

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 744 Session of
2003

INTRODUCED BY STAIRS, BROWNE, ROEBUCK, FLEAGLE, HERMAN,
McILHATTAN, T. STEVENSON, BISHOP, CURRY, GRUCELA, MUNDY,
SHANER, BELFANTI, BUNT, COSTA, DAILEY, DALEY, DeWEESE,
FICHTER, FREEMAN, GEIST, HALUSKA, HARHAI, HARPER, HESS,
HORSEY, HUTCHINSON, JAMES, LAUGHLIN, MANN, McCALL, MCGILL,
S. MILLER, NAILOR, RUBLEY, SANTONI, SATHER, SAYLOR,
SCRIMENTI, SEMMEL, B. SMITH, SOLOBAY, TANGRETTI,
E. Z. TAYLOR, THOMAS, TRAVAGLIO, TRUE, VANCE, WASHINGTON,
WEBER, YOUNGBLOOD AND SAINATO, MARCH 6, 2003

REFERRED TO COMMITTEE ON EDUCATION, MARCH 6, 2003

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," further providing for powers and
6 duties of the State Board of Education; establishing the
7 Board of Community Colleges; providing for the members,
8 structure, powers and duties and chief executive officer of
9 the Board of Community Colleges, for a Council of Presidents,
10 for appropriations and allocation of funds and for audits;
11 further providing for powers and duties of boards of
12 trustees, for tuition and for financial program and
13 reimbursement of payments; and providing for the transfer of
14 contract obligations, records, property, supplies, equipment
15 and funds to the Board of Community Colleges.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. Section 1901-A of the act of March 10, 1949
19 (P.L.30, No.14), known as the Public School Code of 1949, is
20 amended by adding a clause to read:

21 Section 1901-A. Definitions.--The following words and

1 phrases, as used in this article, shall, unless a different
2 meaning is plainly required by the context, have the following
3 meaning:

4 * * *

5 (11) "Board of Community Colleges" shall mean the Board of
6 Community Colleges established by section 1902.1-A.

7 Section 2. Section 1902-A(a) and (f) of the act, added July
8 1, 1985 (P.L.103, No.31), are amended to read:

9 Section 1902-A. Powers and Duties of State Board of
10 Education.--(a) The State Board of Education shall have the
11 power, and its duty shall be:

12 (1) To adopt such policies, standards, rules and regulations
13 formulated by the Council of Higher Education, as may be
14 necessary to provide for the establishment[, operation and
15 maintenance] of community colleges, including minimum
16 requirements for physical facilities and equipment, curriculum,
17 faculty, standards and professional requirements, qualifications
18 for admission and advancement of students, student enrollment,
19 student population of the area to be served by the community
20 college[,] and requirements for satisfactory completion of a
21 two-year program and the degrees or diplomas or certificates to
22 be awarded therefor[, means of financing and financial resources
23 for the establishment and support of the community college, and
24 all matters necessary to effectuate the purposes of this act].

25 (2) To approve or disapprove plans for the establishment or
26 operation of a community college upon the recommendation of the
27 Board of Community Colleges.

28 (3) To approve or disapprove petitions of school districts
29 or municipalities applying for participation in an established
30 community college. No petition may be approved unless it is

1 accompanied by the consent of the governing bodies of the
2 majority of the members of the local sponsor of the established
3 community college to the participation of the petitioning school
4 district or municipality.

5 * * *

6 (f) Wherever in this act the approval of the State Board of
7 Education is required in any matter, the State Board of
8 Education may require the [Department of Education] Board of
9 Community Colleges to make and report its findings and
10 recommendations on such matter to the Council of Higher
11 Education for the formulation of policies, standards, rules and
12 regulations for consideration by the State Board of Education.

13 Section 3. The act is amended by adding sections to read:

14 Section 1902.1-A. Declaration of Policy; Board of Community
15 Colleges Established.--(a) The General Assembly finds and
16 declares as follows:

17 (1) Community colleges have local, regional and Statewide
18 constituencies. Each institution has different emphases in
19 accomplishing its mission as a result of individual community
20 needs and expectations. To accomplish the uniquely local
21 mission, each community college must continue to have strong
22 local governance. Each college needs a high level of flexibility
23 and local autonomy to preserve and expand its abilities to
24 respond rapidly and effectively to local and regional needs.

