



SPONSOR: Sen. McDowell & Rep. Osienski
Sens. McBride, Poore, Brown, Lockman, Sokola,
Sturgeon; Reps. Baumbach, Bolden, Brady, Heffernan,
Jaques, Ramone

DELAWARE STATE SENATE
150th GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 2
FOR
SENATE BILL NO. 50

AN ACT TO AMEND TITLE 14 AND TITLE 29 OF THE DELAWARE CODE RELATING TO THE
ESTABLISHMENT OF A COMMUNITY COLLEGE INFRASTRUCTURE FUND.

1 WHEREAS, Delaware’s Community College System, operated by Delaware Technical and Community College
2 (“the College”), consists of over 40 buildings totaling 1.3 million square feet of space and is situated on approximately 352
3 acres of land across 4 campuses located in each county of the State and the City of Wilmington; and

4 WHEREAS, today, 79% of the College’s facilities are more than 25 years old and, by 2020, 85% of the College’s
5 facilities will be more than 25 years old and more than 50% will be greater than 40 years old; and

6 WHEREAS, the replacement cost of the College’s aging infrastructure is approximately \$400 million. According
7 to industry standards, the College should be re-investing \$12 million annually to maintain the College’s existing
8 infrastructure. However, over the past 14 years, the College has received an average of only \$4.9 million for maintenance
9 and minor capital improvements (“MCI”), thereby resulting in \$89.8 million in deferred maintenance alone. If not
10 addressed, deferred maintenance is projected to exceed \$100 million by 2020; and

11 WHEREAS, in addition to deferred maintenance, the College has a critical need to build, renovate, or expand its
12 academic and student support facilities in each county and the City of Wilmington at a current cost of \$69.8 million so that
13 it can continue to address Delaware’s economic and workforce development needs; and

14 WHEREAS, the College served over 33,500 Delawareans in its academic degree (credit) and workforce
15 development (non-credit) programs in 2018, of which over 87% stayed and worked in Delaware after graduation and were
16 hired by over 620 Delaware businesses in 2018; and

17 WHEREAS, the College receives students from all 19 Delaware school districts and has 269 transfer agreements
18 with four-year colleges and universities; and

19 WHEREAS, a recent independent study revealed that the College's students who entered the workforce added
20 over \$976.4 million to the state economy in 2014, and that every \$1 spent on the College returned \$3.20 in economic
21 benefit to Delaware; and

22 WHEREAS, the College is in dire need of a stable and predictable funding source to finance its capital projects
23 and deferred maintenance to ensure its continued contribution to Delaware's economy.

24 NOW, THEREFORE:

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

26 Section 1. Amend § 7422(a)(2), Title 29 of the Delaware Code by making deletions as shown by strike through and
27 insertions as shown by underline as follows :

28 § 7422. Limitations on debt and other obligations.

29 (a) For the purposes of this section:

30 (1) "Aggregate maximum annual payments" on all tax supported obligations and all Transportation Trust Fund
31 debt obligations outstanding, ~~(plus plus~~ certain lease obligations as described in subsection (c) of this section) ~~section,~~
32 means the maximum payments due with respect to all such obligations in any 1 fiscal year. In any case where the terms of
33 any such obligation include limitations on the incurrence of additional debt, the determination of maximum annual
34 payments with respect to such obligation shall be determined consistently with those terms.

35 (2) a. "Tax supported obligations of the State" means all of the following:

36 (A) 1. All obligations of the State or any agency or authority thereof to which the State's full faith and credit is
37 pledged to pay directly or by guarantee ~~(provided, provided~~ that any such guaranteed obligations shall be included only to
38 the extent any such obligations are in default); and default.

39 ~~(B) all~~ 2. All obligations of the State or any agency or authority thereof extending beyond 1 year with respect to
40 the lease, ~~occupancy~~ occupancy, or acquisition of property which are incurred in connection with debt financing
41 transactions ~~(e.g., such as certificates of participation)~~ participation, and which are payable from taxes, fees, permits,
42 ~~licenses~~ licenses, and fines imposed or approved by the General Assembly.

43 b. "Tax supported obligations of the State" do not include any of the following:

44 (A) 1. Obligations incurred to acquire a like principal amount of full faith and credit obligations issued by a local
45 school district to the extent such local school district obligations are not in ~~default~~; default.

46 ~~(B) any~~ 2. Any obligations of the Delaware Transportation ~~Authority~~; Authority.

47 ~~(C) any~~ 3. Any tax or other revenue anticipation notes or bonds of the ~~State~~; or State.

