



SPONSOR: Sen. McDowell & Rep. Mulrooney & Rep. Osienski
Sens. Henry, Marshall, McBride, Sokola; Reps.
Baumbach, Bolden, Brady, Hensley, Jaques, Lynn,
Mitchell, Potter, Ramone, B. Short, M. Smith, Smyk

DELAWARE STATE SENATE
149th GENERAL ASSEMBLY

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, 78% of the College's facilities are more than 25 years old and, by 2020, 82% 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 12 years, the College has received an average of only \$4.4 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 \$73.2 million so that
13 it can continue to address Delaware's economic and workforce development needs; and

14 WHEREAS, the College served over 30,500 Delawareans in its academic degree (credit) and workforce
15 development (non-credit) programs in 2016, of which over 85% stayed and worked in Delaware after graduation and were
16 hired by over 650 Delaware businesses; and

17 WHEREAS, the College receives students from all 19 Delaware school districts and has transfer agreements to
18 receive students from 229 4-year schools; 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

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

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

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

§ 7422. Limitations on debt and other obligations.

(a) For the purposes of this section:

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

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

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

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

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

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

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

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

~~(D) any 4.~~ Any obligations to the extent that the debt service with respect thereto is reasonably expected to be offset ~~(as determined , as determined~~ by the Secretary of ~~Finance)~~ Finance, by lease payments,

51 user fees, federal ~~grants~~ grants, or other payments from some source other than the General Fund. Such
52 payments ~~shall~~ must be used expressly for the purpose of paying such debt ~~service~~; service.

53 5. Obligations incurred to acquire a like principal amount of promissory notes or bonds issued by
54 Delaware Technical and Community College and secured by the Community College Infrastructure Fund,
55 under Subchapter II, Chapter 91 of Title 14, to the extent such notes or bonds of the College are not in default.

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

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

65 Subchapter I. General Provisions.

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

68 § 9101 Definitions.

69 As used in this chapter:

70 (1) "Board" means the Board of Trustees of the Delaware Technical and Community College.

71 (2) "Fund" means the Community College Infrastructure Fund.

72 (2) (3) "Institution" means such institutions of higher learning as may be from time to time established by the
73 Board.

74 (3) (4) "The College" means the Delaware Technical and Community College.

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

77 Subchapter II. Community College Infrastructure Fund.

78 § 9130. Establishment of Community College Infrastructure Fund; purposes; limitations.

79 (a) There is established within the Department of Finance a special account to be known as the Community
80 College Infrastructure Fund.

(b) The purpose of the Fund is to pay all of the following:

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

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

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

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

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

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

(d) All taxes collected upon the assessed value of real estate within a county must be used exclusively for permissible expenditures authorized by this section for the College's projects in that county. Money collected from one county may not be used to pay for authorized expenditures in a different county.

§ 9131. Power of Board to levy taxes.

(a) The Board may, in addition to the amounts the General Assembly appropriates for it, levy additional taxes upon the assessed value of the real estate in each county, as determined and fixed for county taxation purposes, to support the Fund. The Office of Finance of New Castle County, Department of Finance of Kent County, and Department of Finance of Sussex County shall collect any tax levied under this section in their respective county. The amount to be raised by taxation may not exceed 10 cents on each \$100 of assessed value of real property.

(b) In the event a general reassessment of all real estate in a county changes the total assessed valuation of the property located within such county, the Board shall calculate a new tax rate which, at its maximum, realizes no more than a 10% increase in actual revenue over the revenue derived by the real estate tax levied in the fiscal year immediately preceding such reassessed real estate valuation.

§ 9132. Establishment and notification of tax rate.

(a) The Board shall use the assessment list of the county in which the tax will be levied to determine all the taxables of the county, the property of each taxable, and the assessed value of each taxable.

(b) The Board shall, no later than the second Thursday in July, deliver its warrant, with a duplicate of the assessment list, to the Office of Finance of New Castle County, Department of Finance of Kent County, and Department of Finance of Sussex County.

§ 9133. Collection, deposit, and disbursement of taxes levied by the Board.

(a)(1) The Office of Finance of New Castle County, Department of Finance of Kent County, and Department of Finance of Sussex County shall collect the tax levied under § 9131 of this title in the same manner and at the same time as provided by law for the collection of taxes for other purposes.

(2) The Office of Finance of New Castle County, Department of Finance of Kent County, and Department of Finance of Sussex County may not allow an abatement or discount upon any taxes levied under § 9131 of this title required to be collected by them.

