

[Second Reprint]
SENATE, No. 2137

STATE OF NEW JERSEY

INTRODUCED JUNE 5, 1997

By Senators KYRILLOS, BENNETT, Palaia and Rice

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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SED committee amendments adopted December 1, 1997.

² Senate floor amendments adopted December 15, 1997.

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

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

23

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

45 b. Any bonds or notes authorized by the county to be issued to the
46 authority or to another entity for the purpose of funding the county

1 share of a county college capital project shall be in addition to the
2 sums authorized to be borrowed by the board of chosen freeholders
3 pursuant to the provisions of N.J.S.18A:64A-19 for the purpose of
4 funding the county's share of capital projects, and the additional
5 borrowing, if entered into by the county, shall constitute a deduction
6 from the gross debt of the county and shall not be considered in
7 determining its net debt for debt incurring purposes.

8
9 5. N.J.S.18A:72A-3 is amended to read as follows:

10 18A:72A-3. As used in this act, the following words and terms
11 shall have the following meanings, unless the context indicates or
12 requires another or different meaning or intent:

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

18 "Bond" means bonds or notes of the authority issued pursuant to
19 this chapter;

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

25 "Dormitory" means a housing unit with necessary and usual
26 attendant and related facilities and equipment;

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

37 "Emerging needs program" means a program at one or more public
38 or private institutions of higher education directed to meeting new and
39 advanced technology needs or to supporting new academic programs
40 in science and technology;

41 "Higher education equipment" means any property consisting of, or
42 relating to, scientific, engineering, technical, computer,
43 communications or instructional equipment;

44 "Participating college" means a public institution of higher
45 education or private college which, pursuant to the provisions of this

1 chapter, participates with the authority in undertaking the financing
2 and construction or acquisition of a project;

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

5 "Private college" means an institution for higher education other
6 than a public college, situated within the State and which, by virtue of
7 law or charter, is a nonprofit educational institution empowered to
8 provide a program of education beyond the high school level;

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

17 "Public institution of higher education" means Rutgers, The State
18 University, the State colleges, the New Jersey Institute of Technology,
19 the University of Medicine and Dentistry of New Jersey, the county
20 colleges and any other public university or college now or hereafter
21 established or authorized by law;

22 "University" means Rutgers, The State University.
23 (cf: P.L.1993, c.136, s.3)

24

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

26 18A:72A-5. The authority shall have power:

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

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

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

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

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

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

41 (g) To acquire in the name of the authority by purchase or
42 otherwise, on such terms and conditions and in such manner as it may
43 deem proper, or by the exercise of the power of eminent domain, any
44 land or interest therein and other property which it may determine is
45 reasonably necessary for any project, including any lands held by any

1 county, municipality or other governmental subdivision of the State;
2 and to hold and use the same and to sell, convey, lease or otherwise
3 dispose of property so acquired, no longer necessary for the authority's
4 purposes;

5 (h) To receive and accept, from any federal or other public agency
6 or governmental entity, grants or loans for or in aid of the acquisition
7 or construction of any project, and to receive and accept aid or
8 contributions from any other source, of either money, property, labor
9 or other things of value, to be held, used and applied only for the
10 purposes for which such grants, loans and contributions may be made;

11 (i) To prepare or cause to be prepared plans, specifications,
12 designs and estimates of costs for the construction and equipment of
13 projects for participating colleges under the provisions of this chapter,
14 and from time to time to modify such plans, specifications, designs or
15 estimates;

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

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

25 (a) the plumbing and gas fitting work;

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

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

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

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

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

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

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

38 Contracts shall be awarded to the lowest responsible bidder whose
39 bid, conforming to the invitation for bids, will be the most
40 advantageous to the authority;

41 (k) To determine the location and character of any project to be
42 undertaken pursuant to the provisions of this chapter, and to
43 construct, reconstruct, maintain, repair, operate, lease, as lessee or
44 lessor, and regulate the same; to enter into contracts for any or all
45 such purposes; to enter into contracts for the management and

1 operation of a project, and to designate a participating college as its
2 agent to determine the location and character of a project undertaken
3 by such participating college under the provisions of this chapter and,
4 as the agent of the authority, to construct, reconstruct, maintain,
5 repair, operate, lease, as lessee or lessor, and regulate the same, and,
6 as agent of the authority, to enter into contracts for any and all such
7 purposes including contracts for the management and operation of
8 such project;

