



Legislation Details (With Text)

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On agenda: **Final action:** 6/11/2013

Effective date:

Title: A substitute ordinance relating to the provision of city financial assistance to for-profit institutions of higher education or to developers of projects that include for-profit institutions of higher education.

Sponsors: ALD. COGGS, ALD. ZIELINSKI, ALD. WADE, ALD. PEREZ, ALD. BAUMAN, ALD. KOVAC, ALD. BOHL

Indexes: COLLEGES AND UNIVERSITIES

Attachments: 1. Proposed Substitute A, 2. Email from City Attorney's Office, 3. 34 CFR 600, 4. MATC Support, 5. Hearing Notice List 6-4-13, 6. Hearing Notice List 2-5-13, 7. Hearing Notice List 1-29-13, 8. Milwaukee Area Students Gainful Employment Testimony, 9. Statement from Dr. Kimberly Farley, 10. 34 CFR 668 Details - Michael Rosen, 11. Motion by Ald Bauman, 12. Notice Published on 6-27-13

Date	Ver.	Action By	Action	Result	Tally
9/25/2012	0	COMMON COUNCIL	ASSIGNED TO	Fail	
10/10/2012	1	CITY CLERK	DRAFT SUBMITTED		
1/23/2013	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
1/23/2013	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
1/23/2013	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
1/25/2013	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
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1/25/2013	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
1/29/2013	2	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HELD TO CALL OF THE CHAIR	Pass	5:0
1/29/2013	1	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	SUBSTITUTED	Pass	3:0
1/30/2013	2	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
1/30/2013	2	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
1/30/2013	2	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
1/30/2013	2	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		

2/5/2013	2	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HELD TO CALL OF THE CHAIR	Pass	3:0
5/28/2013	2	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
5/28/2013	2	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
5/28/2013	2	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
5/28/2013	2	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
5/28/2013	2	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
6/4/2013	3	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	5:0
6/4/2013	2	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	SUBSTITUTED	Pass	5:0
6/11/2013	3	COMMON COUNCIL	SUBSTITUTED	Pass	15:0
6/11/2013	4	COMMON COUNCIL	PASSED	Pass	15:0
6/18/2013	4	MAYOR	SIGNED		
6/27/2013	4	CITY CLERK	PUBLISHED		

120737

SUBSTITUTE 4

ALD. COGGS, ZIELINSKI, WADE, PEREZ, BAUMAN, KOVAC AND BOHL

A substitute ordinance relating to the provision of city financial assistance to for-profit institutions of higher education or to developers of projects that include for-profit institutions of higher education.
304-97 cr

This ordinance provides that no city direct financial assistance shall be provided to any for-profit institution of higher education, including any for-profit college, university or institute, and any proprietary institution of higher education as defined in 34 CFR s. 600.5, or to any developer of a project that will include selling or leasing real estate to, or constructing a facility for, a for-profit institution of higher education unless the following criteria are met:

1. For a for-profit institution of higher education seeking city direct financial assistance, the institution shall certify to the department of city development that it, and any other institution owned and operated by the same company as the applicant institution, is in compliance with all applicable U.S. department of education regulations set forth in 34 CFR 600. The institution shall further certify that it, and any other institution owned and operated by the same company, has not, during the previous 3 years, been found in violation of any provision of 34 CFR 668.
2. For a developer seeking city direct financial assistance for a project that will include selling or leasing real estate to a for-profit institution of higher education, the developer shall certify to the department of city development that the institution, and any other institution owned and operated by the same company as the institution buying or leasing the real estate, is in compliance with all applicable U.S. department of education regulations set forth in 34 CFR 600, and has not, during the previous 3 years, been found in violation of any provision of 34 CFR 668.

This ordinance further provides that, in the case of direct financial assistance in the form of tax incremental financing or a loan, these restrictions on city direct financial assistance shall be in effect

until the tax incremental district is closed or the loan is completely repaid. In addition, these restrictions shall be clearly stated in each loan agreement, development agreement or lease agreement pertaining to city direct financial assistance to a for-profit institution of higher education or to any developer of a project that involves selling or leasing real estate to, or constructing a facility for, a for-profit institution of higher education.

