

[Passed Both Houses]

[Second Reprint]

**SENATE, No. 2137**

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# STATE OF NEW JERSEY

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INTRODUCED JUNE 5, 1997

**By Senators KYRILLOS, BENNETT, Palaia, Rice, Baer,  
Assemblymen Azzolina, Arnone, T.Smith, Corodemus,  
Assemblywoman Farragher, Assemblymen Asselta, Bateman,  
Felice, Gibson, Rocco, Garcia, Stanley, Wolfe, Assemblywoman  
Buono and Assemblyman Arnone**

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

**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:**

<sup>1</sup> Senate SED committee amendments adopted December 1, 1997.

<sup>2</sup> Senate floor amendments adopted December 15, 1997.

1 et seq. to enter into contracts with counties and the State Treasurer to  
2 provide for the financing of county college capital projects.

3  
4 3. (New section) a. There is created within the New Jersey  
5 Educational Facilities Authority, established pursuant to chapter 72A  
6 of Title 18A of the New Jersey Statutes, hereinafter referred to as the  
7 "authority," a county college capital projects fund to finance county  
8 college capital projects. The authority may issue bonds to finance the  
9 State share of county college capital projects and the county share of  
10 county college capital projects as certified by the State Treasurer  
11 pursuant to section 2 of P.L.1971, c.12 (C.18A:64A-22.2). The State  
12 Treasurer is hereby authorized to enter into a contract with the  
13 authority pursuant to which the State Treasurer, subject to available  
14 appropriation, shall pay the amount necessary to pay the principal and  
15 interest on bonds and notes of the authority issued to finance the State  
16 share of county college capital projects. The authority may enter into  
17 a loan agreement with each county in which a county college capital  
18 project is located for the purpose of funding the county share of the  
19 applicable county college capital project.

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

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

1 issuance of notes and bonds by the county. A loan to a county, and  
2 the notes, bonds or other obligations thereby issued shall bear interest  
3 at a rate or rates per annum as may be agreed upon by the authority  
4 and the county.

5 b. Any bonds or notes authorized by the county to be issued to the  
6 authority or to another entity for the purpose of funding the county  
7 share of a county college capital project shall be in addition to the  
8 sums authorized to be borrowed by the board of chosen freeholders  
9 pursuant to the provisions of N.J.S.18A:64A-19 for the purpose of  
10 funding the county's share of capital projects, and the additional  
11 borrowing, if entered into by the county, shall constitute a deduction  
12 from the gross debt of the county and shall not be considered in  
13 determining its net debt for debt incurring purposes.

14

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

16 18A:72A-3. As used in this act, the following words and terms  
17 shall have the following meanings, unless the context indicates or  
18 requires another or different meaning or intent:

19 "Authority" means the New Jersey Educational Facilities Authority  
20 created by this chapter or any board, body, commission, department  
21 or officer succeeding to the principal functions thereof or to whom the  
22 powers conferred upon the authority by this chapter shall be given by  
23 law;

24 "Bond" means bonds or notes of the authority issued pursuant to  
25 this chapter;

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

31 "Dormitory" means a housing unit with necessary and usual  
32 attendant and related facilities and equipment;

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

43 "Emerging needs program" means a program at one or more public  
44 or private institutions of higher education directed to meeting new and  
45 advanced technology needs or to supporting new academic programs  
46 in science and technology;

1 "Higher education equipment" means any property consisting of, or  
2 relating to, scientific, engineering, technical, computer,  
3 communications or instructional equipment;

4 "Participating college" means a public institution of higher  
5 education or private college which, pursuant to the provisions of this  
6 chapter, participates with the authority in undertaking the financing  
7 and construction or acquisition of a project;

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

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

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

22 "Public institution of higher education" means Rutgers, The State  
23 University, the State colleges, the New Jersey Institute of Technology,  
24 the University of Medicine and Dentistry of New Jersey, the county  
25 colleges and any other public university or college now or hereafter  
26 established or authorized by law;