25 (2) Community colleges have a comprehensive, open-access
26 mission that includes:

27 (i) academic studies that lead to an associate degree for
28 transfer to baccalaureate degree granting institutions;

29 (ii) career and occupational training degrees, certificates
30 and short courses;

1 (iii) work force and economic development programs and
2 initiatives;

3 (iv) open enrollment with opportunities for developmental
4 education;

5 (v) community services; and

6 (vi) partnerships with school districts and other community,
7 business, educational and governmental entities.

8 (3) Community colleges serve as an instrument of public
9 policy reflecting State priorities and initiatives. As such,
10 community college services should be available to all residents
11 of this Commonwealth.

12 (4) In order to assist community colleges in fulfilling
13 their mission and to facilitate coordination and cooperation
14 among community colleges, the General Assembly finds that there
15 is a need to establish an independent Board of Community
16 Colleges as further provided in this act.

17 (b) Subject to the regulatory powers conferred by law upon
18 the State Board of Education, there is hereby established a body
19 corporate and politic constituting a public corporation and
20 government instrumentality, independent of the Department of
21 Education, which shall be known as the Board of Community
22 Colleges. The Board of Community Colleges is established to more
23 effectively maximize the capacity of the community colleges of
24 this Commonwealth to serve their communities by doing all of the
25 following:

26 (1) Advancing the development of the community colleges'
27 mission and provision of services to be readily accessible by
28 all Pennsylvanians.

29 (2) Promoting initiatives and innovation in the community
30 college sector.

1 (3) Promoting collaborations within the community college
2 sector, with the other sectors of higher education and with
3 elementary and secondary education systems.

4 Section 1902.2-A. Qualifications and Appointment of Board
5 Members.--(a) The Board of Community Colleges shall consist of
6 individuals who:

7 (1) Understand and support the purpose and mission of
8 community colleges.

9 (2) Understand the educational and work force needs of the
10 Commonwealth.

11 (3) Will devote their energies to advocating for community
12 college services.

13 (b) The membership of the Board of Community Colleges shall
14 be representative of the State geographically and
15 demographically. Of the members appointed by the Governor, at
16 least one appointee shall be from a rural area and one from an
17 urban area. At least one of the Governor's appointees shall be a
18 member of a labor organization and at least one shall be an
19 employer or management-level employee. Members shall be citizens
20 of the United States and residents of this Commonwealth. No
21 appointee shall be an officer, employee or member of a board of
22 any community college. No appointee shall be engaged in
23 providing, or employed by a person or company whose primary
24 function is to provide, work force development services and
25 activities.

26 (c) The Board of Community Colleges shall be comprised of
27 fifteen members and established as follows:

28 (1) Eleven members who shall be appointed by the Governor
29 with approval of the Senate.

30 (2) Two senators, one appointed by the President pro tempore

1 of the Senate and one appointed by the Minority Leader of the
2 Senate.

3 (3) Two members of the House of Representatives, one
4 appointed by the Speaker of the House of Representatives and one
5 appointed by the Minority Leader of the House of
6 Representatives.

7 Section 1902.3-A. Board Structure.--(a) Except as provided
8 in subsection (b), all members of the Board of Community
9 Colleges appointed by the Governor shall serve for terms of four
10 years and shall be eligible for reappointment to no more than
11 one additional four-year term. Members of the Board of Community
12 Colleges appointed from the General Assembly shall serve for a
13 term of office concurrent with their respective terms as members
14 of the General Assembly. Terms are on a fiscal year basis,
15 commencing July 1. Vacancies may be filled at any time, with the
16 term concluding on June 30 of the unexpired term.

17 (b) The initial terms of members appointed by the Governor
18 shall be staggered to provide for continuity in future
19 appointments as follows:

20 (1) Three members shall be appointed for terms not to exceed
21 two years.

22 (2) Four members shall be appointed for terms not to exceed
23 three years.

24 (3) Four members shall be appointed for terms not to exceed
25 four years.

