

Trans. No. 3387 to Bl. P. 3/14 (p. 952)

1989

MAR 7 1989

HOUSE FILE 506

STATE GOVERNMENT

BY HANSEN of Woodbury and
HARBOR

Passed House, Date 3-22-89 (p. 952) Passed Senate, Date 4-13-89 (p. 1426)
Vote: Ayes 96 Nays 0 Vote: Ayes 48 Nays 0
Approved 5-2-89 (p. 2327)

A BILL FOR

1 An Act relating to the solicitation of public donations and
2 making penalties applicable.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 506

H-3387

- 1 Amend House File 506 as follows:
- 2 1. Page 3, by striking lines 1 through 4, and
- 3 inserting the following: "furnished by the secretary
- 4 of state."
- 5 2. Page 3, by inserting after line 16 the
- 6 following:
- 7 "Sec. ____ . NEW SECTION. 122.7 SEVERABILITY.
- 8 If any provision of this chapter or application of
- 9 a provision of this chapter to any person or
- 10 circumstances is held invalid, the invalidity shall
- 11 not affect other provisions or applications of the
- 12 chapter which can be given effect without the invalid
- 13 provision or application, and to this end, the
- 14 provisions of this chapter are severable."
- 15 3. By numbering and renumbering as necessary.

By COMMITTEE ON STATE GOVERNMENT
BLANSHAN of Greene, Chairperson

H-3387 FILED MARCH 15, 1989
adopted 3-22-89 (p. 952)

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1 Section 1. Section 122.1, Code 1989, is amended to read as
2 follows:

3 122.1 CONDITIONS.

4 ~~No~~ An organization, institution, or charitable association,
5 either directly or through agents or representatives, shall
6 not solicit public donations in this state, unless it ~~be~~ a
7 ~~corporation-duly-incorporated-under-the-laws-of-this-state-or~~
8 ~~authorized-to-do-business-in-this-state;~~ has first obtained a
9 permit therefor from the secretary of state, ~~and-has-filed~~
10 ~~with-the-secretary-of-state-a-surety-company-bond-in-the-sum~~
11 ~~of-one-thousand-dollars,-running-to-the-state-and-conditioned~~
12 ~~that-the-applicant-will-devote-all-donations-directly-to-the~~
13 ~~purpose-stated-and-for-which-the-donations-were-given,-and~~
14 ~~will-otherwise-comply-with-the-laws-of-this-state-and-the~~
15 ~~requirements-of-the-secretary-of-state-in-regard-thereto. The~~
16 ~~secretary-of-state-shall-have-full-discretion-as-to-whom-the~~
17 ~~secretary-will-issue-permits,-and-shall-be-satisfied-before~~
18 ~~issuing-any-such-permit-that-the-applicant-is-reputable-and~~
19 ~~that-the-purposes-for-which-donations-from-the-public-are-to~~
20 ~~be-solicited-are-legitimate-and-worthy. The application for a~~
21 permit under this section shall be on a form prescribed and
22 furnished by the secretary of state. The secretary may
23 accept, as an application for a permit, articles of incor-
24 poration filed pursuant to section 504A.30 and a request for a
25 permit in lieu of a separate application.

26 Sec. 2. Section 122.2, Code 1989, is amended to read as
27 follows:

28 122.2 FEES.

29 The secretary of state shall collect a fee of one-dollar
30 ten dollars for each such permit issued. Such a permit will
31 authorize the applicant therefor, either directly or through
32 its agents or representatives, to solicit public donations in
33 any county, city, or township in this state, ~~subject, however,~~
34 ~~to-such-restrictions-as-the-secretary-of-state-may-prescribe.~~

35 Sec. 3. Section 122.3, Code 1989, is amended to read as

1 follows:

2 122.3 REVOCATION OF PERMIT.

3 Said A permit shall expire annually on the thirty-first day
4 of December following the date of issuance, ~~or it may be~~
5 ~~suspended or revoked at any time at the discretion of the~~
6 ~~secretary of state when in the secretary's judgment the~~
7 ~~authority vested therein is abused or the transactions~~
8 ~~consummated thereunder are not in conformity with the intent~~
9 ~~and purpose of this chapter.~~

10 Sec. 4. Section 122.4, Code 1989, is amended to read as
11 follows:

12 122.4 EXCEPTIONS.

