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SCHOOL GIFTS TO COMMUNITY OR EDUCATIONAL FOUNDATIONS

House Bill 5786
Sponsor: Rep. Scott Shackleton
Committee: Education

Complete to 9-30-00

A SUMMARY OF HOUSE BILL 5786 AS INTRODUCED 5-16-00

House Bill 5786 would amend the Revised School Code to establish the procedures for school boards of both local school districts and intermediate school districts to follow in order to transfer a gift to a community foundation, or to an educational foundation.

Gift Transfer with Conditions. Under the bill, a school board could receive a gift of real or personal property for school purposes, and a school board could also transfer the gift, or the proceeds from that gift, to a community foundation or to an educational foundation. If a gift was subject to any condition or limitation, then the transfer to the foundation's fund would have to incorporate an identical or substantially similar condition or limitation. However, if there were no conditions or limitations on the gift, then the school board in its transfer would have to impose conditions or limitations on the use of the gift, so that it was used for one or more school purposes, as specified under the code.

Gift Return. A community foundation or an educational foundation would be required to return a transferred gift to the school board if: a) in the instance of a transfer to a community foundation, the community foundation failed to meet all of the requirements for certification as a community foundation under the Income Tax Act of 1967; b) the community foundation or educational foundation was liquidated; or, c) the community foundation or educational foundation substantially violated any condition, limitation, or requirement on the gift.

Donor Advisory Board. Unless waived by the school board transferring the gift, a community foundation or educational foundation would be required to establish a donor advisory board for a gift before the school board transferred it. The donor advisory board would be required to include at least one representative of the school board transferring the gift. The donor advisory board would be required to: monitor the foundation's compliance with any conditions and limitations on the gift; and, make recommendations to the foundation for the use of the gift.

Previous Gift Transfers Ratified. Under the bill, a transfer of a gift made in accordance with these provisions but one that occurred before the effective date of the bill would be ratified and confirmed, and the transfer would be considered valid as if it had been made under the bill.

Definitions. House Bill 5786 would define "community foundation" to mean that term as defined in the Income Tax Act of 1967. Further, the bill specifies that "condition, limitation, or requirement" would not include a material restriction or condition that violates the Code of Federal Regulations (CFR), or that restricts a community foundation's inherent power of modification which is described in the code. Under the bill, "educational foundation" means a foundation organized and

operated to assist the functions of a school district, intermediate school district, community college, or state public university. The bill also would specify that “gift” does not include state school aid or another grant from state or federal sources.

Finally, House Bill 5786 specifies that this act would be known and could be cited as the “Sam Dubow scholarship law”.

MCL 380.15a and 380.602a

Analyst: J. Hunault

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