOOLS UNDER THE CONTROL OF THE DEPARTMENT OF HUMAN SERVICES BY AUTHORIZING THE OFFERING OF GOODS AND SERVICES TO THE PUBLIC AS PART OF CLIENT TRAINING PROGRAMS AND BY DELETING THE REQUIREMENT OF MAINTAINING DAILY RECORDS OF TIME WORKED BY INSTITUTIONAL STAFF.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 23A.2, subsection 10, Code 1989, is amended by adding the following new paragraph:

NEW PARAGRAPH. 1. The offering of goods and services to the public as part of a client training program operated by a state hospital-school under the control of the department of human services provided that all of the following conditions are met:

(1) Any off-campus vocational or employment training program developed or operated by the department of human services for clients of a state hospital-school is a supported vocational training program or a supported employment program offered by a community-based provider of services or other employer in the community.

(2) (a) If a resident of a state hospital-school is to participate in an employment or training program which pays a wage in compliance with the federal Fair Labor Standards Act, the state hospital-school shall develop a community placement plan for the resident. The community placement plan shall identify the services and supports the resident would need in order to be discharged from the state hospital-school and to live and work in the community. The state hospital-school shall make reasonable efforts to implement the community placement plan including referring the resident to community-

based providers of services.

(b) If a community-based provider of services is unable to accept a resident who is referred by the state hospital-school, the state hospital-school shall request and the provider shall indicate in writing to the state hospital-school the provider's reasons for its inability to accept the resident and describe what is needed to accept the resident.

(c) A resident who cannot be placed in a community placement plan with a community-based provider of services may be placed by the state hospital-school in an on-campus or off-campus vocational or employment training program. However, prior to placing a resident in an on-campus vocational or employment training program, the state hospital-school shall seek an off-campus vocational or employment training program offered by a community-based provider who serves the county in which the state hospital-school is based or the counties contiguous to the county, provided that the resident will not be required to travel for more than thirty minutes one way to obtain services.

If off-campus services cannot be provided by a community-based provider, the state hospital-school shall offer the resident an on-campus vocational or employment training program. The on-campus program shall be operated in compliance with the federal Fair Labor Standards Act. At least semiannually, the state hospital-school shall seek an off-campus community-based vocational or employment training option for each resident placed in an on-campus program. The state hospital-school shall not place a resident in an off-campus program in which the cost to the state hospital-school would be in excess of the provider's actual cost as determined by purchase of service rules or if the service would not be reimbursed under the medical assistance program.

(3) The price of any goods and services offered to anyone other than a state agency or a political subdivision shall be at a minimum sufficient to cover the cost of any materials and

supplies used in the program and to cover client wages as established in accordance with the federal Fair Labor Standards Act.

(4) Nothing in this paragraph shall be construed to prohibit a state hospital-school from providing a service a resident needs for compliance with accreditation standards for intermediate care facilities for the mentally retarded.

Sec. 2. Section 218.18, Code 1989, is repealed.

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DONALD D. AVENSON  
Speaker of the House

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JO ANN ZIMMERMAN  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2177, Seventy-third General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved April 3, 1990

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TERRY E. BRANSTAD  
Governor