(3) The Office of Finance of New Castle County, Department of Finance of Kent County, and Department of Finance of Sussex County shall, after September 30 in the year in which the tax rolls are delivered to them, add to the taxes to be paid thereafter a penalty of one half of 1% per month until the taxes are paid.

(b)(1) All money collected from the taxables of each county for the benefit of the Fund must be paid to the State Treasurer and must be deposited by the State Treasurer in a separate account to the credit of the College and designated the Community College Infrastructure Fund.

(2) The Fund must be divided into 3 sub-accounts, 1 sub-account for each county, and may be divided into additional sub-accounts. Each county's sub-account may be further divided into 2 or more sub-accounts as determined by the College. All money collected from the taxables of a specific county must be deposited into the corresponding sub-account designated for the benefit of that county.

(c) The Secretary of Finance is authorized and directed to draw warrants or drafts on such Fund in the amount of the principal of and interest on the State bonds or other obligations incurred to acquire a like principal amount of the College's promissory notes or bonds as the same shall become due and payable, and to deposit such money, so drawn, to the credit of the General Fund of the State; provided, however, that no money collected from the taxables of one county may be used to pay principal and interest on the State bonds or other obligations incurred to acquire a like principal amount of the College's promissory notes or bonds that become due and payable on projects or expenditures of a different county.

§ 9134. Report of collections and payment of sums collected; disbursement.

(a) The Office of Finance of New Castle County, Department of Finance of Kent County, and Department of Finance of Sussex County shall, on the first day of each month, make a report to the College and the State Treasurer of all

taxes collected in the previous month. The report must show a complete breakdown of taxes collected for the benefit of the Fund and may show such other information as the College may request.

(b) All monies collected for the benefit of the Fund must be paid over to the State Treasurer at least once each calendar month.

(c) Warrants or drafts on the Fund must be drawn by the College and applied only for the purposes under § 9130 of this title.

§ 9135. Power of Board to issue promissory notes or bonds.

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

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

§ 9136. Faith and credit of the College; exemption of bonds from taxation.

The faith and credit of the College is expressly pledged for the full and complete payment of the principal of and interest on any promissory notes or bonds authorized to be issued under this chapter. Bonds to be issued under this chapter are exempt from taxation, with respect to both principal and interest, by the State or any political subdivision of the State for any purpose.

§ 9137. Validity of bonds; incontestability.

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

§ 9138. Procedure governing sale of bonds to State.

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

§ 9139. Terms and form of bonds.

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

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

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

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

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

§ 9140. Designation, numbering, and date of bonds.

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

§ 9141. Place of payment of principal and interest.

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

§ 9142. Signing and sealing bonds.

The bonds must be signed by the president of the College, or the chair, and 1 other member of the Board. The 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 section, authorize by special resolution that the signatures of the individuals required to sign the bonds may be engraved or facsimiles of the signatures printed or otherwise transcribed upon the bonds. If such engraved or facsimile signatures are authorized and engraved, printed, or otherwise impressed upon the bonds, the signatures have the same effect as written signatures.

§ 9143. Temporary bonds.

Until bonds in definite form are prepared, the Board may cause temporary bonds with appropriate coupons to be prepared. Temporary bonds must be executed and signed as provided in §§ 9139 through 9142 of this title. Temporary bonds may be exchanged for definitive bonds at the request of the holder.

§ 9144. Cancellation and destruction of paid bonds.

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

202 § 9145. Replacement of lost, destroyed, or defaced bonds.

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

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

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

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

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

211 (b) Any new bond and coupons must be executed by the officials, including a member of the Board, in office at the
212 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
213 the signatures of the appropriate officers. The new bond must include a statement in substantially the following form: "This
214 bond has been reissued to replace a lost, destroyed, or defaced bond."

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

218 § 9146. Rules and regulations governing fiscal records pertaining to bonds.

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

221 § 9147. Taxing power of Board.

222 The Board's authority to issue bonds is to be construed to be authority to provide funds for the payment of the
223 interest and annual payments on such bonds, which, without further authority, may be provided for by an additional tax
224 levy on the property subject to taxation in each county of the State in such amount as the Board determines within the
225 limitations contained in § 9131 of this title.

SYNOPSIS

Delaware's 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 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. This Act adopts the county Vo-Tech structure to finance the Fund by authorizing the College's Board of Trustees to collect a local property tax, subject to a cap. All money raised in a county must be placed in a segregated account and spent exclusively on projects in that county; this eliminates any possibility of applying this Act in an unconstitutional manner.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator McDowell