

SENATE, No. 2137

STATE OF NEW JERSEY

INTRODUCED JUNE 5, 1997

By Senators KYRILLOS, BENNETT and Palaia

1 AN ACT establishing a county college capital projects fund in the New
2 Jersey Educational Facilities Authority, amending various parts of
3 statutory law, and supplementing chapter 72A of Title 18A of the
4 New Jersey Statutes.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. (New section) Sections 1 through 4 of this act shall be known
10 and may be cited as the "County College Capital Projects Fund Act."

11
12 2. (New section) The Legislature finds and declares that:
13 a. Higher education plays a vital role in the economic development
14 of the nation and the State by providing the education and training of
15 the work force of the future;

16 b. The county colleges serve a vital role in the educational system
17 of the State by providing students with an affordable means of
18 obtaining higher education, thereby providing opportunities to the
19 residents of the State which would not otherwise be available;

20 c. County colleges and the residents of the State would benefit
21 from additional funds and resources enabling counties to undertake
22 and complete county college capital projects;

23 d. It would therefore be appropriate for the New Jersey
24 Educational Facilities Authority created pursuant to N.J.S.18A:72A-1
25 et seq. to enter into contracts with counties and the State Treasurer to
26 provide for the financing of county college capital projects.

27
28 3. (New section) a. There is created within the New Jersey
29 Educational Facilities Authority, established pursuant to chapter 72A
30 of Title 18A of the New Jersey Statutes, hereinafter referred to as the
31 "authority," a county college capital projects fund to finance county
32 college capital projects. The authority may issue bonds to finance the
33 State share of county college capital projects and the county share of
34 county college capital projects as certified by the State Treasurer

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 pursuant to section 2 of P.L.1971, c.12 (C.18A:64A-22.2). The State
2 Treasurer is hereby authorized to enter into a contract with the
3 authority pursuant to which the State Treasurer, subject to available
4 appropriation, shall pay the amount necessary to pay the principal and
5 interest on bonds and notes of the authority issued to finance the State
6 share of county college capital projects. The authority may enter into
7 a loan agreement with each county in which a county college capital
8 project is located for the purpose of funding the county share of the
9 applicable county college capital project.

10 b. The authority may from time to time issue bonds or notes in an
11 amount sufficient to finance county college capital projects and which
12 shall also finance the administrative costs and any reserves or other
13 issuance costs associated with the issuance of bonds or notes. The
14 authority shall issue the bonds or notes in such manner as it shall
15 determine in accordance with the provisions of this act and the "New
16 Jersey educational facilities authority law," N.J.S.18A:72A-1 et seq.
17 The authority shall not issue any bonds or notes pursuant to this
18 section without the prior written consent of the State Treasurer.

19

20 4. (New section) a. At any time within one year of the
21 certification by the State Treasurer to the board of chosen freeholders,
22 the county college at which the capital project is located, and the
23 authority, pursuant to section 2 of P.L.1971, c.12 (C.18A:64A-22.2),
24 the board of chosen freeholders is authorized, in lieu of issuing bonds
25 or notes pursuant to N.J.S.18A:64A-19, to enter into a loan agreement
26 with the authority for the issuance of bonds or notes of the authority
27 to fund the county share of the capital project. The county shall issue
28 bonds and notes to the authority which shall be delivered to the
29 authority to evidence the loan, and which shall be the source of
30 payment for the bonds or notes issued by the authority to finance the
31 county share of the capital project. The loan evidenced by the bonds
32 or notes may be made subject to such terms and conditions as the
33 authority determines to be consistent with the purposes thereof. Each
34 loan by the authority shall be subject to approval by the State
35 Treasurer and shall be evidenced by notes or bonds issued by the
36 county which shall be authorized and issued as provided by law for the
37 issuance of notes and bonds by the county. A loan to a county, and
38 the notes, bonds or other obligations thereby issued shall bear interest
39 at a rate or rates per annum as may be agreed upon by the authority
40 and the county.

41 b. Any bonds or notes authorized by the county to be issued to the
42 authority or to another entity for the purpose of funding the county
43 share of a county college capital project shall be in addition to the
44 sums authorized to be borrowed by the board of chosen freeholders
45 pursuant to the provisions of N.J.S.18A:64A-19 for the purpose of
46 funding the county's share of capital projects, and the additional

1 borrowing, if entered into by the county, shall constitute a deduction
2 from the gross debt of the county and shall not be considered in
3 determining its net debt for debt incurring purposes.

