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Delcollo, Hocker, Pettyjohn

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 60

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 Community College ("the
2 College"), consists of over 40 buildings totaling 1.3 million square feet of space and is situated on approximately 352 acres
3 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 to
7 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 over
20 \$976.4 million to the state economy in 2014, and that every \$1 spent on the College returned \$3.20 in economic benefit to
21 Delaware; and

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

24
25 NOW, THEREFORE:

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

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

30 § 7422. Limitations on debt and other obligations.

31 (a) For the purposes of this section:

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

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

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

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

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

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

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

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

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

52 other payments from some source other than the General Fund. Such payments ~~shall~~ must be used expressly for the purpose
53 of paying such debt ~~service~~; service.

54 5. Obligations incurred to acquire a like principal amount of promissory notes or bonds issued by Delaware
55 Technical Community College and secured by the Community College Infrastructure Fund, under Subchapter II, Chapter
56 91 of Title 14, to the extent such notes or bonds of the College are not 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 insertions as
68 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 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 Office of the State Treasurer a special account to be known as the Community
80 College Infrastructure Fund.

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

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

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

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

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

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

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

93 § 9135. Power of Board to issue promissory notes or bonds.

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

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

100 § 9136. Faith and credit of the College; exemption of bonds from taxation.

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

105 § 9137. Validity of bonds; incontestability.

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

112 § 9138. Procedure governing sale of bonds to State.

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

117 § 9139. Terms and form of bonds.

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

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

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

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

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

128 § 9140. Designation, numbering, and date of bonds.

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

132 § 9141. Place of payment of principal and interest.

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

135 § 9142. Signing and sealing bonds.

136 The bonds must be signed by the president of the College, or the chair, and 1 other member of the Board. The Board
137 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,
138 authorize by special resolution that the signatures of the individuals required to sign the bonds may be engraved or
139 facsimiles of the signatures printed or otherwise transcribed upon the bonds. If such engraved or facsimile signatures are
140 authorized and engraved, printed, or otherwise impressed upon the bonds, the signatures have the same effect as written
141 signatures.

142 § 9143. Temporary bonds.

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

146 § 9144. Cancellation and destruction of paid bonds.

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

150 § 9145. Replacement of lost, destroyed, or defaced bonds.

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

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

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

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

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

159 (b) Any new bond and coupons must be executed by the officials, including a member of the Board, in office at the
160 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
161 the signatures of the appropriate officers. The new bond must include a statement in substantially the following form: "This
162 bond has been reissued to replace a lost, destroyed, or defaced bond."

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

166 § 9146. Rules and regulations governing fiscal records pertaining to bonds.

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

169 Section 5. Delaware Technical and Community College shall be eligible for state matching funds to be administered
170 by The Office of Management and Budget for minor capital improvements consistent with state matching provisions for
171 public education as contained in §7528(b) of Title 29 of the Delaware Code. The source of local share shall include, but not

172 be limited to, student tuition and fees, private funds and federal support, but in no event shall local property taxes
173 authorized by this Act be used as a source of local share funding. All matching funds shall be subject to appropriation by
174 the General Assembly.

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

SYNOPSIS

Delaware's statewide community college system, operated by Delaware Technical 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.

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 to conform existing law to the standards of the Delaware Legislative Drafting Manual.