

Legislative Analysis



HISTORICALLY BLACK COLLEGE OR UNIVERSITY DESIGNATION

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5447 as enacted
Public Act 151 of 2021
Sponsor: Rep. Joe Tate

Analysis available at
<http://www.legislature.mi.gov>

House Bill 5448 as enacted
Public Act 152 of 2021
Sponsor: Rep. Pamela Hornberger

House Committee: Education
Senate Committee: Education and Career Readiness
Complete to 1-13-22

SUMMARY:

House Bill 5447 would amend 1929 PA 269, known as the protection of names and emblems act, to require that entities comply with certain state and federal requirements in order to use the designation *historically black college or university* (HBCU).

Historically black college or university would be defined in HB 5448 as a college or university that is a part B institution under federal law.¹ (Federal law provides that a part B institution means any historically Black college or university whose principal mission is the education of Black Americans, that was established by 1964, and that meets certain accreditation requirements.)

Currently under the act, a person, society, association, or corporation cannot use the name of a benevolent, humane, fraternal, or charitable organization or an imitation or deceptive version of that name. If two such entities claim a right to the same or a substantially similar name, the one that first used the name is entitled to its exclusive use. The bill would add that an educational corporation also falls under those restrictions on use.

The bill also would add that a person, society, association, or corporation cannot assume, adopt, or use the designation “historically black college or university” unless it is a part B institution as defined under federal law or an educational corporation that was reopened under 1931 PA 327 (described below).

MCL 430.51

¹ <https://www.law.cornell.edu/uscode/text/20/1061>

House Bill 5448 would amend 1931 PA 327, known as the Michigan general corporation statute, to allow a *private college* to apply to the Department of Labor and Economic Opportunity (LEO) to reopen an educational corporation that has ceased operations if all of the following apply:

- The private college is located in a city with a population of 500,000 or more. [Note: Detroit, with a population of 639,111, is the only Michigan city that fits that description.²]
- Before ceasing operations, the educational corporation to be reopened was designated by the U.S. Department of Education as a historically black college.

Private college would mean a class y educational corporation authorized by LEO to offer degrees. [Note: Class y educational corporations are defined under the act as those having a capital of \$1.0 million or more.]

The application submitted by the college seeking designation as an educational corporation would have to include all of the following:

- An attestation from an officer of the educational corporation to be reopened that it has capital of at least \$500,000. (The officer must have been elected as an officer by August 4, 2021, by at least one person who was a board member of the former educational corporation at the time it ceased operating.)
- A list of the proposed fields of study to be offered.
- An attestation from the private college that the educational corporation to be reopened would be managed and operated by the private college in accordance with an operating agreement and that the proposed facilities, equipment, and staff are adequate for the proposed fields of study.

LEO could consider the proposed facilities, equipment, and staff in determining whether the educational corporation to be reopened met the requirements under the bill.

Within 30 days after receipt of the information in the application, 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 educational institution, including offering bachelor's and associate's degree programs and certificate and diploma programs.

An educational corporation that received this approval would be considered Michigan's first HBCU.

MCL 450.171

The bills are tie-barred together, which means that neither could take effect unless both were enacted.

² <https://www.census.gov/quickfacts/fact/table/detroitcitymichigan,MI/PST045219>

BACKGROUND:

The bills are understood to further the reopening of the Lewis College of Business, an institution that operated in Detroit from 1939 until 2013, as the Pensole Lewis College of Business and Design. The college originally received its HBCU designation in 1987, and the reopening school is requesting recognition from the state as an HBCU. Pensole Lewis College is expected to open in March 2022, initially on the campus of the College for Creative Studies in Detroit.

BRIEF DISCUSSION:

Proponents of the bills testified that the reopened institution would fill a valuable need. The school would provide students education and experience in design and expose them to an industry in which they are underrepresented: according to committee testimony, currently only 4.8% of all individuals working in design industries are African American.

Pensole Lewis would be the first design-focused HBCU (only 9 of 101 HBCUs even have design majors) and would be the first HBCU to re-open after closure. It also would be the fifth HBCU in the Midwest, joining two in Ohio and two in Missouri.

No one testified or voted against the bills in House committee.

FISCAL IMPACT:

House Bills 5447 and 5448 would create marginal administrative costs for the Department of Labor and Economic Opportunity that would likely be absorbed under current appropriation levels. The bills otherwise would have no fiscal impact on state government, as the institution at the center of the bills is a private higher education institution. A private higher education institution receiving the HBCU designation will allow it to access federal funding specifically for HBCUs. However, the state does not have any similar funding or programs in the higher education budget.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.