

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5448**

A bill to amend 1931 PA 327, entitled

"An act to provide for the organization, regulation and classification of corporations; to provide their rights, powers and immunities; to prescribe the conditions on which corporations may exercise their powers; to provide for the inclusion of certain existing corporations within the provisions of this act; to prescribe the terms and conditions upon which foreign corporations may be admitted to do business within this state; to require certain annual reports to be filed by corporations; to prescribe penalties for the violations of the provisions of this act; and to repeal certain acts and parts of acts relating to corporations,"

by amending section 171 (MCL 450.171), as amended by 2006 PA 420.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 171. (1) For the purposes of this act, educational
- 2 corporations are classified as 1 of the following:
- 3 (a) Class w: those having a capital of not less than

1 \$500,000.00.

2 (b) Class x: those having a capital of not less than
3 \$100,000.00 and less than \$500,000.00.

4 (c) Class y: those having a capital of \$1,000,000.00 or more.

5 (d) Class z: those instituted and maintained by an
6 ecclesiastical or religious order, society, corporation, or
7 corporations that retain control of the institution for
8 denominational purposes.

9 (2) For purposes of this act, educational corporation does not
10 include a religious college described in section 184a.

11 (3) When submitting its articles of incorporation for filing
12 with the department of ~~labor and economic growth,~~ **licensing and**
13 **regulatory affairs**, an educational corporation conducting an
14 elementary or secondary instructional program must include a
15 written statement from the state board of education with the
16 articles of incorporation and an educational corporation conducting
17 a postsecondary educational program must include a written
18 statement from the ~~bureau of career education~~ **postsecondary schools**
19 **unit** within the department of ~~labor and economic growth~~ **labor and**
20 **economic opportunity** with the articles of incorporation. A written
21 statement submitted with the articles of incorporation of an
22 educational institution under this subsection must confirm all of
23 the following concerning the educational corporation:

24 (a) The housing space and administration facilities that it
25 possesses or proposes to provide for its declared field or fields
26 of education are adequate.

27 (b) Its proposed educational program leading to the diplomas
28 or degrees that it proposes to offer is adequate.

29 (c) The laboratory, library, and other teaching facilities

1 that it possesses or proposes to provide are adequate.

2 (d) It has or proposes to employ an adequate staff, fully
3 trained, for the instruction proposed.

4 (e) At least 50% of its capital, whether consisting of stock
5 or in gifts, devises, legacies, bequests, or other contributions of
6 money or property, has been paid in or is in its possession.

7 (4) In determining whether any educational corporation
8 satisfies the conditions specified in subsection (1), the
9 department of ~~labor and economic growth~~ **labor and economic**
10 **opportunity** may treat as a credit to the capital of the corporation
11 the guaranteed annual income of that corporation to the extent that
12 it considers that guaranteed income the equivalent of all or any
13 part of the required endowment.

14 (5) The use of the word "college" or "university" in the name
15 of any group, organization, or association formed in this state
16 after September 18, 1931 is limited to those educational
17 corporations complying with the requirements for class w or class y
18 educational corporations or to any educational corporations of
19 class z that satisfy the requirements established for class y
20 corporations. The word "college" may be used by ecclesiastical
21 corporations in the name of religious colleges complying with the
22 requirements of section 184a. The words "junior college" may be
23 used by educational corporations of class x. If this subsection is
24 violated, it is the duty of the prosecuting attorney, in the county
25 where the educational corporation is located, to bring proceedings
26 to enjoin the further use of a name in violation of this
27 subsection.

28 (6) An educational corporation ~~is~~ **shall** not ~~permitted to~~
29 expand its program beyond that specified in its articles of

1 incorporation until it obtains a written statement approving the
 2 facilities, equipment, and staff or the proposed facilities,
 3 equipment, and staff as adequate for the offering of the additional
 4 educational program and submits it to the department of ~~labor and~~
 5 ~~economic growth.~~ **labor and economic opportunity**. The educational
 6 corporation ~~must~~ **shall** obtain the written statement described in
 7 this subsection from the state board of education if it is
 8 conducting an elementary or secondary instructional program or from
 9 the ~~bureau of career education~~ **postsecondary schools unit** within
 10 the department of ~~labor and economic growth~~ **labor and economic**
 11 **opportunity** if it is conducting a postsecondary educational
 12 program.

13 (7) A private college may apply to the department of labor and
 14 economic opportunity to reopen an educational corporation that
 15 ceased operations if both of the following apply:

16 (a) The private college is located in a city with a population
 17 of 500,000 or more.

18 (b) Before ceasing operations, the educational corporation to
 19 be reopened was designated by the United States Department of
 20 Education as a historically black college.

21 (8) An application under subsection (7) must include all of
 22 the following:

23 (a) An attestation from an officer of the educational
 24 corporation to be reopened that the educational corporation to be
 25 reopened has capital of not less than \$500,000.00.

26 (b) A list of the proposed field or fields of study to be
 27 offered by the educational corporation to be reopened.

28 (c) An attestation from the private college that includes both
 29 of the following:

1 (i) That the educational corporation to be reopened will be
2 managed and operated by the private college in accordance with an
3 operating agreement between the private college and the educational
4 corporation to be reopened or as an affiliate or subsidiary of the
5 private college.

6 (ii) That the proposed facilities, equipment, and staff of the
7 educational corporation to be reopened are adequate for the
8 educational corporation's proposed field or fields of study.

9 (9) In determining whether the educational corporation to be
10 reopened meets the requirements under this section, the department
11 of labor and economic opportunity may consider the proposed
12 facilities, equipment, and staff of the educational corporation to
13 be reopened that are provided by the private college under the
14 private college's affiliation or operating agreement with the
15 educational corporation to be reopened.

16 (10) Not more than 30 days after receipt of the information
17 required in an application to reopen an educational corporation
18 that ceased operations under subsection (8), the department of
19 labor and economic opportunity shall approve the educational
20 corporation to be reopened to conduct business in this state for
21 the purpose of operating as a private postsecondary educational
22 institution, including offering bachelor's and associate's degree
23 programs and certificate and diploma programs.

24 (11) An officer who signs the attestation described in
25 subsection (8) (a) on behalf of the educational corporation to be
26 reopened must be elected as an officer of the educational
27 corporation before August 4, 2021, by at least 1 member of the
28 board of the educational corporation who was a board member at the
29 time the educational corporation ceased operating.

1 (12) An educational corporation that received approval under
2 subsection (10) is considered by this state as this state's first
3 historically black college or university.

4 (13) As used in this section:

5 (a) "Educational corporation to be reopened" means an
6 educational corporation for which an application under subsection
7 (7) was submitted.

8 (b) "Historically black college or university" means a college
9 or university that is a part B institution as that term is defined
10 under 20 USC 1061.

11 (c) "Private college" means a class y educational corporation
12 authorized by the department of labor and economic opportunity to
13 offer degrees.

14 Enacting section 1. This amendatory act does not take effect
15 unless House Bill No. 5447 of the 101st Legislature is enacted into
16 law.