4
5 5. N.J.S.18A:72A-3 is amended to read as follows:

6 18A:72A-3. As used in this act, the following words and terms
7 shall have the following meanings, unless the context indicates or
8 requires another or different meaning or intent:

9 "Authority" means the New Jersey Educational Facilities Authority
10 created by this chapter or any board, body, commission, department
11 or officer succeeding to the principal functions thereof or to whom the
12 powers conferred upon the authority by this chapter shall be given by
13 law;

14 "Bond" means bonds or notes of the authority issued pursuant to
15 this chapter;

16 "County college capital project" means any capital project of a
17 county college certified pursuant to section 2 of P.L.1971, c.12
18 (C.18A:64A-22.2) and approved by the State Treasurer for funding
19 pursuant to the "County College Capital Projects Fund Act," P.L. .
20 c. (C.) (now pending before the Legislature as this bill);

21 "Dormitory" means a housing unit with necessary and usual
22 attendant and related facilities and equipment;

23 "Educational facility" means a structure suitable for use as a
24 dormitory, dining hall, student union, administration building,
25 academic building, library, laboratory, research facility, classroom,
26 athletic facility, health care facility, teaching hospital, and parking
27 maintenance storage or utility facility and other structures or facilities
28 related thereto or required or useful for the instruction of students or
29 the conducting of research or the operation of an institution for higher
30 education, and the necessary and usual attendant and related facilities
31 and equipment, but shall not include any facility used or to be used for
32 sectarian instruction or as a place for religious worship;

33 "Emerging needs program" means a program at one or more public
34 or private institutions of higher education directed to meeting new and
35 advanced technology needs or to supporting new academic programs
36 in science and technology;

37 "Higher education equipment" means any property consisting of, or
38 relating to, scientific, engineering, technical, computer,
39 communications or instructional equipment;

40 "Participating college" means a public institution of higher
41 education or private college which, pursuant to the provisions of this
42 chapter, participates with the authority in undertaking the financing
43 and construction or acquisition of a project;

44 "Project" means a dormitory or an educational facility or any
45 combination thereof, or a county college capital project;

46 "Private college" means an institution for higher education other

1 than a public college, situated within the State and which, by virtue of
2 law or charter, is a nonprofit educational institution empowered to
3 provide a program of education beyond the high school level;

4 "Private institution of higher education" means independent colleges
5 or universities incorporated and located in New Jersey, which by virtue
6 of law or charter or license, are nonprofit educational institutions
7 authorized to grant academic degrees and which provide a level of
8 education which is equivalent to the education provided by the State's
9 public institutions of higher education as attested by the receipt of and
10 continuation of regional accreditation by the Middle States Association
11 of Colleges and Schools, and which are eligible to receive State aid;

12 "Public institution of higher education" means Rutgers, The State
13 University, the State colleges, the New Jersey Institute of Technology,
14 the University of Medicine and Dentistry of New Jersey, the county
15 colleges and any other public university or college now or hereafter
16 established or authorized by law;

17 "University" means Rutgers, The State University.

18 (cf: P.L.1993, c.136, s.3)

19
20 6. N.J.S.18A:72A-5 is amended to read as follows:

21 18A:72A-5. The authority shall have power:

22 (a) To adopt bylaws for the regulation of its affairs and the conduct
23 of its business;

24 (b) To adopt and have an official common seal and alter the same
25 at pleasure;

26 (c) To maintain an office at such place or places within the State
27 as it may designate;

28 (d) To sue and be sued in its own name, and plead and be
29 impleaded;

30 (e) To borrow money and to issue bonds and notes and other
31 obligations of the authority and to provide for the rights of the holders
32 thereof as provided in this chapter;

33 (f) To acquire, lease as lessee, hold and dispose of real and
34 personal property or any interest therein, in the exercise of its powers
35 and the performance of its duties under this chapter;

36 (g) To acquire in the name of the authority by purchase or
37 otherwise, on such terms and conditions and in such manner as it may
38 deem proper, or by the exercise of the power of eminent domain, any
39 land or interest therein and other property which it may determine is
40 reasonably necessary for any project, including any lands held by any
41 county, municipality or other governmental subdivision of the State;
42 and to hold and use the same and to sell, convey, lease or otherwise
43 dispose of property so acquired, no longer necessary for the authority's
44 purposes;