13 ~~Nothing in this~~ This chapter, however, shall not be
14 construed to prohibit any person as representative or agent of
15 any local organization, church, school, or any recognized
16 society or branch of any church or school, from publicly
17 soliciting funds or donations from within the county in which
18 such person resides, or such church, school, institution,
19 organization, or charitable association is located, or within
20 an adjoining county if such residence or location is within
21 six miles of such adjoining county. Any such organized
22 institution or charitable association having a permit under
23 the provisions of this chapter shall file an annual report
24 with the secretary of state during the month of December of
25 each year, which report shall contain, in accordance with
26 generally approved accounting methods, the following
27 information:

28 1. The names and post-office addresses of its officers,
29 and whether any change has been made during the year previous
30 to making such report.

31 2. A detailed statement of all moneys received during the
32 year previous to making said report.

33 3. A detailed statement of moneys disbursed during the
34 year previous to making said report, and for what purpose.

35 The annual report shall be made on forms prescribed and

33671 furnished by the secretary of state. The secretary may accept
2 an annual report filed pursuant to chapter 504A in lieu of the
3 annual report required under this section if it contains all
4 of the information required to be filed under this section.

5 At the time of filing this annual report ~~said~~ the
6 organization, institution, or charitable association shall pay
7 to the secretary of state a filing fee ~~in-the-sum~~ of two five
8 dollars.

9 Sec. 5. Section 122.5, Code 1989, is amended by adding the
10 following new unnumbered paragraph:

11 NEW UNNUMBERED PARAGRAPH. A violation of this chapter is a
12 violation of section 714.16, subsection 2, paragraph "a". In
13 addition to the penalties imposed pursuant to section 122.6,
14 the provisions of section 714.16, including but not limited to
15 provisions relating to investigation, injunctive relief, and
16 penalties apply to this chapter.

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17 Sec. 6. Section 714.16, subsection 2, paragraph a,
18 unnumbered paragraph 1, Code 1989, is amended to read as
19 follows:

20 The act, use or employment by a person of an unfair
21 practice, deception, fraud, false pretense, false promise, or
22 misrepresentation, or the concealment, suppression, or
23 omission of a material fact with intent that others rely upon
24 the concealment, suppression, or omission, in connection with
25 the lease, sale, or advertisement of any merchandise or the
26 solicitation of contributions for charitable purposes, whether
27 or not a person has in fact been misled, deceived, or damaged,
28 is an unlawful practice.

29 EXPLANATION

30 This bill eliminates the full discretionary power of the
31 secretary of state to issue permits to applicants for the
32 solicitation of public donations. The bill also provides for
33 the acceptance, in lieu of a separate application, of the
34 articles of incorporation of an organization, institution, or
35 charitable association for the purpose of issuing a permit for

1 solicitation of public donations. The bill also increases the
2 permit fee from one dollar to ten dollars and removes the
3 secretary of state's authority to impose restrictions on
4 solicitation of public donations. The bill removes the
5 secretary of state's discretionary authority to revoke
6 permits, increases the annual fee for filing a financial
7 disclosure statement from two to five dollars, and provides
8 that the provisions of chapter 122 are enforceable under the
9 consumer fraud Act.

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Sen. State Court
Do pass 3-30-89 (p 1100)

HOUSE FILE 506
BY HANSEN of Woodbury and
HARBOR

(As Amended and Passed by the House March 22, 1989)

Passed House, Date 3-22-89 (p 952) Passed Senate, Date 4-13-89 (p 1426)
Vote: Ayes 96 Nays 0 Vote: Ayes 48 Nays 0
Approved 52-89 (p 2327)

A BILL FOR

1 An Act relating to the solicitation of public donations and
2 making penalties applicable.

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

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House Amendments _____

1 Section 1. Section 122.1, Code 1989, is amended to read as
2 follows:

3 122.1 CONDITIONS.

