

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Education

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BILL: SB 458

INTRODUCER: Senator Gibson

SUBJECT: Trust Funds/Historically Black Colleges and Universities Matching Endowment  
Scholarship Trust Fund

DATE: April 9, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bouck</u>	<u>Sikes</u>	<u>ED</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>AED</u>	_____
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 458 creates the Historically Black Colleges and Universities (HBCU) Matching Endowment Scholarship Trust Fund (trust fund) within the Department of Education. The trust fund is established for use as a depository for funds to be used for purposes of the HBCU Matching Endowment Scholarship Program. The bill specifies that moneys to be credited to the trust fund must consist of an appropriation from the Legislature and matching funds from participating HBCUs in the state.

The bill takes effect contingent upon, and concurrent with, passage of SB 456, which takes effect July 1, 2019.

**II. Present Situation:**

**Trust Funds**

*Establishment of Trust Funds*

A trust fund may be created by law only by the Legislature and only if passed by a three-fifths vote of the membership of each house in a separate bill for that purpose only.<sup>1</sup> Except for trust funds being re-created by the Legislature, each trust fund must be created by statutory language that specifies at least the following:<sup>2</sup>

- The name of the trust fund.
- The agency or branch of state government responsible for administering the trust fund.
- The requirements or purposes that the trust fund is established to meet.

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<sup>1</sup> Section 215.3207, F.S.

<sup>2</sup> *Id.*

- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.

### ***Florida Constitution Requirement for Trust Funds***

The Florida Constitution requires that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund.<sup>3</sup> By law the Legislature may set a shorter time period for which any trust fund is authorized.<sup>4</sup>

### ***Review of Trust Funds***

The Legislature must review all state trust funds at least once every 4 years.<sup>5</sup> Prior to the regular session of the Legislature immediately preceding the date on which any executive or judicial branch trust fund is scheduled to be terminated,<sup>6</sup> or such earlier date as the Legislature may specify.<sup>7</sup>

The agency responsible for the administration of the trust fund and the Governor, for executive branch trust funds, or the Chief Justice, for judicial branch trust funds, must recommend to the President of the Senate and the Speaker of the House of Representatives whether the trust fund should be allowed to terminate or should be re-created.<sup>8</sup> Each recommendation must be based on a review of the purpose and use of the trust fund and a determination of whether the trust fund will continue to be necessary.<sup>9</sup> A recommendation to re-create the trust fund may include suggested modifications to the purpose, sources of receipts, and allowable expenditures for the trust fund.<sup>10</sup>

When the Legislature terminates a trust fund, the agency or branch of state government that administers the trust fund must pay any outstanding debts or obligations of the trust fund as soon as practicable.<sup>11</sup> The Legislature may also provide for the distribution of moneys in that trust fund. If no such distribution is provided, the moneys remaining after all outstanding obligations of the trust fund are met must be deposited in the General Revenue Fund.<sup>12</sup>

### **Historically Black Colleges and Universities**

The Higher Education Act of 1965, as amended, defines an HBCU as a: "... 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 [of Education] to be a reliable authority as to

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<sup>3</sup> Art. III, s. 19(f)(2), Fla. Const.

<sup>4</sup> *Id.*

<sup>5</sup> Section 215.3208(1), F.S.

<sup>6</sup> Pursuant to Art. III, s. 19(f), Fla. Const.

<sup>7</sup> Section 215.3206(1), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Section 215.3208(2)(a), F.S.

<sup>12</sup> *Id.* at (b).

the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation.”<sup>13</sup>

Nationally, there are 107 HBCUs<sup>14</sup> located in 20 States, the District of Columbia, and the U.S. Virgin Islands, and serve more than 300,000 undergraduate, graduate, and professional students.<sup>15</sup>

There are four HBCUs in Florida:<sup>16</sup>

- **Florida Agricultural and Mechanical University (FAMU)**, which is a public university founded in 1887 and located in Tallahassee.<sup>17</sup> FAMU is regionally accredited by SACSCOC.<sup>18</sup> FAMU enrolls nearly 11,000 students.<sup>19</sup> Tuition and fees are \$5,827.30.<sup>20</sup>
- **Bethune-Cookman University (B-CU)**, which is a private university founded in 1904 and located in Daytona Beach.<sup>21</sup> B-CU is regionally accredited by the Commission on Colleges of the Southern Association of Colleges and Schools (SACSCOC).<sup>22</sup> Its fall, 2018 enrollment was 3,773.<sup>23</sup> Annual tuition and fees is \$14,410.<sup>24</sup>
- **Edward Waters College (EWC)**, which is a private college established in 1866<sup>25</sup> and located in Jacksonville. EWC is regionally accredited by SACSCOC.<sup>26</sup> Its current enrollment is 839 students.<sup>27</sup> Tuition and fees are \$12,525.<sup>28</sup>

<sup>13</sup> U.S. Department of Education, *What is an HBCU?* <https://sites.ed.gov/whhbcu/one-hundred-and-five-historically-black-colleges-and-universities/> (last visited Apr. 1, 2019).

<sup>14</sup> Such institutions satisfy s. 322(2) of the Higher Education Act of 1965. 34 C.F.R. s. 608.2

<sup>15</sup> The White House, *Executive Order 13779* (Feb. 28, 2017), available at [https://sites.ed.gov/whhbcu/files/2017/10/Executive\\_Order\\_13779.pdf](https://sites.ed.gov/whhbcu/files/2017/10/Executive_Order_13779.pdf), at 1.

