

SENATE BILL No. 1186

March 5, 2002, Introduced by Senators STEIL, YOUNG, MC COTTER, HAMMERSTROM, GARCIA and MC MANUS and referred to the Committee on Education.

A bill to amend 1921 PA 136, entitled

"An act to authorize and facilitate the acquisition and disposal of public library property by public corporations empowered to maintain public libraries,"

by amending section 1 (MCL 397.381), as amended by 1998 PA 370.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) Subject to subsection (2), a board of educa-
2 tion, library commission, or other public corporation empowered
3 to maintain a public library may receive and accept gifts and
4 donations of real or personal property, for the library, and
5 shall hold, use, and apply the property received for the pur-
6 poses, in accordance with the provisions, and subject to the con-
7 ditions and limitations, if any, set forth in the instrument of
8 gift.

9 (2) A board of education, library commission, or other
10 public corporation empowered to maintain a public library may

1 transfer a gift of intangible personal property, other than a
2 federal or state grant, described in subsection (1), or the pro-
3 ceeds from that gift to a community foundation OR TO A SUPPORTING
4 ORGANIZATION. If a gift received by a board of education,
5 library commission, or other public corporation empowered to
6 maintain a public library was subject to certain conditions, lim-
7 itations, or requirements, the transfer must be to a component
8 fund within the community foundation OR SUPPORTING ORGANIZATION
9 that incorporates conditions, limitations, or requirements that
10 are substantially similar. If a gift was not subject to condi-
11 tions, limitations, or requirements, the transfer must be to a
12 component fund of the community foundation OR SUPPORTING
13 ORGANIZATION that imposes conditions, limitations, or require-
14 ments on the use of the property for the purpose of maintaining
15 the public library.

16 (3) A transfer of a gift described in subsection (1) by a
17 board of education, library commission, or other public corpora-
18 tion empowered to maintain a public library to a component fund
19 within a community foundation OR SUPPORTING ORGANIZATION that
20 satisfies the conditions under subsection (2), before ~~the effec-~~
21 ~~tive date of the amendatory act that amended this section~~
22 OCTOBER 20, 1998, is valid.

23 (4) A community foundation OR SUPPORTING ORGANIZATION to
24 which a gift is transferred pursuant to this section shall return
25 the gift to the board of education, library commission, or other
26 public corporation empowered to maintain a public library, that
27 transferred the gift if 1 or more of the following occur:

1 (a) The community foundation fails to meet all of the
2 requirements for certification as a community foundation set
3 forth in section 261 of the income tax act of 1967, 1967 PA 281,
4 MCL 206.261.

5 (b) The community foundation OR SUPPORTING ORGANIZATION is
6 liquidated.

7 (c) The community foundation OR SUPPORTING ORGANIZATION sub-
8 stantially violates any condition, limitation, or requirement
9 imposed on the gift.

10 (D) THE SUPPORTING ORGANIZATION FAILS TO QUALIFY AS A SUP-
11 PORTING ORGANIZATION AS DEFINED IN THIS SECTION.

12 (5) Except as otherwise provided in subsection (6), a commu-
13 nity foundation shall establish a donor advisory board before a
14 gift is transferred to that community foundation under this
15 section. The donor advisory board shall include not less than 1
16 representative of the board of education, library commission, or
17 other public corporation empowered to maintain a public library
18 transferring the gift. The donor advisory board shall do all of
19 the following:

20 (a) Determine that any condition, limitation, or requirement
21 on the use of the transferred gift is complied with.

22 (b) Make recommendations for the use of the transferred
23 gift.

24 (6) A board of education, library commission, or other
25 public corporation empowered to maintain a public library that
26 transfers a gift to a community foundation under this section may

1 waive the establishment of the donor advisory board under
2 subsection (5).

3 (7) As used in this section:

4 (a) "Community foundation" means that term as defined in
5 section 261 of the income tax act of 1967, 1967 PA 281,
6 MCL 206.261.

7 (b) "Component fund" means a component part of a community
8 trust as described in 26 C.F.R. 1.170A-9.

9 (c) "SUPPORTING ORGANIZATION" MEANS A TRUST OR NONPROFIT
10 CORPORATION THAT MEETS BOTH OF THE FOLLOWING CRITERIA:

11 (i) IS DESCRIBED IN SECTION 501(c)(3) OF THE INTERNAL REVE-
12 NUE CODE.

13 (ii) IS DESCRIBED IN SECTION 509(a)(3) OF THE INTERNAL REVE-
14 NUE CODE BECAUSE IT IS ORGANIZED AND OPERATED EXCLUSIVELY FOR THE
15 BENEFIT OF, TO PERFORM THE FUNCTIONS OF, OR TO CARRY OUT THE PUR-
16 POSES OF A SPECIFIED PUBLIC LIBRARY IN THIS STATE.