4 No An organization, institution, or charitable association,
5 either directly or through agents or representatives, shall
6 not solicit public donations in this state, unless it be a
7 ~~corporation-duly-incorporated-under-the-laws-of-this-state-or~~
8 ~~authorized-to-do-business-in-this-state,~~ has first obtained a
9 permit therefor from the secretary of state, ~~and-has-filed~~
10 ~~with-the-secretary-of-state-a-surety-company-bond-in-the-sum~~
11 ~~of-one-thousand-dollars,-running-to-the-state-and-conditioned~~
12 ~~that-the-applicant-will-devote-all-donations-directly-to-the~~
13 ~~purpose-stated-and-for-which-the-donations-were-given,-and~~
14 ~~will-otherwise-comply-with-the-laws-of-this-state-and-the~~
15 ~~requirements-of-the-secretary-of-state-in-regard-thereto.~~ The
16 ~~secretary-of-state-shall-have-full-discretion-as-to-whom-the~~
17 ~~secretary-will-issue-permits,-and-shall-be-satisfied-before~~
18 ~~issuing-any-such-permit-that-the-applicant-is-reputable-and~~
19 ~~that-the-purposes-for-which-donations-from-the-public-are-to~~
20 ~~be-solicited-are-legitimate-and-worthy.~~ The application for a
21 permit under this section shall be on a form prescribed and
22 furnished by the secretary of state. The secretary may
23 accept, as an application for a permit, articles of incor-
24 poration filed pursuant to section 504A.30 and a request for a
25 permit in lieu of a separate application.

26 Sec. 2. Section 122.2, Code 1989, is amended to read as
27 follows:

28 122.2 FEES.

29 The secretary of state shall collect a fee of one-dollar
30 ten dollars for each such permit issued. Such a permit will
31 authorize the applicant therefor, either directly or through
32 its agents or representatives, to solicit public donations in
33 any county, city, or township in this state, ~~subject,-however,~~
34 ~~to-such-restrictions-as-the-secretary-of-state-may-prescribe.~~

35 Sec. 3. Section 122.3, Code 1989, is amended to read as

1 follows:

2 122.3 REVOCATION OF PERMIT.

3 Said A permit shall expire annually on the thirty-first day
4 of December following the date of issuance, ~~or it may be~~
5 ~~suspended or revoked at any time at the discretion of the~~
6 ~~secretary of state when in the secretary's judgment the~~
7 ~~authority vested therein is abused or the transactions~~
8 ~~consummated thereunder are not in conformity with the intent~~
9 ~~and purpose of this chapter.~~

10 Sec. 4. Section 122.4, Code 1989, is amended to read as
11 follows:

12 122.4 EXCEPTIONS.

13 ~~Nothing in this~~ This chapter, however, shall not be
14 construed to prohibit any person as representative or agent of
15 any local organization, church, school, or any recognized
16 society or branch of any church or school, from publicly
17 soliciting funds or donations from within the county in which
18 such person resides, or such church, school, institution,
19 organization, or charitable association is located, or within
20 an adjoining county if such residence or location is within
21 six miles of such adjoining county. Any such organized
22 institution or charitable association having a permit under
23 the provisions of this chapter shall file an annual report
24 with the secretary of state during the month of December of
25 each year, which report shall contain, in accordance with
26 generally approved accounting methods, the following
27 information:

28 1. The names and post-office addresses of its officers,
29 and whether any change has been made during the year previous
30 to making such report.

31 2. A detailed statement of all moneys received during the
32 year previous to making said report.

33 3. A detailed statement of moneys disbursed during the
34 year previous to making said report, and for what purpose.

35 The annual report shall be made on forms prescribed and

1 furnished by the secretary of state.

2 At the time of filing this annual report said the
3 organization, institution, or charitable association shall pay
4 to the secretary of state a filing fee ~~in-the-sum~~ of two five
5 dollars.

6 Sec. 5. Section 122.5, Code 1989, is amended by adding the
7 following new unnumbered paragraph:

8 NEW UNNUMBERED PARAGRAPH. A violation of this chapter is a
9 violation of section 714.16, subsection 2, paragraph "a". In
10 addition to the penalties imposed pursuant to section 122.6,
11 the provisions of section 714.16, including but not limited to
12 provisions relating to investigation, injunctive relief, and
13 penalties apply to this chapter.

14 Sec. 6. NEW SECTION. 122.7 SEVERABILITY.

15 If any provision of this chapter or application of a
16 provision of this chapter to any person or circumstances is
17 held invalid, the invalidity shall not affect other provisions
18 or applications of the chapter which can be given effect
19 without the invalid provision or application, and to this end,
20 the provisions of this chapter are severable.

21 Sec. 7. Section 714.16, subsection 2, paragraph a,
22 unnumbered paragraph 1, Code 1989, is amended to read as
23 follows:

24 The act, use or employment by a person of an unfair
25 practice, deception, fraud, false pretense, false promise, or
26 misrepresentation, or the concealment, suppression, or
27 omission of a material fact with intent that others rely upon
28 the concealment, suppression, or omission, in connection with
29 the lease, sale, or advertisement of any merchandise or the
30 solicitation of contributions for charitable purposes, whether
31 or not a person has in fact been misled, deceived, or damaged,
32 is an unlawful practice.