26 (c) A chairperson shall be elected by the members of the
27 Board of Community Colleges and shall serve in that capacity for
28 a period of one year. The Board of Community Colleges shall
29 elect the chairperson annually in a manner prescribed by the
30 board.

1 (d) Nine members of the Board of Community Colleges
2 attending shall constitute a quorum for the purpose of
3 conducting official business, which will be conducted in accord
4 with applicable open meetings statutes.

5 (e) The Board of Community Colleges shall meet at least
6 quarterly with one meeting being designated as the annual
7 meeting and occurring between April 1 and June 30 for the
8 purpose of electing officers.

9 (f) The Board of Community Colleges may establish
10 committees, appoint members and delegate duties to committees as
11 the chairperson deems necessary to fulfill the board's
12 responsibilities. Each committee shall be chaired by a member of
13 the Board of Community Colleges.

14 (g) Members shall receive no compensation but shall be
15 entitled to receive an allowance for expenses incurred in the
16 performance of duties.

17 Section 1902.4-A. Power and Duties of Board of Community
18 Colleges.--The Board of Community Colleges shall have the
19 following powers and duties:

20 (1) To adopt such policies, rules, regulations and standards
21 as necessary to implement this section and other provisions
22 under this act related to the Board of Community Colleges and to
23 effectively provide for community college services in this
24 Commonwealth, subject to the regulatory powers conferred by law
25 upon the State Board of Education.

26 (2) To advance the ability of community colleges to carry
27 out their individual and collective comprehensive missions.

28 (3) To foster and promote the local autonomy and flexibility
29 necessary for community colleges to succeed.

30 (4) To promote and strengthen the development of community

colleges as the primary network for meeting the needs of Pennsylvania's work force by actively working with the business, industry and government sectors to provide high-quality training and education and to increase the capacity of community colleges to provide work force training.

(5) To provide Statewide leadership, coordination, support and technical assistance to the community colleges.

(6) To strengthen the ability of community colleges to articulate seamlessly associate and baccalaureate degree programs, especially with the other publicly supported colleges and universities.

(7) To advocate for State resources that are fair, equitable and that enable community colleges to fulfill their mission and Commonwealth priorities.

(8) To annually submit to the Governor and General Assembly consolidated operating and capital budget requests on behalf of the community colleges.

(9) To allocate and distribute State funds in accordance with the legislative appropriation and the relevant allocation formula.

(10) To develop and administer a uniform process for coordinating, reviewing and approving the capital expenditure requests of the community colleges.

(11) To facilitate Statewide and regional initiatives including those involving elementary and secondary schools, community colleges and other sectors of higher education.

(12) To develop an effective information database and common definitions that can be used to make informed decisions about community college policy and assess the impact such information provides.

1 (13) To develop benchmarks and performance indicators that
2 assess the collective impact of community colleges.

3 (14) To strengthen the capacity and ability of community
4 colleges to extend educational and training services to all
5 regions of this Commonwealth, and to provide technical
6 assistance to local endeavors to create new community college
7 services.

8 (15) To serve as a coordinated information source regarding
9 this Commonwealth's community colleges.

10 (16) To develop alliances and cooperative agreements among
11 community colleges for joint development of courses and course
12 materials, procurement of commodities, equipment and resources,
13 and sharing of expertise and staff development.

14 (17) To accept and expend grants, gifts, contributions,
15 endowments or other money for the purposes of this article.

16 (18) To recommend appropriate rules, regulations and
17 policies to the State Board of Education as provided for under
18 this act.

19 (19) Unless otherwise specified by applicable law, to make
20 all reports on behalf of community colleges which may be
21 required by Federal or State agencies.

22 (20) To assist the State Board of Education in developing
23 the community college portion of any State plan required for the
24 dissemination of Federal funds for which community colleges may
25 be eligible.

26 (21) To develop a long-range strategic plan for community
27 colleges which the State Board of Education shall consider in
28 developing the State master plan for higher education.

