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| SPONSOR: | Sen. McDowell & Sen. Sokola & Rep. Mulrooney & Rep. Osienski & Rep. Jaques |
| Sens. Blevins, Hall-Long, Henry, Marshall, McBride, Townsend; Reps. Baumbach, Bolden, Brady, Keeley, Lynn, Ramone, B. Short |

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| DELAWARE STATE SENATE  148th GENERAL ASSEMBLY |

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| SENATE BILL NO. 137 |

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

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

WHEREAS, Delaware’s Community College System consists of over forty (40) buildings totaling 1.3 million square feet that is situated on approximately 352 acres across four campuses located in each county of the State and the City of Wilmington; and

WHEREAS, sixty-seven percent (67%) of the College’s facilities are more than 25 years old and by 2020, eighty percent (80%) of the College’s facilities will be more than 25 years old and fifty percent (50%) will be more than 40 years old; and

WHEREAS, the replacement cost of the College’s aging infrastructure is approximately $400 million. According to industry standards, the College should be re-investing $12 million annually to maintain the College’s existing infrastructure. However, over the past 10 years, the College has received an average of only $4.2 million for maintenance and MCI, thereby resulting in $84.2 million in deferred maintenance alone. If not addressed, deferred maintenance is projected to exceed $100 million by 2020; and

WHEREAS, in addition to deferred maintenance, the College has a critical need to build, renovate and/or expand its academic and student support facilities in each county and the City of Wilmington at a current cost of approximately $70 million so that it can continue to address Delaware’s economic and workforce development needs; and

WHERAS, Ninety-six percent (96%) of the 20,366 credit students enrolled in Delaware’s Community College system are Delawareans, and eighty-five percent (85%) stay and work in Delaware after graduation; and

WHEREAS, Delaware Tech receives students from all 19 Delaware School Districts and has 184 transfer agreements with four-year schools and were hired by over 600 Delaware businesses last year; and

WHEREAS, a recent independent study revealed that Delaware Tech students who entered the workforce added over $976.4 million to the state economy in 2014, and that for every $1 spent on the College returned $10 in economic benefit to Delaware; and

WHERAS, Delaware’s Community College System 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 strikethrough and insertions as shown by underlining 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 certain lease obligations as described in subsection (c) of this 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) "Tax supported obligations of the State" means: (A) 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 that any such guaranteed obligations shall be included only to the extent any such obligations are in default); and (B) all obligations of the State or any agency or authority thereof extending beyond 1 year with respect to the lease, occupancy or acquisition of property which are incurred in connection with debt financing transactions (e.g., certificates of participation) and which are payable from taxes, fees, permits, licenses and fines imposed or approved by the General Assembly. Tax supported obligations do not include: (A) 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; (B) any obligations of the Delaware Transportation Authority; (C) any tax or other revenue anticipation notes or bonds of the State; ~~or~~ (D) any obligations to the extent that the debt service with respect thereto is reasonably expected to be offset (as determined by the Secretary of Finance) by lease payments, user fees, federal grants or other payments from some source other than the General Fund. Such payments shall be used expressly for the purpose of paying such debt service; or (E) obligations incurred to acquire a like principal amount of promissory notes and/or bonds issued by Delaware Technical and Community College and secured by the Community College Infrastructure Fund, to the extent such notes and/or bonds of the College are not in default.

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

Section 2. Amend §9101, Title 14 of the Delaware Code, by making deletions as shown by strikethrough and insertions as shown by underlining as follows:

§ 9101 Definitions.

As used in this chapter:

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

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

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

(4) “Fund” means the Community College Infrastructure Fund.

Section 3. Amend Title 14, Chapter 91 of the Delaware Code, by designating the existing provisions as “Subchapter I” and by adding a new subchapter thereto as follows:

*“Subchapter II*

*Community College Infrastructure Fund*

§9130. Establishment of Fund and Purpose.

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

(b) The purpose of the Fund shall be to pay the costs associated with major and minor capital improvements deemed necessary by the Board for the sound expansion and development of the College, including equipping buildings and facilities, together with the incidental acquisition of land; for the payment of costs associated with the maintenance and preservation of major and minor capital improvements; for the payment of costs associated with enhancements to educational technology; and for the payment of principal and interest on promissory notes issued by the College pursuant to this subchapter. No portion of the fund shall be used to pay operating expenses.

(c) The Fund may also be used to pay for expenses associated with the issuance of promissory notes 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 and/or bonds issued by the College; and for the purpose of refunding or refinancing outstanding issues of such bonds issued by the State.

§ 9131 Power of Board to levy taxes.

(a) The Board may, in addition to the amounts appropriated to it by the General Assembly, levy and collect 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 amount to be raised by taxation shall not exceed 10 cents on each $100 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, would realize no more than 10 percent increase in actual revenue over the revenue derived by 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 thereof.

(b) The Board shall, no later than the second Thursday in July, deliver its warrant, with a duplicate of the assessment list, to the receiver of taxes and county treasurer of each county of this State.

§ 9133 Collection, deposit and disbursement of taxes.

(a) The Department of Finance for New Castle County and the Receiver of Taxes and County Treasurer for Kent and Sussex Counties shall collect such taxes in the same manner and at the same time as provided by law for the collection of taxes for other purposes; provided, however, that in New Castle County the Department of Finance and the Receiver of Taxes and County Treasurer in Kent and Sussex Counties shall allow no abatement or discount upon any taxes levied for school purposes required to be collected by them; and shall, after September 30 in the year in which the tax rolls shall be delivered to them, add to the taxes to be paid thereafter a penalty of one half of 1 percent per month until the same shall be paid.