45 (h) To receive and accept, from any federal or other public agency
46 or governmental entity, grants or loans for or in aid of the acquisition

1 or construction of any project, and to receive and accept aid or
2 contributions from any other source, of either money, property, labor
3 or other things of value, to be held, used and applied only for the
4 purposes for which such grants, loans and contributions may be made;

5 (i) To prepare or cause to be prepared plans, specifications,
6 designs and estimates of costs for the construction and equipment of
7 projects for participating colleges under the provisions of this chapter,
8 and from time to time to modify such plans, specifications, designs or
9 estimates;

10 (j) By contract or contracts or by its own employees to construct,
11 acquire, reconstruct, rehabilitate and improve, and furnish and equip,
12 projects for participating colleges; however, in any contract or
13 contracts undertaken by the authority for the construction,
14 reconstruction, rehabilitation or improvement of any public college
15 project where the cost of such work will exceed \$25,000, the
16 contracting agent shall advertise for and receive in the manner
17 provided by law:

18 (1) separate bids for the following categories of work;

19 (a) the plumbing and gas fitting work;

20 (b) the heating and ventilating systems and equipment;

21 (c) the electrical work, including any electrical power plants;

22 (d) the structural steel and ornamental iron work;

23 (e) all other work and materials required for the completion of the
24 project, or

25 (2) bids for all work and materials required to complete the entire
26 project if awarded as a single contract; or

27 (3) both (1) and (2) above.

28 All bids submitted shall set forth the names and license numbers of,
29 and evidence of performance security from, all subcontractors to
30 whom the bidder will subcontract the work described in the foregoing
31 categories (1)(a) through (1)(e).

32 Contracts shall be awarded to the lowest responsible bidder whose
33 bid, conforming to the invitation for bids, will be the most
34 advantageous to the authority;

35 (k) To determine the location and character of any project to be
36 undertaken pursuant to the provisions of this chapter, and to
37 construct, reconstruct, maintain, repair, operate, lease, as lessee or
38 lessor, and regulate the same; to enter into contracts for any or all
39 such purposes; to enter into contracts for the management and
40 operation of a project, and to designate a participating college as its
41 agent to determine the location and character of a project undertaken
42 by such participating college under the provisions of this chapter and,
43 as the agent of the authority, to construct, reconstruct, maintain,
44 repair, operate, lease, as lessee or lessor, and regulate the same, and,
45 as agent of the authority, to enter into contracts for any and all such
46 purposes including contracts for the management and operation of

1 such project;

2 (l) To establish rules and regulations for the use of a project or any
3 portion thereof and to designate a participating college as its agent to
4 establish rules and regulations for the use of a project undertaken by
5 such participating college;

6 (m) Generally to fix and revise from time to time and to charge and
7 collect rates, rents, fees and other charges for the use of and for the
8 services furnished or to be furnished by a project or any portion
9 thereof and to contract with holders of its bonds and with any other
10 person, party, association, corporation or other body, public or
11 private, in respect thereof;

12 (n) To enter into any and all agreements or contracts, execute any
13 and all instruments, and do and perform any and all acts or things
14 necessary, convenient or desirable for the purposes of the authority or
15 to carry out any power expressly given in this chapter;

16 (o) To invest any moneys held in reserve or sinking funds, or any
17 moneys not required for immediate use or disbursement, at the
18 discretion of the authority, in such obligations as are authorized by law
19 for the investment of trust funds in the custody of the State Treasurer;

20 (p) To enter into any lease relating to higher education equipment
21 with a public or private institution of higher education pursuant to the
22 provisions of P.L.1993, c.136 (C.18A:72A-40 et al.)[.] ;

23 (q) To enter into loan agreements with any county, to hold bonds
24 or notes of the county evidencing those loans, and to issue bonds or
25 notes of the authority to finance county college capital projects
26 pursuant to the provisions of the "County College Capital Projects
27 Fund Act," P.L. , c. (C.) (now pending before the Legislature as
28 this bill).