48 ~~(D) any~~ 4. Any obligations to the extent that the debt service with respect thereto is reasonably expected to be
49 offset ~~(as determined , as determined by the Secretary of Finance)~~ Finance, by lease payments, user fees, federal ~~grants~~
50 grants, or other payments from some source other than the General Fund. Such payments ~~shall~~ must be used expressly for
51 the purpose of paying such debt ~~service;~~ service.

52 5. Obligations incurred to acquire a like principal amount of promissory notes or bonds issued by Delaware
53 Technical and Community College and secured by the non-appropriated funds held in the Community College
54 Infrastructure Fund, under Subchapter II, Chapter 91 of Title 14, as certified to the Secretary of Finance by the Chair of the
55 Board of Trustees, in a form approved by the Secretary of Finance, to the extent such notes or bonds of the College are not
56 in default.

57 (3) “Transportation Trust Fund debt obligations” means all debt obligations of the Delaware Transportation
58 Authority, including all obligations extending beyond 1 year with respect to the lease, ~~occupancy~~ occupancy, or acquisition
59 of property which are incurred in connection with debt financing transactions ~~(e.g., , such as certificates of participation)~~
60 participation, and which in any case are payable from the Transportation Trust Fund. Transportation Trust Fund debt
61 obligations do not include any obligations to the extent that the debt service with respect thereto is reasonably expected to
62 be offset ~~(as determined , as determined by the Secretary of Finance)~~ Finance, by lease payments, user fees, federal ~~grants~~
63 grants, or other payments from some non-state source.

64 Section 2. Amend Chapter 91, Title 14 of the Delaware Code by designating §§ 9101 through 9112 of Title 14 as
65 part of a new Subchapter I by making deletions as shown by strike through and insertions as shown by underline as follows:

66 Subchapter I. General Provisions.

67 Section 3. Amend § 9101, Title 14 of the Delaware Code by making deletions as shown by strike through and
68 insertions as shown by underline as follows :

69 § 9101 Definitions.

70 As used in this chapter:

71 (1) “Board” means the Board of Trustees of the Delaware Technical and Community College.

72 (2) “Fund” means the Community College Infrastructure Fund.

73 ~~(2)~~ (3) “Institution” means such institutions of higher learning as may be from time to time established by the
74 Board.

75 ~~(3)~~ (4) “The College” means the Delaware Technical and Community College.

76 Section 4. Amend Chapter 91, Title 14 of the Delaware Code by making deletions as shown by strike through and
77 insertions as shown by underline as follows:

78 Subchapter II. Community College Infrastructure Fund.

79 § 9130. Establishment of Community College Infrastructure Fund; purposes; limitations.

80 (a)(1) There is established within the Office of the State Treasurer a special account to be known as the
81 Community College Infrastructure Fund, with the intent that the General Assembly fund said account by an annual
82 appropriation of at least \$10 million for the next five years. Further, it is the intent that the General Assembly fully
83 fund the College's annual capital improvement request for Critical Capital Needs/Deferred Maintenance. At the end of
84 five years, the College shall report on its progress in addressing its deferred maintenance needs and submit a
85 reevaluation of the College's deferred maintenance needs to the General Assembly and the Governor. College
86 requests for major capital construction shall continue to be funded through the annual Major Capital Improvement
87 budgetary process.

88 (2) Additional non-appropriated amounts may be deposited by the College from other available sources
89 including, but not limited to, student tuition and fees, private funds, non-state grants and federal support.

90 (b) The authorization amounts deposited into the Fund pursuant to § 9130(a)(1) hereof are to be used to pay all or
91 a portion the following:

92 (1) Costs associated with major and minor capital improvements that the Board deems necessary for the
93 sound expansion and development of the College, including equipping buildings and facilities, together with the incidental
94 acquisition of land.

95 (2) Costs associated with the maintenance and preservation of major and minor capital improvements.

96 (3) Costs associated with enhancements to technology including the acquisition of computer hardware
97 and software to support instruction, student services, and administration.

98 (c) The non-appropriated amounts deposited into the Fund pursuant to § 9130(a)(2) hereof are to be used for the
99 following:

100 (1) Costs listed in § 9130(b) above.

101 (2) Principal and interest on promissory notes or bonds issued by the College under this subchapter.

102 (3) Expenses associated with the issuance of promissory notes or bonds by the College or any expenses
103 associated with the issuance of bonded indebtedness by the State to acquire a like principal amount of promissory notes or
104 bonds issued by the College and for the purpose of refunding or refinancing outstanding issues of such bonds issued by the
105 State.

106 (d) No portion of the Fund may be used to pay the operating expenses of the College.