(b)  All money collected for the benefit of the Fund shall be paid to the State Treasurer and shall be deposited by the State Treasurer in a separate account to the credit of the College and designated the Community College Infrastructure Fund. The Fund may be divided into one or more sub-accounts as determined by the College.

(c) The Secretary of Finance is hereby 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 and/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.

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

(a) The Department of Finance for New Castle County and each Receiver of Taxes and County Treasurer for Kent and Sussex Counties 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 forms shall show a complete breakdown of taxes collected for the benefit of the Fund, and such other information as may be requested by the College.

(b) All monies collected for the benefit of the Fund shall be paid over to the State Treasurer not less than once each calendar month.

(c) Warrants or drafts on the said Fund shall be drawn by the College and applied only for the purpose set forth herein.

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

The Board may issue promissory notes and/or bonds payable to the State for the purpose of carrying out any plan or program for the acquisition of lands or the acquisition or construction of buildings or for improvements to lands or buildings, or the acquisition of equipment as may be authorized by this title when such plan or program shall have been approved by the Joint Committee on Capital Improvement.

§ 9136 Temporary use of funds.

The Board may advance funds which by law may be used only for stated purposes and which are not immediately required for the purpose or purposes for which the same were raised, or otherwise made available for the purpose or purposes for which an issue of bonds has been authorized. Suitable records shall be kept of the temporary application of such funds. Such funds shall be made again available to the College from the proceeds of such bonds, or from the proceeds of the sale of bond anticipation notes issued in anticipation of the sale of such bonds.

§ 9137 Faith and credit of College; exemption of bonds from taxation.

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

§ 9138 Validity of bonds; incontestability.

When any bonds shall be sold and delivered pursuant to this chapter, the certification by the Board that the bonds have been issued in due compliance with this chapter shall be conclusive upon the college and all and every other person whatsoever of the right, power and authority for the issuance of said bonds and the legality and validity thereof and of the principal debt and interest represented thereby, and the legality and validity of such bonds shall thereafter not be subject to question in any court by the college or by any person for or on its behalf, and this provision shall be and become part of the contract and obligation represented by each such bond.

§ 9139 Procedure governing sale of bonds to State.

The Board shall sell any bonds to be issued pursuant to the authority contained in this chapter or pursuant to any other provision of law to the 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 designate. 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 other records of the Board.

§ 9140 Terms and form of bonds.

The bonds shall be in such denomination or denominations, in such form and shall bear such rate of interest as shall be determined by the State pursuant to § 7506 of Title 29; provided, however, that the Board shall be consulted regarding the term of such bonds. The bonds shall bear interest from and after their date, payable semiannually on the days designated in the bonds. The bonds shall consist of a single bond registered as to both principal and interest with the principal thereof payable in installments and interest thereon payable semiannually. The amounts of principal payable and the dates on which such payments are due shall be noted on the bond form. The dates on which the interest is due shall also be noted on the bond form. Such bonds shall 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, shall be not less than 1/20 of the aggregate principal amount of the bonds of such issue.

§ 9141 Designation, numbering and date of bonds.

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

§ 9142 Place of payment of principal and interest.

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

§ 9143 Signing and sealing bonds.

The bonds shall be signed by the president or chairperson 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 persons required to sign the bonds may be engraved or facsimiles thereof printed or otherwise transcribed upon the bonds and when such engraved or facsimile signatures shall be so authorized and engraved, printed or otherwise impressed upon said bonds they shall have the same effect as written signatures of such persons.

§ 9144 Temporary bonds.

Until bonds in definite form can be prepared, the Board may cause temporary bonds with appropriate coupons to be prepared which shall be executed and signed as provided in §§ 9140-9143 of this title, which said temporary bonds shall be exchangeable for definitive bonds at the request of the holder.

§ 9145 Cancellation and destruction of paid bonds.

After any bonds issued under the authority of this chapter or the coupons annexed thereto shall have been paid, they shall be immediately cancelled, a record of payment shall be made and the bonds or coupons destroyed.

§ 9146 Replacement of lost, destroyed or defaced bonds.

(a) The Board may issue a new bond to replace an unmatured bond which has been lost, destroyed or defaced, upon the written request of the owner thereof, the owner's legal representatives, successors or assigns, and upon giving:

(1) Proof of ownership;

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

(3) Adequate security to indemnify the college and the bank or banks at which the bond and coupons are payable against any loss that may be suffered on account of such replaced bond and coupons; and

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

(b) Any new bond and coupons shall be executed by the officials (including, a member of the Board) in office at the time of such replacement and shall bear the seal of the College. The coupons, if any, shall be signed by the facsimile of the signatures of the appropriate officers. There shall be endorsed on the new bond a statement in substantially the following form:

"This bond has been reissued to replace a lost, destroyed or defaced bond."

(c) The replacement shall be authorized by a resolution of the Board which shall set forth a copy of the written request of the owner, the owner's legal representatives, successors or assigns, and the designation, date, maturity, interest rate, denomination and number of the replaced bond.

§ 9147 Rules and regulations governing fiscal records pertaining to bonds.

The Permanent Budget Commission shall promulgate and enforce rules and regulations governing the fiscal records to be maintained by the State Treasurer and the college pertaining to bonds of such college.

§ 9148 Taxing power of Board.

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

SYNOPSIS

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| Delaware’s Community College System 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 associated therewith and establishes the Community College Infrastructure 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. |

Author: Senator McDowell