

State of Wisconsin



2011 Assembly Bill 224

Date of enactment: **March 29, 2012**

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2011 WISCONSIN ACT 163

AN ACT *to renumber and amend* 43.58 (7) (b), 118.27 and 119.18 (16); and *to create* 43.58 (7) (b) 1., 43.58 (7) (b) 3., 118.27 (1), 118.27 (3), 119.18 (16) (a) and 119.18 (16) (c) of the statutes; **relating to:** authorizing school boards and libraries to transfer a gift or grant to certain charitable organizations.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1e. 43.58 (7) (b) of the statutes is renumbered 43.58 (7) (b) 2. and amended to read:

43.58 (7) (b) 2. If a gift, bequest, or endowment is made to any public library, the library board may pay or transfer the gift, bequest, or endowment, or its proceeds, to the treasurer of the municipality or county in which the public library is situated; may entrust the gift, bequest, or endowment to a public depository under ch. 34; may pay or transfer the gift, bequest, or endowment to the library board's financial secretary; or may, subject to subd. 3., pay or transfer the gift, bequest, or endowment to a charitable organization, described in section 501 (c) (3) of the Internal Revenue Code and exempt from federal income tax under section 501 (a) of the Internal Revenue Code, the purpose of which is providing financial or material support to the public library or to a community foundation. A payment or transfer of a gift, bequest, or endowment by a library board to a charitable organization described in this paragraph made prior to March 19, 2008, is not invalid as lacking statutory authority to make the payment or transfer. If the library board pays or transfers the gift, bequest, or endowment to the financial secretary, the financial secretary may invest the gift, bequest,

or endowment as permitted under s. 66.0603 (1m) or 112.11 (3); or may delegate investment authority for the gift, bequest, or endowment as permitted under s. 66.0603 (2) or 112.11 (5). The financial secretary shall hold office only during membership on the library board and shall be elected annually at the same time and in the same manner as the other officers of the library board.

SECTION 1m. 43.58 (7) (b) 1. of the statutes is created to read:

43.58 (7) (b) 1. In this paragraph, "community foundation" means a charitable organization, described in section 501 (c) (3) of the Internal Revenue Code and exempt from federal income tax under section 501 (a) of the Internal Revenue Code, dedicated to encouraging and assisting charitable activities and enterprises in a designated community in this state and having expertise in finance, fund development, and grantmaking.

SECTION 1s. 43.58 (7) (b) 3. of the statutes is created to read:

43.58 (7) (b) 3. A library board may pay or transfer a gift, bequest, or endowment to a charitable organization described in subd. 2. or to a community foundation only if the library board and the charitable organization or the community foundation agree, in writing and at the time of the payment or transfer of the gift, bequest, or endowment, to each of the following:

* Section 991.11, WISCONSIN STATUTES 2009-10 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

a. The charitable organization or the community foundation agrees to make disbursements from and of the gift, bequest, or endowment to the library board upon the written request of the library board.

b. Subject to subd. 3. bm., the library board retains control over the manner in which any disbursement made under subd. 3. a. is used.

bm. The library board's use of any disbursement made under subd. 3. a. shall be consistent with the intent of the donor of the gift, bequest, or endowment and with the agreement between the library board and the charitable organization or community foundation.

c. The library board exercises its rights over the use of each disbursement made under subd. 3. a. in accordance with the law applicable to trust investments and the provisions of this chapter.

SECTION 2e. 118.27 of the statutes is renumbered 118.27 (2) and amended to read:

118.27 (2) The school board of a district may receive, accept, and use gifts or grants of furniture, books, equipment, supplies, moneys, securities, or other property, real or personal, used or useful for school research and educational purposes. All moneys received as gifts or grants shall be placed in the school district treasury but shall be considered segregated trust funds. Whenever a school board receives gifts or grants under this section, it shall make such use thereof, or invest the same in the case of moneys, as the donor or grantor specifies. In the absence of any specific direction as to the use of such gifts or grants by a donor or grantor, the school board may determine the use of or invest the same in accordance with the law applicable to trust investments, or may, subject to sub. (3), transfer any such gift or grant to a community foundation. In the use, control, or investment of such gifts or grants, the school board may exercise the rights and powers generally conferred upon trustees.

SECTION 2m. 118.27 (1) of the statutes is created to read:

118.27 (1) In this section, "community foundation" means a charitable organization, described in section 501 (c) (3) of the Internal Revenue Code and exempt from federal income tax under section 501 (a) of the Internal Revenue Code, dedicated to encouraging and assisting charitable activities and enterprises in a designated community in this state and having expertise in finance, fund development, and grantmaking.

SECTION 2s. 118.27 (3) of the statutes is created to read:

118.27 (3) A school board may transfer a gift or grant to a community foundation only if the school board and the community foundation agree, in writing and at the time of the transfer of the gift or grant, to each of the following:

(a) The community foundation agrees to make disbursements from and of the gift or grant to the school board upon the written request of the school board.

(b) Subject to par. (bm), the school board retains control over the manner in which any disbursement made under par. (a) is used.

(bm) The school board's use of any disbursement made under par. (a) shall be consistent with the intent of the donor of the gift, bequest, or endowment and with the agreement between the school board and the community foundation.

(c) The school board exercises its rights over the use of each disbursement made under par. (a) in accordance with the law applicable to trust investments.

SECTION 3e. 119.18 (16) of the statutes is renumbered 119.18 (16) (b) and amended to read:

119.18 (16) (b) The board may receive, accept, and use gifts or grants of furniture, books, equipment, supplies, moneys, securities, or other property used or useful for school and educational purposes. The board shall make such use of gifts or grants, or invest the same in the case of moneys, as the donor or grantor specifies. In the absence of any specific direction as to the use of such gifts or grants by a donor or grantor, the board may determine the use of or may invest the same in accordance with the law applicable to trust investments, or may, subject to par. (c), transfer any such gift or grant to a community foundation. In the use, control, or investment of such gifts or grants, the board may exercise the rights and powers generally conferred upon trustees.

SECTION 3m. 119.18 (16) (a) of the statutes is created to read:

119.18 (16) (a) In this subsection, "community foundation" means a charitable organization, described in section 501 (c) (3) of the Internal Revenue Code and exempt from federal income tax under section 501 (a) of the Internal Revenue Code, dedicated to encouraging and assisting charitable activities and enterprises in a designated community in this state and having expertise in finance, fund development, and grantmaking.

SECTION 3s. 119.18 (16) (c) of the statutes is created to read:

119.18 (16) (c) The board may transfer a gift or grant to a community foundation only if the board and the community foundation agree, in writing and at the time of the transfer of the gift or grant, to each of the following:

1. The community foundation agrees to make disbursements from and of the gift or grant to the board upon the written request of the board.

2. Subject to subd. 2m., the board retains control over the manner in which any disbursement made under subd. 1. is used.

2m. The school board's use of any disbursement made under subd. 1. shall be consistent with the intent of the donor of the gift, bequest, or endowment and with the agreement between the school board and the community foundation.

3. The board exercises its rights over the use of each disbursement made under subd. 1. in accordance with the law applicable to trust investments.

SECTION 4. Initial applicability.

(1) The treatment of sections 118.27 and 119.18 (16) of the statutes first applies to a gift or grant made to a school district on the effective date of this subsection.

(2) The treatment of section 43.58 (7) (b) of the statutes first applies to a gift, bequest, or endowment made to a public library on the effective date of this subsection.

