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House Bill 5351 (as passed by the House)
Sponsor: Representative Terry Geiger
House Committee: Education
Senate Committee: Education

Date Completed: 5-9-00

CONTENT

The bill would amend the Revised School Code to permit the board of a general powers school district or an intermediate school district (ISD) to receive a gift of real or personal property, and transfer a gift of intangible personal property or proceeds from that gift to a community foundation. The bill also would require that a gift be transferred to a particular fund within the foundation, and require the foundation to appoint a donor advisory board.

Specifically, a school board or an ISD board could receive, own, and enjoy a gift of real or personal property made by grant, devise, bequest, or in any other manner, that was made for school or ISD purposes. A school board or an ISD board could transfer a gift of intangible personal property or the proceeds from that gift to a community foundation.

("Gift" would not include State school aid or another grant from State or Federal sources. "Community foundation" would mean that term as defined in the Income Tax Act, i.e., an organization that applies for certification by April 1 of the tax year for which a taxpayer is claiming the credit and that the Department of Treasury certifies for that tax year as meeting all of the following requirements: qualifies for exemption from Federal income tax under the Internal Revenue Code; supports a broad range of charitable activities within the specific geographic area of the State that it serves, such as a municipality or county; maintains an ongoing program to attract new endowment funds by seeking gifts and bequests from a wide range of potential donors in the community or area served; is publicly supported as defined by regulations of the U.S. Treasury Department; is not a supporting organization as defined under the Internal Revenue Code and U.S. Treasury regulations; meets requirements for treatment as a single entity contained in U.S. Treasury regulations; and, is incorporated or established as a trust before September 1 of the year immediately preceding the tax year for which the credit is claimed.)

If a gift received by a school board or ISD board were subject to a condition, limitation, or requirement, the transfer would have to be to a fund within the community foundation that incorporated an identical or substantially similar condition, limitation, or requirement. If a gift were not subject to any condition, limitation, or requirement, the transfer would have to be to a fund within the community foundation that imposed conditions, limitations, or requirements on the use of the gift property for one or more school or ISD purposes under the Code. ("Condition, limitation, or requirement" would not include a material restriction or condition that violated regulations of the U.S. Department of Treasury or that restricted a community foundation's inherent power of modification described in those regulations.)

If a school board or an ISD board transferred a gift to a community foundation, the foundation would have to return the gift to the school board or ISD board if one or more of the following occurred: The community foundation failed to meet all of the requirements for certification as a community foundation under the Income Tax Act; the foundation was liquidated; or, the foundation substantially violated any condition, limitation, or requirement on the gift.

Unless waived by the school board or ISD board transferring the gift, the community foundation would have to establish a donor advisory board for that gift before the school board or ISD board could transfer the gift to the community foundation. The advisory board would have to include at least one representative of the school board or ISD board transferring the gift. The advisory board would be required to monitor the community foundation's compliance with any condition, limitation, or requirement on the use of the gift and make recommendations to the foundation for the use of distributions or other proceeds from the gift.

A transfer of a gift that occurred before the bill's effective date would be ratified, confirmed, and considered valid as if it had been made under the bill.

Proposed MCL 380.15 & 380.602

Legislative Analyst: L. Arasim

FISCAL IMPACT

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

Fiscal Analyst: J. Carrasco

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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.