29 (22) To distribute Federal vocational education funding
30 provided under the Carl D. Perkins Vocational and Applied

1 Technology Education Act (Public Law 88-210, 20 U.S.C. § 2301 et
2 seq.).

3 Section 1902.5-A. Chief Executive Officer.--The Board of
4 Community Colleges shall appoint a chief executive officer and
5 may employ such other staff as it shall deem appropriate. The
6 chief executive officer shall have the following
7 responsibilities:

8 (1) To assist the Board of Community Colleges and to carry
9 out functions as delegated by the Board of Community Colleges.

10 (2) To implement the Commonwealth's public policy agenda as
11 it relates to community colleges.

12 (3) To employ and direct staff as necessary and appropriate
13 to carry out the duties and responsibilities of the Board of
14 Community Colleges.

15 (4) To serve as a liaison on behalf of the community
16 colleges to State agencies and other community, business,
17 educational and governmental entities.

18 (5) To represent the Board of Community Colleges before
19 legislative bodies.

20 (6) To represent the Board of Community Colleges at State
21 and national organizations.

22 Section 1902.6-A. Council of Presidents.--A Council of
23 Presidents shall be established by the Board of Community
24 Colleges to recommend policies for community colleges and act in
25 an advisory capacity to the chief executive officer and the
26 board. All community college presidents shall be members of the
27 Council of Presidents. The council shall elect a chairperson
28 annually. The council shall meet quarterly or at the call of the
29 chairperson of the council.

30 Section 1902.7-A. Appropriations; Allocation of Funds.--(a)

1 The Board of Community Colleges shall consolidate the annual
2 capital and operating budget requests submitted by the community
3 colleges for State funding. The Board of Community Colleges
4 shall present the consolidated annual budgets with comments to
5 the Secretary of Education for presentation to the State Board
6 of Education. The State Board of Education shall return such
7 budget requests, recommending approval or disapproval with
8 comments, if any, to the Secretary of Education prior to their
9 submission to the Secretary of the Budget. The Board of
10 Community Colleges may also submit its budget recommendations
11 and findings to the General Assembly subsequent to the
12 submission of the Governor's budget to the General Assembly.

13 (b) The General Assembly shall annually appropriate to the
14 Board of Community Colleges such amounts as may be necessary and
15 appropriate for its operations. In addition, the General
16 Assembly shall annually appropriate to the Board of Community
17 Colleges amounts as may be necessary and appropriate for the
18 operations of the various community colleges and for their
19 eligible capital expenses. The Board of Community Colleges shall
20 allocate and disburse all funds appropriated for the operations
21 and capital expense of community colleges in accordance with the
22 requirements of this act and the relevant allocation formula.

23 (c) The Board of Community Colleges shall adopt by
24 regulation a formula or other methodology for allocating
25 available capital funds to the various community colleges. The
26 allocation methodology shall include the following criteria:

27 (1) Enrollment.

28 (2) Population in the area served.

29 (3) Age of facilities.

30 (4) Square footage.

1 (5) Acreage.

2 (6) Other relevant objective criteria.

3 (d) Within two years after the effective date of this
4 section, the Board of Community Colleges shall make
5 recommendations to the Governor and the General Assembly to
6 revise or replace the current methodologies for allocation and
7 payment of all funds appropriated by the General Assembly for
8 the operations of community colleges.

9 Section 1902.8-a. Audits.--The activities of the Board of
10 Community Colleges shall be subject to the audit of the
11 Department of Auditor General, but the Board of Community
12 Colleges shall not be required to pay a fee for any such audit.

13 Section 4. Sections 1905-A(a) and 1908-A(e) of the act,
14 added July 1, 1985 (P.L.103, No.31), are amended to read:

15 Section 1905-A. Powers and Duties of Board of Trustees.--(a)
16 The affairs of any community college established under this act
17 shall be administered and supervised by a board of trustees.
18 Subject to any law and to any policies, standards, rules and
19 regulations adopted by the State Board of Education or the Board
20 of Community Colleges provided for community colleges, the
21 [board] State Board of Education shall, for the purpose of
22 establishing, operating and maintaining a community college,
23 have the power, and its duty shall be:

24 (1) To appoint and fix the salary of a president.

25 (2) To hold, rent, lease, sell, purchase and improve land,
26 buildings, furnishings, equipment, materials, books and
27 supplies.