107 (e) The Fund may be divided into two (2) or more sub-accounts: one sub-account for the amounts deposited in the
108 Fund that constitute authorized amounts as set forth in § 9130(a)(1); and one sub-account for the non-appropriated funds in
109 the Fund that constitute amounts as set forth in § 9130(a)(2). Each such sub-accounts may be divided further into
110 additional sub-accounts.

111 (f) The State Treasurer is authorized and directed to draw warrants or drafts on such Fund in the amount of the
112 principal of and interest on the State bonds or other obligations incurred to acquire a like principal amount of the College's
113 promissory notes or bonds as the same shall become due and payable, and to deposit such money, so drawn, to the credit of
114 the General Fund of the State.

115 (g) Warrants or drafts on the Fund drawn by the College must be applied only for the purposes authorized by this
116 chapter.

117 (h) The principal and interest on promissory notes or bonds issued by the College under this chapter shall be
118 payable solely from amounts on deposit in the Fund that constitute non-appropriated funds pursuant to § 9130(a)(2) above
119 and which are specifically pledged in each case by a certification from the Board, such certification to cover the sufficiency
120 of such available non-appropriated funds to pay debt service on any such promissory notes or bonds issued hereunder.

121 (i) Any promissory notes or bonds issued by the College under this chapter shall bear interest at a rate equal to the
122 rate payable on bonds of the State issued to provide the monies deposited into the Fund pursuant to § 9130(a) plus an
123 amount to cover administrative expenses of the State in connection with such financing in an amount not exceeding one
124 quarter of one percent per annum.

125 § 9131. Power of Board to issue promissory notes or bonds.

126 (a) The Board may issue promissory notes or bonds payable to the State for the purpose of carrying out any plan or
127 program for the acquisition of lands, acquisition or construction of buildings, improvements to lands or buildings, or
128 acquisition of equipment as may be authorized by this chapter.

129 (b) Notwithstanding subsection (a) of this section, the Board may not issue promissory notes or bonds until the
130 promissory notes or bonds and the corresponding plan or program under subsection (a) of this section have been authorized
131 by the General Assembly in a bond and capital improvement act.

132 § 9132. Faith and credit of the College; exemption of bonds from taxation.

133 The faith and credit of the College is expressly pledged for the full and complete payment of the principal of and
134 interest on any promissory notes or bonds authorized to be issued under this chapter. Bonds or notes issued under this
135 chapter shall not be deemed to constitute a debt or liability of the State or any political subdivision thereof, other than the
136 College, or a pledge of the faith and credit of the State or any such political subdivision, other than the College, but shall be

137 paid solely from the funds provided therefor. Bonds to be issued under this chapter are exempt from taxation, with respect
138 to both principal and interest, by the State or any political subdivision of the State for any purpose.

139 § 9133. Validity of bonds; incontestability.

140 When any bonds are sold and delivered under this chapter, the certification by the Board that the bonds have been
141 issued in due compliance with this chapter is conclusive upon the College and every person of the right, power, and
142 authority for the issuance of the bonds, the legality and validity of the bonds, and the principal debt and interest represented
143 by the bonds. After the certification is issued, the legality and validity of the bonds may not be subject to question in any
144 court by the College or by any person for or on its behalf. This section must be made part of the contract and obligation
145 represented by each bond sold and delivered under this chapter.

146 § 9134. Procedure governing sale of bonds to State.

147 The State shall purchase any bonds and/or promissory notes to be issued by the College under the authority
148 contained in this chapter or under any other provision of law of this State at private sale. The State may require that the
149 validity of the bonds be approved by the Attorney General or the Attorney General's designee. The Board shall cause a
150 complete record of the proceedings taken in relation to the issuance of the bonds to be made and kept with the Board's
151 other records.

152 § 9135. Terms and form of bonds.

153 Bonds issued under this chapter must meet all of the following conditions:

154 (1) Be in such denomination, in such form, and bear such rate of interest as determined by the State under § 7506
155 of Title 29; provided, however, that the Board must be consulted regarding the term of such bonds.

156 (2) Bear interest from and after their date, payable semiannually on the days designated in the bonds.

157 (3) Consist of a single bond registered as to both principal and interest with the principal of the bonds payable in
158 installments and interest on the bonds payable semiannually. The amounts of principal payable, the dates on which such
159 payments are due, and the dates on which the interest is due must be noted on the bond form.

160 (4) The bonds must be payable in serial installments beginning not more than 1 year after the date of the bonds and
161 ending not more than 20 years after such date. The amount of any installment payable in any 1 year, except the last year,
162 must be not less than 1/20 of the aggregate principal amount of the bonds of such issue.

163 § 9136. Designation, numbering, and date of bonds.

164 Any bonds issued under this chapter must be designated by the name of the College and the year in which the
165 bonds are issued. The bonds must be numbered consecutively and bear the date approved by the Board. Each of the bonds
166 must be numbered consecutively and the coupons attached to the bonds must bear the same number as the bond itself.