29 (cf: P.L.1993, c.136, s.4)

30

31 7. Section 1 of P.L.1971, c.12 (C.18A:64A-22.1) is amended to
32 read as follows:

33 1. Whenever the funds appropriated are insufficient to satisfy the
34 State's share of capital projects for county colleges pursuant to
35 N.J.S.18A:64A-22, additional State support for such projects shall be
36 made available to counties in which county colleges are located for the
37 payment of interest and principal on bonds and notes entitled to the
38 benefits of this act and interest on notes issued in anticipation thereof
39 and entitled to the benefits of the "County College Capital Projects
40 Fund Act," P.L. , c. (C.) (now pending before the Legislature
41 as this bill), provided that the total principal amount of such bonds and
42 notes shall not exceed [\$80,000,000.00] \$120,000,000.

43 (cf: P.L.1994, c.48, s.135)

44

45 8. Section 2 of P.L.1971, c.12 (C.18A:64A-22.2) is amended to
46 read as follows:

1 2. Whenever the State Treasurer shall determine that he is unable
2 to provide State support for a capital project of a county college
3 pursuant to N.J.S.18A:64A-22 within the limit of available State
4 appropriations, the State Treasurer shall determine the amount of
5 bonds and notes entitled to the benefits of this act and the "County
6 College Capital Projects Fund Act," P.L. , c. (C.) (now pending
7 before the Legislature as this bill) and not theretofore allocated to
8 another capital project. The State Treasurer shall determine the
9 necessity or advisability of making available additional State support
10 for the capital project. To the extent he determines additional support
11 is necessary or advisable, he shall certify to the board of chosen
12 freeholders of the county in which said capital project is located, the
13 county college at which the capital project is located, and the New
14 Jersey Educational Facilities Authority the amount of bonds or notes
15 relating to the capital project which shall be entitled to the benefits of
16 this act and the "County College Capital Projects Fund Act," P.L. ,
17 c. (C.) (now pending before the legislature as this bill), which
18 amount shall not exceed the amount of bonds and notes entitled to the
19 benefit of [this act] those acts and not theretofore allocated to another
20 capital project. A copy of such certification shall be filed by the State
21 Treasurer with the Director of the Division of Local Finance.
22 (cf: P.L.1994, c.48, s.136)

23

24 9. Section 3 of P.L.1971, c.12 (C.18A:64A-22.3) is amended to
25 read as follows:

26 3. At any time within 1 year of the certification by the State
27 Treasurer to the board of chosen freeholders [referred], the county
28 college at which the capital project is located, and the New Jersey
29 Educational Facilities Authority pursuant to[in] section 2 of
30 P.L.1971, c.12 (C.18A:64A-22.2), [said] the board of chosen
31 freeholders is authorized to issue bonds, or notes in anticipation
32 thereof, in an aggregate amount not exceeding the amount set forth in
33 the treasurer's certification. Bonds or notes may also be issued by the
34 New Jersey Educational Facilities Authority pursuant to the provisions
35 of the "County College Capital Projects Fund Act," P.L. , c. (C.)
36 (now pending before the Legislature as this bill) or by another legally
37 empowered issuer in an aggregate amount not exceeding the amount
38 set forth in the State Treasurer's certification. Bonds issued by any
39 issuer other than the authority or the board of chosen freeholders
40 pursuant to the "County College Capital Projects Fund Act," P.L. ,
41 c. (C.) (now pending before the Legislature as this bill) shall be
42 subject to the provisions of P.L.1971, c.12 (C.18A:64A-22.1 et seq.)
43 in the same manner as bonds or notes issued by the board of chosen
44 freeholders; provided that in the event bonds or notes are issued by
45 another legally empowered issuer, the bonds or notes shall be sold by
46 the issuer by competitive sale unless the State Treasurer expressly

1 consents in writing to a negotiated sale of the bonds or notes by the
2 issuer. Such bonds shall be in addition to the sums authorized to be
3 borrowed by said board pursuant to N.J.S.18A:64A-19 for the
4 purpose of funding the county share of such capital projects. No
5 bonds or notes, other than bonds or notes issued by the New Jersey
6 Educational Facilities Authority as authorized pursuant to the
7 "County College Capital Projects Fund Act," P.L. .c. (C.) (now
8 pending before the Legislature as this bill), shall be issued pursuant to
9 this act bearing an interest rate in excess of a maximum rate
10 theretofore specified by the State Treasurer and, in the case of bonds,
11 unless the State Treasurer has theretofore approved the maturity
12 schedule for the repayment of said bonds.

13 (cf: P.L.1971, c.12, s.3)

14

15 10. Section 4 of P.L.1971, c.12 (C.18A:64A-22.4) is amended to
16 read as follows:

17 4. Such additional borrowing ,if entered into by the county, shall
18 constitute a deduction from the gross debt of such county and shall not
19 be considered in determining its net debt for debt incurring purposes.