Whereas, According to the U.S. Department of Education, between 2000 and 2008, the number of students enrolled in for-profit colleges nearly tripled, to 1.8 million; and

Whereas, Low-income and first-generation college students who have little familiarity with the college admission and financial aid processes and are often unaware of the opportunities available to them at public technical schools and universities are disproportionately represented in the student bodies of for-profit colleges; and

Whereas, For-profit colleges often prey on this low-income, first-generation population by promising quick degrees or certificates and high-paying jobs in return for enrolling at high tuition rates financed by high-interest loans; and

Whereas, According to Arnold Mitchem, president of the Council for Opportunity in Education, students enrolled in for-profit institutions may be faced with one or more of the following scenarios:

1. The school holds out the lure of high-paying jobs in a particular field of work, but either no such jobs exist or they require education or experience beyond what the school has provided.
2. Students enroll in a program for which they do not have the necessary skills and soon drop out; they are left with no degree or certificate but still have a large student loan to pay off.
3. Students enroll at the for-profit institution assuming that their credits are transferable to a public or other non-profit college or technical school, but later find out that they are not.
4. The education students receive at for-profit colleges ultimately does not provide a significant or real boost to their earnings.

; and

Whereas, For-profit colleges, taking advantage of a loophole in a federal law that caps the proportion of revenue a college can derive from federal student aid at 90% (the loophole allows tuition paid under the GI Bill to be counted as non-governmental revenue), target young veterans in particular, as evidenced by the fact that in 2009, the top 6 - and 8 of the top 10 -- colleges with the most veterans enrolled were for-profit colleges (U. S. Veterans Affairs Department); and

Whereas, According to *Business Week*, at one of the most popular for-profit colleges, only 30% of 2-year students and 33% of 4-year students graduate; and

Whereas, Graduates of for-profit colleges also report receiving low incomes and little assistance from those institutions in finding employment in their fields of study; and

Whereas, The U.S. Department of Education is concerned about the record amount of student loan

debt carried by college students and graduates, as well as the possibility that the programs of study offered by for-profit colleges may not lead to measurable positive outcomes and, therefore, devalue postsecondary education credentials through oversupply; and

Whereas, The City of Milwaukee has also witnessed a proliferation of for-profit colleges at the local level; and

Whereas, The Common Council finds that it is in the best interest of the City of Milwaukee, its taxpayers and its residents -- particularly low-income, first-generation college students targeted by for-profit colleges - to ensure that no City financial assistance is provided to a for-profit college, or to development project that includes a for-profit college, unless the for-profit college or developer, respectively, certifies to the Department of City Development that the for-profit college, and any other institution owned and operated by the same company as the for-profit college, is in compliance with all applicable U.S. Department of Education regulations set forth in 34 CFR 600 (Institutional Eligibility Under the Higher Education Act of 1965), and that the for-profit college, and any other institution owned and operated by the same company, has not, during the previous 3 years, been found in violation of any provision of 34 CFR 668 (Student Assistance General Provisions); now, therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 304-97 of the code is created to read:

304-97. City Financial Assistance to For-Profit Institutions of Higher Education. 1. DEFINITION. In this section:

- a. "Direct financial assistance" means the value of below-market land sales, any direct subsidies or city expenditures for private improvements targeted specifically to a project. It includes the value of tax increment financing and below-market-rate loans provided by the city.
- b. "Found in violation" means paid a fine or changed policy or practice at the direction of the U.S. department of education to comply with a federal regulation, regardless of admission of culpability.

2. LIMITATION ON ASSISTANCE. No city direct financial assistance shall be provided to any for-profit institution of higher education, including any for-profit college, university or institute and any proprietary institution of higher education as defined in 34 CFR s. 600.5, or to any developer of a project that will include selling or leasing real estate to, or constructing a facility for, a for-profit institution of higher education, unless the following criteria are met:

- a. For a for-profit institution of higher education seeking city direct financial assistance, the institution shall certify to the department of city development that it, and any other institution owned and operated by the same company as the applicant institution, is in compliance with all applicable U.S. department of education regulations set forth in 34 CFR 600. The institution shall further certify that it, and any other institution owned and operated by the same company, has not, during the previous 3 years, been found in violation of any provision of 34 CFR 668.
- b. For a developer seeking city direct financial assistance for a project that will include selling or leasing real estate to a for-profit institution of higher education, the developer shall certify to the department of city development that the institution, and any other institution owned and operated by

the same company as the institution buying or leasing the real estate, is in compliance with all applicable U.S. department of education regulations set forth in 34 CFR 600, and has not, during the previous 3 years, been found in violation of any provision of 34 CFR 668.

3. DURATION OF LIMITATION. In the case of direct financial assistance in the form of tax incremental financing or a loan, the limitation of sub. 2 shall be in effect until the tax incremental district is closed or the loan is completely repaid.

4. INCLUSION IN AGREEMENTS. The limitation of sub. 2 shall be clearly stated in each loan agreement, development agreement or lease agreement pertaining to city direct financial assistance to a for-profit institution of higher education or to any developer of a project that involves selling or leasing real estate to, or constructing a facility for, a for-profit institution of higher education.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

LRB122936-6
Jeff Osterman
06/07/2013