<sup>16</sup> National Center for Education Statistics, *College Navigator*, <https://nces.ed.gov/COLLEGENAVIGATOR/?s=FL&sp=4> (last visited Apr. 1, 2019).

<sup>17</sup> Florida Agricultural and Mechanical University, *History of Florida Agricultural and Mechanical University (FAMU)*, <http://www.famu.edu/index.cfm?AboutFAMU&History> (last visited Apr. 1, 2019).

<sup>18</sup> Florida Agricultural and Mechanical University, *Florida A&M University Southern Association of Colleges and Schools Commission on Colleges (FAMU SACSCOC) Office* <http://www.famu.edu/index.cfm?sacs> (last visited Apr. 1, 2019). The Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) is the regional body for the accreditation of degree-granting higher education institutions in the Southern states that award associate, baccalaureate, master’s, or doctoral degrees, to include Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia. Southern Association of Colleges and Schools (SACS), *SACS Commission on Colleges*, <http://www.sacscoc.org/> (last visited Apr. 1, 2019).

<sup>19</sup> Florida Agricultural and Mechanical University, *About FAMU*, <http://www.famu.edu/index.cfm?AboutFAMU&Overview> (last visited Apr. 1, 2019).

<sup>20</sup> Board of Governors, *State University System of Florida, Tuition and Required Fees, 2018-2019*, available at <https://www.flbog.edu/board/office/budget/doc/tuition/2018-19-SUS-Tuition-and-Fee-for-New-Students-by-level.pdf>, at 1. The tuition and fees are for resident undergraduate, full time students for 30 credit hours. *Id.*

<sup>21</sup> Bethune-Cookman University, *About B-CU*, [http://www.cookman.edu/about\\_BCU/index.html](http://www.cookman.edu/about_BCU/index.html) (last visited Apr. 1, 2019).

<sup>22</sup> *Id.*

<sup>23</sup> Bethune-Cookman University, *Bethune-Cookman University At-a-Glance* (Fall 2018), available at [https://www.cookman.edu/about\\_BCU/IE/documents/BCU-at-a-Glance-2018.pdf](https://www.cookman.edu/about_BCU/IE/documents/BCU-at-a-Glance-2018.pdf).

<sup>24</sup> Bethune-Cookman University, *Tuition and Fees for 2018-2019—Cost of Attendance*, [https://www.cookman.edu/currentstudents/stud\\_accts/Tuition/index.html](https://www.cookman.edu/currentstudents/stud_accts/Tuition/index.html) (last visited Apr. 1, 2019).

<sup>25</sup> Edward Waters College, *The History of Edward Waters College*, <https://www.ewc.edu/about/our-history/> (last visited Apr. 1, 2019).

<sup>26</sup> Edward Waters College, <https://www.ewc.edu/accreditation/> (last visited Apr. 1, 2019).

<sup>27</sup> Edward Waters College, *Edward Waters College*, <https://www.ewc.edu/about-about-ewc/> (last visited Apr. 1, 2019).

<sup>28</sup> Edward Waters College, *Student Profile & Achievement*, <https://www.ewc.edu/institutional-planning-research-effectiveness/student-profile-achievement/> (last visited Apr. 1, 2019).

- **Florida Memorial University** (FMU), which is a private university founded in 1879 and located in Miami Gardens.<sup>29</sup> FMU is regionally accredited by the SACSCOC.<sup>30</sup> FMU's undergraduate enrollment is 1,250.<sup>31</sup> Tuition and fees are \$15,536.<sup>32</sup>

### III. Effect of Proposed Changes:

SB 458 creates the Historically Black Colleges and Universities (HBCU) Matching Endowment Scholarship Trust Fund (trust fund) within the Department of Education. The trust fund is established for use as a depository for funds to be used for purposes of the HBCU Matching Endowment Scholarship Program. The bill specifies that moneys to be credited to the trust fund must consist of an appropriation from the Legislature and matching funds from participating HBCUs in the state.

The bill requires that, in accordance with the State Constitution, the trust fund must be terminated on July 1, 2023, unless terminated sooner. The bill also requires that, before its scheduled termination, the trust fund must be reviewed in accordance with law.

The bill will take effect on the same date as SB 456<sup>33</sup> or similar legislation if such legislation is enacted in the same legislative session, or an extension of the same session, and becomes law. SB 456 takes effect July 1, 2019.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

Art. III, s. 19(f)(1) of the Florida Constitution specifies that a trust fund may be created or re-created only by a three-fifths vote of the membership of each house of the Legislature in a separate bill or that purpose only.

Art. III, s. 19(f)(2) of the State Constitution specifies that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund. By law the legislature may set a shorter time period for which any trust fund is authorized.

<sup>29</sup> Florida Memorial University, *Our History*, <http://www.fmuniv.edu/about/our-history/> (last visited Apr. 1, 2019).

<sup>30</sup> Florida Memorial University, *FMU At A Glance*, <http://www.fmuniv.edu/about/fmu-at-a-glance/> (last visited Apr. 1, 2019).

<sup>31</sup> National Center for Education Statistics, *College Navigator—Florida Memorial University*, <https://nces.ed.gov/collegenavigator/?s=FL&ct=2&pg=3&id=133979> (last visited Apr. 1, 2019).

<sup>32</sup> Florida Memorial University, *Tuition and Fees*, <https://www.fmuniv.edu/administration/division-of-student-affairs/enrollment-management-and-financial-aid/financial-aid/tuition-and-fees/> (last visited Apr. 1, 2019).

<sup>33</sup> The bill does not specify SB 456, but SB 456 establishes the HBCU Matching Endowment Scholarship Program.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 20.151 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.