28 (3) To enter into contracts for services with schools,
29 colleges or universities, or with school districts or
30 municipalities, to effectuate the purposes of this act.

1 (4) To accept and receive gifts of real and personal
2 property and Federal, State and local moneys and grants, and to
3 expend the same.

4 (5) To make policies providing for the admission and
5 expulsion of students, the courses of instruction, the tuition
6 and fees to be charged and for all matters related to the
7 government and administration of the college.

8 (6) To submit to the State Board of Education for its
9 approval proposed amendments to the community college plan.

10 (7) To enter into contracts for services to high schools of
11 member districts to provide area vocational-technical education
12 services.

13 (8) To exercise such other powers and perform such other
14 duties as are necessary to carry into effect the purposes of
15 this act.

16 * * *

17 Section 1908-A. Tuition.--* * *

18 (e) A student who is not a resident of the Commonwealth and
19 who is enrolled in a community college in accordance with the
20 policies, standards, rules and regulations of the State Board of
21 Education shall pay such tuition charge as is approved by the
22 [Department of Education] Board of Community Colleges.

23 Section 5. Section 1913-A(b)(1.2) and (3), (c), (d), (e),
24 (f), (h), (i), (j) and (k) of the act, amended or added July 1,
25 1985 (P.L.103, No.31), October 20, 1988 (P.L.827, No.110), June
26 7, 1993 (P.L.49, No.16) and June 22, 2001 (P.L.530, No.35), are
27 amended to read:

28 Section 1913-A. Financial Program; Reimbursement of
29 Payments.--* * *

30 (b) * * *

1 (1.2) The [Secretary of Education] Board of Community
2 Colleges, in consultation with the community colleges, shall
3 promulgate standards for credit courses and for noncredit
4 courses that will be eligible for Commonwealth reimbursement.
5 The standards shall specifically exclude from eligibility for
6 reimbursement any course or program in avocational or
7 recreational pursuits. [The standards shall be promulgated by
8 the beginning of the 1994-1995 fiscal year. Until such standards
9 are promulgated, no community college will be reimbursed for any
10 credit course which was offered by such college as a noncredit
11 course during the college's 1992-1993 fiscal year.]

12 * * *

13 (3) The [Secretary of Education] Board of Community Colleges
14 annually shall establish criteria to be used to determine
15 eligibility of programs for each of the above stipend
16 categories, shall approve programs for funding in the following
17 fiscal year according to these criteria and shall submit to
18 chairmen of the committees of education in the House of
19 Representatives and Senate a report setting forth the
20 established criteria, any programs approved for funding under
21 these criteria and the recipient community colleges.

22 * * *

23 (c) Capital expenses shall mean only such expenses as are
24 incurred with the approval of the [Department of Education]
25 Board of Community Colleges for amortization of the purchase of
26 lands; purchase, construction or improvement of buildings for
27 administrative and instructional purposes, including libraries;
28 the lease of lands or buildings, or for rentals to an authority
29 for the same purpose; and for the purchase, lease or rental of
30 capital equipment and furniture used for instructional or

1 administrative purposes. Capital expenses shall include library
2 books and complementary audio-visual equipment purchased during
3 the first five years after establishment. For the purpose of
4 calculating the Commonwealth's share of operating, and capital
5 costs incurred prior to the actual admission of students to a
6 community college, all such costs shall be interpreted as
7 capital costs. No costs and expenses incurred in the
8 establishment, construction, operation or maintenance of
9 dormitories, or the equipment or furnishings for such purposes,
10 shall be included in capital expenses or operating costs for
11 purposes of Commonwealth reimbursement. The provisions of this
12 subsection shall not prevent the Commonwealth from reimbursing a
13 community college for capital expenses incurred prior to the
14 effective date of this act. [Such reimbursement must have
15 approval of the Secretary of Education.]

16 (d) The [State Board of Education] Board of Community
17 Colleges shall adopt policies, standards, rules and regulations
18 for determining reimbursable capital expenses and operating
19 costs, and the [Department of Education] Board of Community
20 Colleges shall approve such expenses and costs for the purpose
21 of reimbursement by the Commonwealth.

