

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1349/3dn

TKK:jld:rs

April 28, 2011

Representative Hintz:

This draft modifies s. 43.58 (7) (b) to permit a public library to transfer a 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 if the charitable organization agrees in writing to use the gift, bequest or endowment to provide financial or material support to the public library and to comply with the terms of the gift, bequest, or endowment.”

As we discussed briefly on the phone yesterday (April 27, 2011), it is my understanding that a community foundation can be a 501 (c) (3) charitable organization exempt from federal income tax under section 501 (a) of the IRC. However, it is also my understanding that federal law requires the community foundation to retain some independent control over the distribution of assets donated to the community foundation. It is possible that the proposed amendment to s. 43.58 (7) (b), and specifically the language relating to the written agreement between the public library and the charitable organization, would conflict with requirements under federal law relating to the control and distribution of assets held by a community foundation. I thought you should be aware of this issue.

Let me know if you have any questions or wish to make any additional changes.

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