

HOUSE BILL NO. 5448

October 20, 2021, Introduced by Reps. Hornberger, Tate, Posthumus, Meerman, Manoogian, Breen, Tyrone Carter, Bolden, Rogers, Sowerby, Lasinski, Cavanagh, Scott and Stone and referred to the Committee on Education.

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
4 \$500,000.00.

5 (b) Class x: those having a capital of not less than
6 \$100,000.00 and less than \$500,000.00.

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

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

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

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

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

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

3 (c) The laboratory, library, and other teaching facilities
4 that it possesses or proposes to provide are adequate.

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

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

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

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

1 subsection.

2 (6) An educational corporation ~~is~~**shall** not ~~permitted to~~
3 expand its program beyond that specified in its articles of
4 incorporation until it obtains a written statement approving the
5 facilities, equipment, and staff or the proposed facilities,
6 equipment, and staff as adequate for the offering of the additional
7 educational program and submits it to the department of ~~labor and~~
8 ~~economic growth.~~**labor and economic opportunity**. The educational
9 corporation ~~must~~**shall** obtain the written statement described in
10 this subsection from the state board of education if it is
11 conducting an elementary or secondary instructional program or from
12 the ~~bureau of career education~~**postsecondary schools unit** within
13 the department of ~~labor and economic growth~~**labor and economic**
14 **opportunity** if it is conducting a postsecondary educational
15 program.

16 (7) A private college may apply to the department of labor and
17 economic opportunity to reopen an educational corporation that
18 ceased operations if all of the following apply:

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

21 (b) Before ceasing operations, both of the following applied:

22 (i) The educational corporation to be reopened was designated
23 by the United States Department of Education as a historically
24 black college.

25 (ii) The educational corporation to be reopened was located in
26 a city with a population of 500,000 or more.

27 (8) An application under subsection (7) must include all of
28 the following:

29 (a) An attestation from an officer of the educational

1 corporation to be reopened that the educational corporation to be
2 reopened has capital of not less than \$500,000.00.

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

5 (c) An attestation from the private college that includes both
6 of the following:

7 (i) That the educational corporation to be reopened will be
8 managed and operated by the private college in accordance with an
9 operating agreement between the private college and the educational
10 corporation to be reopened or as an affiliate or subsidiary of the
11 private college.

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

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

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

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

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

10 (13) As used in this section:

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

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

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

20 Enacting section 1. This amendatory act does not take effect
21 unless Senate Bill No. ____ or House Bill No. 5447 (request no.
22 04478'21 *) of the 101st Legislature is enacted into law.