22 (e) The State Board of Education shall apply for, receive
23 and administer, subject to any applicable regulations or laws of
24 the Federal Government or any agency thereof, any Federal
25 grants, appropriations, allocations and programs to fulfill the
26 purpose of this act. The State Board of Education shall
27 cooperate with the Board of Community Colleges in applying for
28 and administering all funds available from the Federal
29 Government and from any private, nongovernmental source.

30 (f) All administrative personnel, faculty, and other

1 employees of the community colleges in the Commonwealth shall be
2 eligible for inclusion in the Public School Employees'
3 Retirement System of Pennsylvania, the Pennsylvania State
4 Employees' Retirement System, or any independent retirement
5 program approved by the Board of Trustees of a community
6 college, and the [Secretary of Education] Board of Community
7 Colleges.

8 * * *

9 (h) In all cases where the board of trustees of any
10 community college fails to pay or provide for the payment of any
11 rental or rentals due the State Public School Building Authority
12 or any municipality authority for any period in accordance with
13 the terms of any lease entered into between the board of
14 trustees of any community college and the State Public School
15 Building Authority or any municipality authority, or fails to
16 pay or to provide for the payment of any other indebtedness when
17 due, upon written notice thereof from the State Public School
18 Building Authority or any municipality authority, or in such
19 cases where an audit reveals any unpaid indebtedness due, the
20 [Secretary of Education] Board of Community Colleges shall
21 notify the board of trustees of its obligation and shall
22 withhold out of any State appropriation that may be due to such
23 community college an amount equal to the amount of rental or
24 rentals owing by such board of trustees to the State Public
25 School Building Authority or any municipality authority, or an
26 amount equal to the amount of any other indebtedness owing by
27 such board of trustees, and shall pay over the amount or amounts
28 so withheld to the State Public School Building Authority or any
29 municipality authority or to whomsoever any other indebtedness
30 is due and owing.

1 (i) The amount payable to each community college Board of
2 Trustees on behalf of the sponsor shall be paid in the year in
3 which the costs and expenses are incurred in quarterly
4 installments and the [Secretary of Education] Board of Community
5 Colleges shall draw [his] its requisition quarterly upon the
6 State Treasurer in favor of each community college for the
7 amount of reimbursement to which it is entitled. Reimbursement
8 or payment by the Commonwealth for the operational expenses and
9 capital equipment and the furnishings shall be made on or before
10 the end of the fiscal quarters ended on September 30, December
11 31, March 31 and June 30 of each Commonwealth fiscal year.
12 Reimbursements or payments shall be made semi-annually for the
13 Commonwealth's share of the annual rentals to an authority or
14 the sponsor or sinking fund or debt-service payments and other
15 leases upon submission of a community college requisition in the
16 form required by the Commonwealth, the reimbursement or payment
17 to be made from funds appropriated for that purpose. Money that
18 is appropriated under this subsection but not expended by a
19 community college Board of Trustees shall not be distributed to
20 a local sponsor. Any funds payable to a community college for
21 operational expenses but not expended for that purpose may be
22 reallocated to pay any capital expenses of that community
23 college with the approval of the Board of Community Colleges.

24 (j) In no event shall the payments or final reimbursement
25 made by the [department] Board of Community Colleges following
26 audit exceed the appropriation available for community colleges.

27 (k) (1) Unless otherwise prescribed by the State Board of
28 Education, the Commonwealth's fiscal audits of community
29 colleges under this section shall be conducted in accordance
30 with "Government Auditing Standards," latest revision,

1 promulgated by the United States General Accounting Office.
2 Written audit reports will be produced and will be sent to the
3 community college by the [Commissioner of Postsecondary/Higher
4 Education] Board of Community Colleges. Any cost disallowed
5 under findings contained in the audit report shall be considered
6 an adjudication within the meaning of 2 Pa.C.S. (relating to
7 administrative law and procedure) and regulations promulgated
8 thereunder.

