



2011 ASSEMBLY BILL 224

August 25, 2011 – Introduced by Representatives KAUFERT, HINTZ, THIESFELDT, BROOKS, PETROWSKI, MOLEPSKE JR, A. OTT, STRACHOTA, MURSAU and RINGHAND, cosponsored by Senators SCHULTZ, TAYLOR, WANGGAARD and LASSA. Referred to Committee on Education.

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

Analysis by the Legislative Reference Bureau

Under current law, the school board of a school district may receive gifts or grants of money, furniture, and other property, and must use or invest the gift or grant in the manner specified by the donor or grantor. In the absence of specific direction regarding the use or investment of the gift or grant, the school board may determine how to use the gift or grant in accordance with the law applicable to trust investments.

This bill allows a school board to transfer unrestricted donations made to the school board to a charitable organization exempt from federal income tax under the Internal Revenue Code (IRC), provided the organization agrees in writing to use the donation to provide financial or material support for the school district and to comply with any terms of the donation.

Under current law, the library board of a public library may transfer donations made to the library to the treasurer of the municipality or county in which the library is located; entrust them to a public depository; transfer them to the library board's financial secretary; or transfer them to a charitable organization exempt from federal income tax under the IRC that has as its purpose providing financial or material support to the public library. This bill permits the library to transfer a donation to any charitable organization exempt from federal income tax, provided

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the organization agrees in writing to use the donation to provide financial or material support for the public library and to comply with any terms of the donation.

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

1 **SECTION 1.** 43.58 (7) (b) of the statutes is amended to read:

2 43.58 (7) (b) If a gift, bequest, or endowment is made to any public library, the
3 library board may pay or transfer the gift, bequest, or endowment, or its proceeds,
4 to the treasurer of the municipality or county in which the public library is situated;
5 may entrust the gift, bequest, or endowment to a public depository under ch. 34; may
6 pay or transfer the gift, bequest, or endowment to the library board's financial
7 secretary; or may pay or transfer the gift, bequest, or endowment to a charitable
8 organization, described in section 501 (c) (3) of the Internal Revenue Code and
9 exempt from federal income tax under section 501 (a) of the Internal Revenue Code,
10 the purpose of which is providing if the charitable organization agrees in writing to
11 use the gift, bequest, or endowment to provide financial or material support to the
12 public library and to comply with the terms of the gift, bequest, or endowment. A
13 payment or transfer of a gift, bequest, or endowment by a library board to a
14 charitable organization described in this paragraph made prior to March 19, 2008,
15 is not invalid as lacking statutory authority to make the payment or transfer. If the
16 library board pays or transfers the gift, bequest, or endowment to the financial
17 secretary, the financial secretary may invest the gift, bequest, or endowment as
18 permitted under s. 66.0603 (1m) or 112.11 (3); or may delegate investment authority
19 for the gift, bequest, or endowment as permitted under s. 66.0603 (2) or 112.11 (5).
20 The financial secretary shall hold office only during membership on the library board

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1 and shall be elected annually at the same time and in the same manner as the other
2 officers of the library board.

3 **SECTION 2.** 118.27 of the statutes is amended to read:

4 **118.27 Gifts and grants.** The school board of a district may receive, accept
5 and use gifts or grants of furniture, books, equipment, supplies, moneys, securities
6 or other property, real or personal, used or useful for school research and educational
7 purposes. All moneys received as gifts or grants shall be placed in the school district
8 treasury but shall be considered segregated trust funds. Whenever a school board
9 receives gifts or grants under this section, it shall make such use thereof, or invest
10 the same in the case of moneys, as the donor or grantor specifies. In the absence of
11 any specific direction as to the use of such gifts or grants by a donor or grantor, the
12 school board may determine the use of or invest the same in accordance with the law
13 applicable to trust investments, or may transfer any such gift or grant to a charitable
14 organization described in section 501 (c) (3) of the Internal Revenue Code and exempt
15 from federal income tax under section 501 (a) of the Internal Revenue Code if the
16 charitable organization agrees in writing to use the gift or grant to provide financial
17 or material support to the school district and to comply with any terms of the gift or
18 grant. In the use, control or investment of such gifts or grants, the school board may
19 exercise the rights and powers generally conferred upon trustees.

20 **SECTION 3.** 119.18 (16) of the statutes is amended to read:

21 119.18 (16) GIFTS AND GRANTS. The board may receive, accept and use gifts or
22 grants of furniture, books, equipment, supplies, moneys, securities or other property
23 used or useful for school and educational purposes. The board shall make such use
24 of gifts or grants, or invest the same in the case of moneys, as the donor or grantor
25 specifies. In the absence of any specific direction as to the use of such gifts or grants

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1 by a donor or grantor, the board may determine the use of or may invest the same in
2 accordance with the law applicable to trust investments, or may transfer any such
3 gift or grant to a charitable organization described in section 501 (c) (3) of the
4 Internal Revenue Code and exempt from federal income tax under section 501 (a) of
5 the Internal Revenue Code if the charitable organization agrees in writing to use the
6 gift or grant to provide financial or material support to the school district and to
7 comply with any terms of the gift or grant. In the use, control or investment of such
8 gifts or grants, the board may exercise the rights and powers generally conferred
9 upon trustees.

10 **SECTION 4. Initial applicability.**

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

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

16 (END)