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House Bills 5447 and 5448 (as passed by the House)
Sponsor: Representative Joe Tate (H.B. 5447)
Representative Pamela Hornberger (H.B. 5448)
House Committee: Education
Senate Committee: Education and Career Readiness

Date Completed: 11-30-21

CONTENT

House Bill 5447 would amend Public Act 269 of 1929, which prohibits a person from assuming, adopting, or using the name of a benevolent, humane, fraternal, or charitable corporation, to prohibit a person, society, association, or corporation from assuming, adopting, or using the designation "historically black college or university" unless that entity was a Part B institution or an educational corporation reopened under Public 327 of 1931 (which House Bill 5448 would amend).

House Bill 5448 would amend Public Act 327 of 1931, which governs various types of corporations, to do the following:

- Allow a private college to apply to the Department of Labor and Economic Opportunity (LEO) to reopen an educational corporation that had ceased operation if the private college were located in a city with a population of at least 500,000 before operations ceased, and was designated by the United States Department of Education as a historically black college.
- Require an application to reopen an educational corporation to include the information and attestations prescribed in the bill.
- Allow LEO to consider the proposed facilities, equipment, and staff of the educational corporation to be reopened when determining whether the educational corporation met the bill's requirements.
- Require LEO, within 30 days after receiving an application, to approve the educational corporation to be reopened to conduct business in Michigan.
- Require an officer who signed the attestation on behalf of the educational corporation to be reopened to be elected as an officer of the corporation before August 4, 2021, by at least one member of the board of the educational corporation who was a board member when the educational corporation had ceased operations.
- Specify that an educational corporation that received approval would be considered Michigan's first historical black college or university.

The bills are tie-barred.

House Bill 5447

Currently, Public Act 269 of 1929 prohibits a person, society, association, or corporation from assuming, adopting, or using the name of a benevolent, humane, fraternal, or charitable

organization incorporated under the law of Michigan, any other state, or of the US, or a name similarly resembling the name of the incorporated organization as to be a colorable imitation of that name, or calculated to deceive nonmembers, with respect to the incorporated organization. The bill would include an education corporation among the entities described above.

The bill also would prohibit a person, society, association, or corporation from assuming, adopting, or using the designation "historically black college or university" unless that person, society, association, or corporation was a Part B institution as that term is defined under 20 USC 1061, or an educational corporation that was reopened under Section 171 of Public Act 1931.

(Under 20 USC 1061, "Part B institution" means any historically Black college or university that was established prior to 1964, whose principal mission was, and is, the education of Black Americans, and that is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be a reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation, except that any branch campus of a southern institution of higher education that prior to September 30, 1986, received a grant as an institution with special needs under Section 1060 of Title 20 and was formally recognized by the National Center for Education Statistics as a Historically Black College or University but was determined not to be a part B institution on or after October 17, 1986, shall, from July 18, 1988, be considered a part B institution.)

House Bill 5448

The bill would amend Public Act 327 of 1931 to allow a private college to apply to LEO to reopen an educational corporation that had ceased operation if the college were located in a city with a population of 500,000 or more and, before operations ceased, both of the following applied:

- The education corporation to be reopened was designated by the US Department of Education as a historically black college.
- The educational corporation to be reopened was in a city with a population of 500,000 or more.

"Private college" would mean a class Y educational corporation authorized by the Department of Labor and Economic Opportunity to offer degrees. "Educational corporation to be reopened" would mean an educational corporation for which an application under [the bill] was submitted. "Historically black college or university" would mean a college or university that is a Part B institution as that term is defined under 20 USC 1061.

An application to reopen an educational corporation would have to include all the following:

- An attestation from an officer of the educational corporation to be reopened that the educational corporation had capital of at least \$500,000.
- A list of the proposed field or fields of study to be offered by the educational corporation.

The application also would have to include an attestation from the private college that included both of the following:

- That the educational corporation would be managed and operated by the private college in accordance with an operating agreement between the college and the educational corporation to be reopened or as an affiliate or subsidiary of the private college.

-- That the proposed facilities, equipment, and staff of the educational corporation to be reopened were adequate for the educational corporation's proposed field or fields of study.

In determining whether the educational corporation to be reopened met the above requirements, LEO could consider the proposed facilities, equipment, and staff of the educational corporation to be reopened that were provided by the private college under its affiliation or operating agreement with the educational corporation to be reopened.

Within 30 days after receiving the information required in an application to reopen an educational corporation, LEO would have to approve the educational corporation to be reopened to conduct business in Michigan for the purpose of operating as a private postsecondary education institution, which would include offering bachelor's and associate's degree programs and certificate and diploma programs.

An officer who signed the attestation on behalf of the educational corporation to be reopened would have to be elected as an officer of the education corporation before August 4, 2021, by at least one member of the board of the educational corporation who was a board member when the educational corporation had ceased operations.

An educational corporation that received approval would be considered by the State as Michigan's first historical black college or university.

The bill also would codify departmental reorganization by replacing references to the Department of Labor and Economic Growth with Department of Licensing and Regulatory Affairs (LARA). The Department of Labor and Economic Opportunity operates as a component of LARA. The bill also would replace "bureau of career education" with "postsecondary school unit", which is located within LEO.

MCL 430.51 (H.B. 5447)
450.171 (H.B. 5448)

Legislative Analyst: Dana Adams

FISCAL IMPACT

The bills would have no fiscal impact on State or local government. The Department of Labor and Economic Opportunity's administrative costs would be minimal and within current appropriations.

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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.