9 (2) The [Secretary of Education] Board of Community Colleges
10 is hereby specifically authorized and shall be required to
11 resolve audit findings involving disallowed costs that are
12 contested by community colleges except for audit findings that
13 involve mathematical errors, violation of regulations or alleged
14 illegal activities. The proposed resolution of the [Secretary of
15 Education] Board of Community Colleges shall not be subject to
16 the provisions of 2 Pa.C.S. The [Secretary of Education's]
17 notice to resolve audit findings shall be sent to the community
18 college in writing. The [Secretary of Education] Board of
19 Community Colleges may resolve the audit findings by reducing
20 the disallowed costs related thereto in whole or in part.

21 (3) The [Secretary of Education's] notice to resolve an
22 audit finding by reducing or eliminating the disallowed costs
23 must be made contingent upon the community college developing
24 and implementing a corrective action plan to address the audit
25 finding. The community college must submit a corrective action
26 plan to the [Secretary of Education] Board of Community Colleges
27 within [60] sixty (60) business days after receipt of the
28 [Secretary of Education's] written notice to resolve the audit
29 finding. The [Secretary of Education] Board of Community
30 Colleges shall approve, reject or alter the plan submitted by

1 the community college within thirty (30) days of submission.
2 After the community college receives written notice of approval
3 or agrees in writing to [the Secretary of Education's] any
4 alterations of the corrective action plan, said plan shall be
5 implemented and shall be binding on the community college.
6 Implementation of the approved or agreed upon corrective action
7 plan will be verified by an audit conducted by the [department]
8 Board of Community Colleges no later than the end of the fiscal
9 year following the fiscal year during which the plan is
10 implemented. If no agreed upon corrective action plan is in
11 place within one year after the date of the [Secretary of
12 Education's] written notice to resolve audit findings or if the
13 agreed upon corrective action has not been implemented within
14 one year after the date of the [Secretary of Education's]
15 written notice to resolve the audit findings, then the
16 [Secretary of Education] Board of Community Colleges is
17 authorized to adjust payments to the community college to
18 collect any amounts due based upon the findings contained in the
19 audit report that was issued to the college [by the
20 commissioner].

21 (4) The [department] Board of Community Colleges shall
22 deduct any amounts due the Commonwealth as a result of audit
23 findings that are resolved under this subsection from any future
24 payment due to the community college from the Commonwealth. The
25 [Secretary of Education] Board of Community Colleges is
26 authorized to approve a payment schedule in cases where
27 immediate repayment of the full amount due the Commonwealth
28 would jeopardize the ability of the community college to
29 continue operations.

30 (5) Resolution authority provided to the [Secretary of

1 Education] Board of Community Colleges in this subsection shall
2 be limited to disallowed cost findings relating to policy and/or
3 administrative practices. The resolution authority shall not be
4 used for audit findings in which the audited community college
5 data and documentation is in error, where a violation of
6 applicable law or regulation is found or where criminal
7 violations are suspected by the Commonwealth auditors and
8 brought to the [Secretary of Education's] attention of the Board
9 of Community Colleges in writing. [Notwithstanding the
10 limitations of this subsection, until June 30, 1995, the
11 Secretary of Education is authorized to resolve audit findings
12 involving disallowed costs for fiscal years prior to and
13 including 1992-1993 when such disallowed costs result from
14 violation of regulations.]

15 (6) The [department, through the Secretary of Education,]
16 Board of Community Colleges is authorized to issue guidelines
17 for the operation of the community college educational and
18 financial programs. The [department shall amend these]
19 guidelines may be amended on an annual basis to reflect the
20 [department's] position of the Board of Community Colleges on
21 issues that require resolution under this subsection.

22 (7) The provisions of subsection (d) are repealed insofar as
23 they are inconsistent with the provisions of this subsection.

24 * * *

25 Section 6. There are hereby transferred from the Department
26 of Education to the Board of Community Colleges to be used,
27 employed and expended in connection with the functions, powers
28 and duties established by this act, contract obligations, if
29 any, records, files, property, supplies and equipment now being
30 used or held in connection with such functions, powers and

1 duties and the unexpended balances of appropriations,
2 allocations and other funds available or to be made available
3 for use in connection with such functions, powers and duties.

4 Section 7. This act shall take effect July 1, 2003, or
5 immediately, whichever is later.