Foundations Roiled by Measure to Spur Increase in Charity

By STEPHANIE STROM

The House is considering a bill that could force the nation’s foundations to give away more of their money to charity each year, creating a potential windfall of billions of dollars for nonprofit groups.

The bill has created a furor in the philanthropic world, with foundations warning that they could be forced to squander their assets and spend themselves out of existence. Its supporters, however, say it will actually rein in wasteful spending - on salaries and overhead - as it gives charities needed help in a time of withering government budgets and growing economic pain.

The legislation is the House version of a bill passed last month in the Senate intended to create incentives to charitable giving. The House bill, unlike the Senate one, would modify an existing law that requires foundations to give at least 5 percent of their assets to charities every year in order to maintain their tax-exempt status.

The current law allows foundations to include administrative expenses like rent, accounting fees and salaries in that 5 percent target. The new bill would require that all 5 percent go to charity.

Hence the uproar. "If we are consistently required to pay out more than we already do, it will eat into capital and the country will lose these resources, these public assets for the common good," said Susan V. Berresford, the president of the Ford Foundation, who is one of the most vocal opponents of the proposed changes to the tax law.

Roy Blunt, the Missouri Republican who introduced the bill with Harold E. Ford Jr., a Tennessee Democrat, said he was surprised at its hostile reception in the foundation world. "Frankly, I'm concerned about that, and as a matter of fact, that convinces me there may be even more of a need for this than I thought there was," Mr. Blunt said.

Mr. Blunt, the House majority whip, said he and other representatives had added the provision to the House bill because they thought some foundations were spending too much on compensation, rent and other expenses. Several foundations have recently come under scrutiny for spending lavishly on offices and payments to board members, even as the economy has soured.

Last month, for instance, The San Jose Mercury News reported that the James Irvine Foundation's assets had fallen 25 percent, to $1.2 billion, since June 2000. That is not surprising, given the fall in the stock market. But during that decline, the newspaper reported, Dennis Collins, the foundation's president until early last year, received compensation totaling about $600,000 annually. The foundation's offices have a wrap-around view of the San Francisco Bay.

Mr. Blunt noted that foundations were required to pay out at least 6 percent of their assets until the early 1980's. "I'm told that their average cost of administration is four-tenths of one percent," he said, citing a widely accepted figure, "so all this bill does is increase the amount they would have to spend to 5.4 percent."

The bill would also give foundations a tax break, since it includes a provision that would lower the excise taxes they pay to 1 percent from 2 percent.

Rick Cohen, executive director of the National Committee for Responsive Philanthropy, said that according to data from the National Center for Charitable Statistics at the Urban Institute, the country's roughly 64,000 foundations paid out $27.3 billion in 2001, $4.3 billion of which went to cover operating and administrative expenses.

Foundation leaders and others insist that the new bill, by effectively forcing them to increase spending, could put an end to foundations that have endured across generations.

"It's a legitimate concern," said Michael Klausner, a professor at the Stanford Law School who teaches nonprofit law. "They would still be around over a longer time than you or I will exist, but they will with reasonable certainty spend themselves out of business eventually."

The only alternative, Dr. Klausner said, would be to try to increase their endowments through riskier investments, which would probably also incite criticism. The Council on Foundations, a trade group, estimates that foundations must make a 9.5 percent return on their investments just to maintain their endowments.

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