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HOUSE FILE 506

AN ACT

RELATING TO THE SOLICITATION OF PUBLIC DONATIONS AND MAKING
PENALTIES APPLICABLE.

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

Section 1. Section 122.1, Code 1989, is amended to read as follows:

122.1 CONDITIONS.

No An organization, institution, or charitable association, either directly or through agents or representatives, shall not solicit public donations in this state, unless it be a corporation duly incorporated under the laws of this state or authorized to do business in this state, has first obtained a permit therefor from the secretary of state, and has filed with the secretary of state a surety company bond in the sum of one thousand dollars, running to the state and conditioned that the applicant will devote all donations directly to the purpose stated and for which the donations were given, and will otherwise comply with the laws of this state and the requirements of the secretary of state in regard thereto. The secretary of state shall have full discretion as to whom the secretary will issue permits, and shall be satisfied before issuing any such permit that the applicant is reputable and that the purposes for which donations from the public are to be solicited are legitimate and worthy. The application for a permit under this section shall be on a form prescribed and furnished by the secretary of state. The secretary may accept, as an application for a permit, articles of incorporation filed pursuant to section 504A.30 and a request for a permit in lieu of a separate application.

Sec. 2. Section 122.2, Code 1989, is amended to read as follows:

122.2 FEES.

The secretary of state shall collect a fee of ~~one dollar~~ ten dollars for each such permit issued. Such a permit will authorize the applicant therefor, either directly or through its agents or representatives, to solicit public donations in any county, city, or township in this state, ~~subject, however, to such restrictions as the secretary of state may prescribe.~~

Sec. 3. Section 122.3, Code 1989, is amended to read as follows:

122.3 REVOCATION OF PERMIT.

~~Said a~~ permit shall expire annually on the thirty-first day of December following the date of issuance, ~~or it may be suspended or revoked at any time at the discretion of the secretary of state when in the secretary's judgment the authority vested therein is abused or the transactions consummated thereunder are not in conformity with the intent and purpose of this chapter.~~

Sec. 4. Section 122.4, Code 1989, is amended to read as follows:

122.4 EXCEPTIONS.

Nothing in this This chapter, however, shall not be construed to prohibit any person as representative or agent of any local organization, church, school, or any recognized society or branch of any church or school, from publicly soliciting funds or donations from within the county in which such person resides, or such church, school, institution, organization, or charitable association is located, or within an adjoining county if such residence or location is within six miles of such adjoining county. Any such organized institution or charitable association having a permit under the provisions of this chapter shall file an annual report with the secretary of state during the month of December of each year, which report shall contain, in accordance with generally approved accounting methods, the following information:

1. The names and post-office addresses of its officers, and whether any change has been made during the year previous to making such report.

2. A detailed statement of all moneys received during the year previous to making said report.

3. A detailed statement of moneys disbursed during the year previous to making said report, and for what purpose.

The annual report shall be made on forms prescribed and furnished by the secretary of state.

At the time of filing this annual report said the organization, institution, or charitable association shall pay to the secretary of state a filing fee in-the-sum of two five dollars.

Sec. 5. Section 122.5, Code 1989, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A violation of this chapter is a violation of section 714.16, subsection 2, paragraph "a". In addition to the penalties imposed pursuant to section 122.6, the provisions of section 714.16, including but not limited to provisions relating to investigation, injunctive relief, and penalties apply to this chapter.

Sec. 6. NEW SECTION. 122.7 SEVERABILITY.

If any provision of this chapter or application of a provision of this chapter to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are severable.

Sec. 7. Section 714.16, subsection 2, paragraph a, unnumbered paragraph 1, Code 1989, is amended to read as follows:

The act, use or employment by a person of an unfair practice, deception, fraud, false pretense, false promise, or misrepresentation, or the concealment, suppression, or omission of a material fact with intent that others rely upon

the concealment, suppression, or omission, in connection with the lease, sale, or advertisement of any merchandise or the solicitation of contributions for charitable purposes, whether or not a person has in fact been misled, deceived, or damaged, is an unlawful practice.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 506, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved 5/2, 1989

TERRY E. BRANSTAD
Governor