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Senate Bill 1125 (as enacted)  
Sponsor: Senator Goeff Hansen  
Senate Committee: Local Government and Elections  
House Committee: Local Government

**PUBLIC ACT 422 of 2014**

Date Completed: 2-23-15

**CONTENT**

**The bill amended Public Act 215 of 1937, which authorizes municipalities to own or control cemetery or burial grounds, to do the following:**

- **Allow a municipality to establish an endowment and perpetual care fund for a municipally owned cemetery as part of an agreement with a community foundation.**
- **Require the community foundation annually to authorize two distributions of earnings from the fund to the municipality for care and maintenance of the cemetery.**
- **Require the cemetery to maintain records regarding the use of earnings from the fund.**
- **Allow the community foundation's fees and costs associated with the agreement to be paid from the principal of the fund.**
- **Specify information that the community foundation must submit to the municipality in an annual fund statement.**

The bill took effect on December 30, 2014.

Specifically, the bill allows a municipality that has a municipally owned cemetery to establish and maintain an irrevocable endowment and perpetual care fund as a component fund within a community foundation, by entering into an irrevocable agreement with the community foundation. (The Act defines "municipality" as a city, township, village, or county.)

The amounts deposited into the fund must be held in perpetuity by the community foundation, except that it annually must authorize two distributions of interest and other earnings to the municipality for care and maintenance of the cemetery. The withdrawals must be documented.

The cemetery must maintain records showing that earnings from the fund are used exclusively for endowment and for care and maintenance of the cemetery. The community foundation is not responsible for ascertaining that money paid to the municipality is spent for the limited purposes authorized by the bill.

Subject to terms of the irrevocable agreement, the community foundation's fees and costs for services under the bill and the agreement may be paid from the fund's principal.

The community foundation must submit to the municipality's legislative body an annual fund statement that includes the following information for the reporting period:

- Beginning and ending balances.
- Deposits to the fund, including interest and earnings from fund investments.
- Documentation of distributions from the fund to the municipality for cemetery care and maintenance.
- Documentation of any expenditures for the community foundation's fees and costs for services it provides under the agreement.

The bill defines "community foundation" as an organization that meets all of the following requirements:

- Has existed for at least 10 years.
- Has assets of at least \$10.0 million.
- Qualifies for exemption from Federal income taxation under Section 501(c)(3) of the Internal Revenue Code.
- Supports a broad range of charitable activities within the specific geographic area of Michigan that it serves, such as a municipality.
- Maintains an ongoing program to attract new endowment funds by seeking gifts and bequests from a wide range of potential donors in the geographic area served.
- Is publicly supported, as defined in Federal regulations.
- Meets the requirements for treatment as a single entity under Federal regulations.
- Is not a private foundation, as described in Section 509(a)(3) of the Internal Revenue Code.
- Has an independent governing body that represents the general public's interest and is not appointed by a single outside entity.
- Maintains continually at least one part-time or full-time employee beginning not later than six months after the community foundation is incorporated or established.
- Is subject to an annual independent financial audit.

In addition, for a community foundation incorporated or established after January 9, 2001, it must operate in a Michigan county that was not served by a community foundation when the foundation was incorporated or established, or must operate as a geographic component of an existing community foundation.

MCL 128.3 & 128.4

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bill will have an unknown fiscal impact on a municipality that operates a cemetery and establishes an irrevocable endowment and perpetual care fund with a community foundation, as authorized by the bill. To the extent that the investment management and vehicles provided by the community foundation increase returns to the fund, additional revenue will be available for cemetery maintenance. For municipalities that use local general fund money to pay for cemetery maintenance, additional cemetery endowment earnings potentially will reduce the use of general fund revenue for cemetery maintenance. Depending on the types of investment vehicles used, however, the fund also will have increased investment risk with potential for volatility and losses. The endowment and perpetual care fund will be reduced by the fees and costs for services provided by the community foundation according to the agreement with the municipality.

Fiscal Analyst: Elizabeth Pratt

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.