20 (cf: P.L.1971, c.12, s.4)

21

22 11. Section 5 of P.L.1971, c.12 (C.18A:64A-22.5) is amended to
23 read as follows:

24 5. Any board of chosen freeholders or other legally empowered
25 issuer which has authorized such additional bonds may issue temporary
26 notes in anticipation of the issuance of permanent bonds to the extent
27 permitted by applicable law.

28 (cf: P.L.1971, c.12, s.5)

29

30 12. Section 6 of P.L.1971, c.12 (C.18A:64A-22.6) is amended to
31 read as follows:

32 6. Within 10 days after issuance of any bonds or notes entitled to
33 the benefits of this act, the treasurer of the county issuing such bonds
34 or notes, or if applicable, the treasurer of the other legally empowered
35 issuer of the bonds or notes, shall certify to the State Treasurer the
36 exact amounts payable on account of interest and principal on such
37 bonds and interest on such notes and the dates upon which such
38 amounts are payable by the county or other issuer and the name and
39 address of the paying agent or paying agents therefor. The amounts
40 so certified by the county treasurer or the treasurer of the other issuer
41 to the State Treasurer shall be appropriated and paid to the county, or
42 paid by the other legally empowered issuer, on or before the dates of
43 each payment by the county or other issuer on such bonds or notes in
44 an amount with respect to each such date equal to the amount payable
45 on such date and shall be used by the county or other issuer only for

1 such payment.
2 (cf: P.L.1972, c.106, s.1)

3
4 13. Section 7 of P.L.1971, c.12 (C.18A:64A-22.7) is amended to
5 read as follows:

6 7. On January 10 in each year the county treasurer or the treasurer
7 of the other legally empowered issuer shall certify and pay to the
8 State Treasurer the amount of the earnings received by the county or
9 the issuer during the preceding year from the investment [or deposit]
10 of the proceeds from the sale of such bonds or notes, provided that
11 prior to the application of the proceeds to the purposes for which the
12 bonds or notes have been issued [the investment or deposit of] such
13 proceeds shall be [subject to regulations prescribed by] invested in the
14 State of New Jersey Cash Management Fund, established pursuant to
15 section 1 of P.L.1977, c.281 (C.52:18A-90.4) or in such other
16 investment as shall be explicitly authorized in writing by the State
17 Treasurer.

18 (cf: P.L.1971, c.12, s.7)

19
20 14. This act shall take effect immediately.

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STATEMENT

24

25 This bill, the "County College Capital Projects Fund Act,"
26 authorizes the Educational Facilities Authority to finance county
27 college capital projects through the sale of bonds or notes issued by
28 the authority. The bill authorizes the authority to issue bonds to
29 finance the State share of county college capital projects and
30 authorizes the State Treasurer to enter into a contract with the
31 authority to pay the amount necessary to satisfy the principal and
32 interest on bonds and notes issued by the authority for this purpose.

33 In regard to the funding of the county share of county college
34 capital projects, the bill authorizes the authority to enter into a loan
35 agreement with the county and to issue bonds or notes in an amount
36 sufficient to finance the county's share of the project. The bill
37 stipulates that the county is also to issue bonds which shall be
38 delivered to the authority to evidence the loan and to be the source of
39 payment for the bonds or notes issued by the authority. Each loan by
40 the authority to a county must be approved by the State Treasurer.
41 Any bonds or notes issued by the county to the authority or to any
42 other entity under the bill's provisions are to be deducted from
43 consideration of the county's net debt for debt incurring purposes.

44 The bill also raises the principal amount of bonds which can be
45 issued by a county and which qualify for State support from
46 \$80,000,000 to \$120,000,000. In addition, the bill provides that any

1 other entity which is legally authorized to issue bonds, such as a
2 county improvement authority, may issue bonds in order to fund the
3 county's required share of the capital project. Any bonds sold by such
4 an issuer must be sold by competitive sale unless the State Treasurer
5 consents in writing to a negotiated sale of the bonds or notes.

6 Finally, the bill provides that earnings realized by counties from the
7 sale of bonds or notes shall be invested in the Cash Management Fund
8 prior to application of the proceeds for which the bonds or notes were
9 sold.

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14 The "County College Capital Projects Fund Act."