167 § 9137. Place of payment of principal and interest.

168 The principal of and interest on the bonds must be payable at a state or national bank within or without the State
169 designated by the issuing officers, as “issuing officers” is defined in § 7401 of Title 29.

170 § 9138. Signing and sealing bonds.

171 The bonds must be signed by the president of the College, or the chair, and 1 other member of the Board. The
172 Board may adopt a seal to be used in the execution of the bonds. The Board may, in lieu of the signatures required by this
173 section, authorize by special resolution that the signatures of the individuals required to sign the bonds may be engraved or
174 facsimiles of the signatures printed or otherwise transcribed upon the bonds. If such engraved or facsimile signatures are
175 authorized and engraved, printed, or otherwise impressed upon the bonds, the signatures have the same effect as written
176 signatures.

177 § 9139. Temporary bonds.

178 Until bonds in definite form are prepared, the Board may cause temporary bonds with appropriate coupons to be
179 prepared. Temporary bonds must be executed and signed as provided in §§ 9135 through 9138 of this title. Temporary
180 bonds may be exchanged for definitive bonds at the request of the holder.

181 § 9140. Cancellation and destruction of paid bonds.

182 After any bonds issued under the authority of this chapter or the coupons annexed to the bonds have been paid, the
183 bonds or coupons must be immediately cancelled, a record of payment must be made, and the bonds or coupons must
184 destroyed.

185 § 9141. Replacement of lost, destroyed, or defaced bonds.

186 (a) Upon written request of the owner of the unmatured bond, or the owner's legal representative, successor, or
187 assign, the Board may issue a new bond to replace an unmatured bond which has been lost, destroyed, or defaced if all of
188 the following are provided:

189 (1) Proof of ownership of the unmatured bond.

190 (2) Proof of loss or destruction, or, in the case of a defaced bond, the bond and coupons, if any.

191 (3) Adequate security to indemnify the College and any bank at which the bond and coupons are payable against
192 any loss that may be suffered on account of such replaced bond and coupons.

193 (4) Payment of the cost of preparation of the new bond and coupons, if any.

194 (b) Any new bond and coupons must be executed by the officials, including a member of the Board, in office at the
195 time the new bond is issued and must bear the seal of the College. The coupons, if any, must be signed by the facsimile of

196 the signatures of the appropriate officers. The new bond must include a statement in substantially the following form: “This
197 bond has been reissued to replace a lost, destroyed, or defaced bond.”

198 (c) The new bond must be authorized by a resolution of the Board that must include a copy of the written request
199 of the owner or the owner's legal representative, successor, or assign and the designation, date, maturity, interest rate,
200 denomination, and number of the new bond.

201 § 9142. Rules and regulations governing fiscal records pertaining to bonds.

202 The Budget Commission, established by Chapter 63 of Title 29, shall promulgate and enforce rules and regulations
203 governing the fiscal records to be maintained by the State Treasurer and the College pertaining to bonds of such College.

204 Section 5. Delaware Technical and Community College shall be eligible for state matching funds to be
205 administered by the Office of Management and Budget for minor capital improvements consistent with state matching
206 provisions for public education as contained in §7528(b) of Title 29 of the Delaware Code. The source of local share shall
207 include, but not be limited to, student tuition and fees, private funds and federal support. All matching funds shall be
208 subject to appropriation by the General Assembly.

209 Section 6. This Act takes effect on January 1, 2020.

SYNOPSIS

Delaware's statewide community college system, operated by Delaware Technical and Community College (“the College”), plays a critical role in the State's economy by providing workforce development, vocational training, and transfer education that connects Delawareans with good paying jobs within the State and region.

This Act gives the College’s Board of Trustees the authority to issue bonds to finance the cost of major and minor capital improvements, deferred maintenance, and the acquisition of related equipment and educational technology and establishes the Community College Infrastructure Fund (“the Fund”) to pay the principal and interest on such bonds. Any promissory notes or bonds must be approved separately prior to issuance by the General Assembly in a bond and capital improvement act.

This Act is a substitute for and differs from Senate Bill No. 50 by deleting the property tax component and instead provides that it is the intent of the General Assembly to appropriate at least \$10 million for deferred maintenance for the next 5 years to be deposited to the Fund together with such other funds as may be deposited by the College from sources including, but not limited to, tuition and fees, private funds, non-state grants and federal support.

This Act also provides a mechanism, but not an obligation, for the state to provide matching funds for minor capital improvement projects consistent with existing matching provisions for public education.

This Act also makes technical corrections.

Author: Senator McDowell