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SFA



BILL ANALYSIS

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House Bill 5386 (Substitute H-2 as passed by the House)
House Bill 5389 (Substitute H-1 as passed by the House)
Sponsor: Representative Kirk A. Profit
House Committee: Local Government
Senate Committee: Local, Urban and State Affairs

Date Completed: 9-22-98

CONTENT

House Bill 5386 (H-2) would amend Public Act 380 of 1913 (which regulates the receipt and use of gifts of real and personal property to cities, villages, townships, and counties) to permit a local government to transfer any gift of intangible property or the proceeds of any gift received under the Act to a community foundation. **House Bill 5389 (H-1)** would amend Public Act 136 of 1921 (which authorizes the acquisition and disposal of public library property by public library corporations) to permit a board of education, library commission, or other public corporation empowered to maintain a public library to transfer a gift of intangible personal property, other than a Federal or State grant, or the proceeds from that gift to a community foundation.

Transfer of Gifts

Under both bills, if a gift received were subject to conditions, limitations, or requirements, the transfer would have to be to a component fund within the community foundation that incorporated conditions, limitations, or requirements that were substantially similar to those to which the gift was subject. If a gift were not subject to conditions, limitations, or requirements, the transfer would have to be to a component fund within the community foundation that imposed conditions, limitations, or requirements on the use of the gift property for one or more purposes provided in Public Act 380 or for the maintenance of a public library. (Under both bills, "community foundation" would mean that term as defined in the Income Tax Act, and "component fund" would mean a component part of a community trust as described in Federal regulations (26 C.F.R. 1.170A-9). Under House Bill 5386 (H-2), "gift" would not include a grant from State or Federal sources.)

Each bill would ratify or validate a gift transfer that occurred before the bill's effective date if the transfer satisfied the bill's conditions.

Return of Gift

A community foundation to which a gift was transferred would have to return the gift to the local government or the board of education, library commission, or other public corporation that transferred the gift if one or more of the following occurred: the community foundation failed to meet all of the requirements for certification as a community foundation set forth in the Income Tax Act; the community foundation was liquidated; or, the community foundation substantially violated any condition, limitation, or requirement imposed on the gift.

Donor Advisory Board

Except as otherwise provided in the bills, a community foundation would have to establish a donor advisory board before a gift was transferred to that foundation under the bill. The advisory board would have to include at least one representative of the local government transferring the gift under House Bill 5386 (H-2), or of the transferring board of education, library commission, or other public corporation that maintained a public library under House Bill 5389 (H-1). The advisory board would have to do both of the following: determine compliance with any condition, limitation, or requirement on the use of the transferred gift; and make recommendations for using the transferred gift. An entity that transferred a gift to a community foundation under these provisions could waive the establishment of a donor advisory board.

Proposed MCL 123.874 (H.B. 5386)
MCL 397.381 (H.B. 5389)

Legislative Analyst: L. Arasim

FISCAL IMPACT

House Bill 5386 (H-2)

The bill would have no fiscal impact on State government. Data do not exist to accurately determine the fiscal impact on local governments.

House Bill 5389 (H-1)

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: R. Ross (H.B. 5386)
B. Bowerman (H.B. 5389)

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.