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

29  
30 6. N.J.S.18A:72A-5 is amended to read as follows:

31 18A:72A-5. The authority shall have power:

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

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

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

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

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

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

46 (g) To acquire in the name of the authority by purchase or

1 otherwise, on such terms and conditions and in such manner as it may  
2 deem proper, or by the exercise of the power of eminent domain, any  
3 land or interest therein and other property which it may determine is  
4 reasonably necessary for any project, including any lands held by any  
5 county, municipality or other governmental subdivision of the State;  
6 and to hold and use the same and to sell, convey, lease or otherwise  
7 dispose of property so acquired, no longer necessary for the authority's  
8 purposes;

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

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

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

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

29 (a) the plumbing and gas fitting work;

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

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

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

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

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

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

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

42 Contracts shall be awarded to the lowest responsible bidder whose  
43 bid, conforming to the invitation for bids, will be the most  
44 advantageous to the authority;

45 (k) To determine the location and character of any project to be  
46 undertaken pursuant to the provisions of this chapter, and to

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

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

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

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

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

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

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

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

40

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

43 1. Whenever the funds appropriated are insufficient to satisfy the  
44 State's share of capital projects for county colleges pursuant to  
45 N.J.S.18A:64A-22, additional State support for such projects shall be  
46 made available to counties in which county colleges are located for the

1 payment of interest and principal on bonds and notes entitled to the  
2 benefits of this act and interest on notes issued in anticipation thereof  
3 and entitled to the benefits of the "County College Capital Projects  
4 Fund Act," P.L. , c. (C. ) ( now pending before the Legislature as  
5 this bill), provided that the total principal amount of such bonds and  
6 notes shall not exceed [\$80,000,000.00] <sup>2</sup>[\$120,000,000]  
7 \$140,000,000<sup>2</sup> .

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

9

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

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

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

34

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

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

1 (now pending before the Legislature as this bill) or by another legally  
2 empowered issuer in an aggregate amount not exceeding the amount  
3 set forth in the State Treasurer's certification. Bonds issued by any  
4 issuer other than the authority or the board of chosen freeholders  
5 pursuant to the "County College Capital Projects Fund Act," P.L. ,  
6 c. (C. ) (now pending before the Legislature as this bill) shall be  
7 subject to the provisions of P.L.1971, c.12 (C.18A:64A-22.1 et seq.)  
8 in the same manner as bonds or notes issued by the board of chosen  
9 freeholders; provided that in the event bonds or notes are issued by  
10 another legally empowered issuer, the bonds or notes shall be sold by  
11 the issuer by competitive sale unless the State Treasurer expressly  
12 consents in writing to a negotiated sale of the bonds or notes by the  
13 issuer. Such bonds shall be in addition to the sums authorized to be  
14 borrowed by said board pursuant to N.J.S.18A:64A-19 for the  
15 purpose of funding the county share of such capital projects. No  
16 bonds or notes, other than bonds or notes issued by the New Jersey  
17 Educational Facilities Authority as authorized pursuant to the  
18 "County College Capital Projects Fund Act," P.L. ,c. (C. ) (now  
19 pending before the Legislature as this bill), shall be issued pursuant to  
20 this act bearing an interest rate in excess of a maximum rate  
21 theretofore specified by the State Treasurer and, in the case of bonds,  
22 unless the State Treasurer has theretofore approved the maturity  
23 schedule for the repayment of said bonds.

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

25

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

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

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

32

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

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

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

40

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

43 6. Within 10 days after issuance of any bonds or notes entitled to  
44 the benefits of this act, the treasurer of the county issuing such bonds  
45 or notes, or if applicable, the treasurer of the other legally empowered  
46 issuer of the bonds or notes, shall certify to the State Treasurer the



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

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

13

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

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

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

29

30 14. This act shall take effect immediately.

31

32

33

34

35 The "County College Capital Projects Fund Act."