9 (l) To establish rules and regulations for the use of a project or any
10 portion thereof and to designate a participating college as its agent to
11 establish rules and regulations for the use of a project undertaken by
12 such participating college;

13 (m) Generally to fix and revise from time to time and to charge and
14 collect rates, rents, fees and other charges for the use of and for the
15 services furnished or to be furnished by a project or any portion
16 thereof and to contract with holders of its bonds and with any other
17 person, party, association, corporation or other body, public or
18 private, in respect thereof;

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

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

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

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

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

37

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

40 1. Whenever the funds appropriated are insufficient to satisfy the
41 State's share of capital projects for county colleges pursuant to
42 N.J.S.18A:64A-22, additional State support for such projects shall be
43 made available to counties in which county colleges are located for the
44 payment of interest and principal on bonds and notes entitled to the
45 benefits of this act and interest on notes issued in anticipation thereof

1 and entitled to the benefits of the "County College Capital Projects
2 Fund Act," P.L. , c. (C.) (now pending before the Legislature as
3 this bill), provided that the total principal amount of such bonds and
4 notes shall not exceed [\$80,000,000.00] ²[\$120,000,000]
5 \$140,000,000² .

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

7

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

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

31 (cf: P.L.1994, c.48, s.136)

32

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

35 3. At any time within 1 year of the certification by the State
36 Treasurer to the board of chosen freeholders [referred], the county
37 college at which the capital project is located, and the New Jersey
38 Educational Facilities Authority pursuant to[in] section 2 of
39 P.L.1971, c.12 (C.18A:64A-22.2), [said] the board of chosen
40 freeholders is authorized to issue bonds, or notes in anticipation
41 thereof, in an aggregate amount not exceeding the amount set forth in
42 the treasurer's certification. Bonds or notes may also be issued by the
43 New Jersey Educational Facilities Authority pursuant to the provisions
44 of the "County College Capital Projects Fund Act," P.L. , c. (C.)
45 (now pending before the Legislature as this bill) or by another legally
46 empowered issuer in an aggregate amount not exceeding the amount

1 set forth in the State Treasurer's certification. Bonds issued by any
2 issuer other than the authority or the board of chosen freeholders
3 pursuant to the "County College Capital Projects Fund Act," P.L. ,
4 c. (C.) (now pending before the Legislature as this bill) shall be
5 subject to the provisions of P.L.1971, c.12 (C.18A:64A-22.1 et seq.)
6 in the same manner as bonds or notes issued by the board of chosen
7 freeholders; provided that in the event bonds or notes are issued by
8 another legally empowered issuer, the bonds or notes shall be sold by
9 the issuer by competitive sale unless the State Treasurer expressly
10 consents in writing to a negotiated sale of the bonds or notes by the
11 issuer. Such bonds shall be in addition to the sums authorized to be
12 borrowed by said board pursuant to N.J.S.18A:64A-19 for the
13 purpose of funding the county share of such capital projects. No
14 bonds or notes, other than bonds or notes issued by the New Jersey
15 Educational Facilities Authority as authorized pursuant to the
16 "County College Capital Projects Fund Act," P.L. ,c. (C.) (now
17 pending before the Legislature as this bill), shall be issued pursuant to
18 this act bearing an interest rate in excess of a maximum rate
19 theretofore specified by the State Treasurer and, in the case of bonds,
20 unless the State Treasurer has theretofore approved the maturity
21 schedule for the repayment of said bonds.

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

23

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

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

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

30

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

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

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

38

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

41 6. Within 10 days after issuance of any bonds or notes entitled to
42 the benefits of this act, the treasurer of the county issuing such bonds
43 or notes, or if applicable, the treasurer of the other legally empowered
44 issuer of the bonds or notes, shall certify to the State Treasurer the
45 exact amounts payable on account of interest and principal on such
46 bonds and interest on such notes and the dates upon which such

1 amounts are payable by the county or other issuer and the name and
2 address of the paying agent or paying agents therefor. The amounts
3 so certified by the county treasurer or the treasurer of the other issuer
4 to the State Treasurer shall be appropriated and paid to the county, or
5 paid ¹[by] to¹ the other legally empowered issuer, on or before the
6 dates of each payment by the county or other issuer on such bonds or
7 notes in an amount with respect to each such date equal to the amount
8 payable on such date and shall be used by the county or other issuer
9 only for such payment.

10 (cf: P.L.1972, c.106, s.1)

11

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

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

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

27

28 14. This act shall take effect immediately.

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31

32

33 The "County College Capital Projects Fund Act."