

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 55

Session of
2007

INTRODUCED BY ERICKSON, BOSCOLA, PUNT, FONTANA, STOUT,
WASHINGTON, MADIGAN, GREENLEAF, RAFFERTY, MUSTO, M. WHITE,
KITCHEN, COSTA, WONDERLING, CORMAN, EARLL, PIPPY,
TARTAGLIONE, VANCE, TOMLINSON, WAUGH, O'PAKE, WOZNIAK,
PILEGGI, BROWNE, STACK AND BAKER, FEBRUARY 7, 2007

REFERRED TO EDUCATION, FEBRUARY 7, 2007

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 community
6 college financial programs and reimbursements; establishing
7 the Community College Deferred Maintenance Fund; and
8 abrogating a regulation.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Section 1902-A of the act of March 10, 1949
12 (P.L.30, No.14), known as the Public School Code of 1949, added
13 July 1, 1985 (P.L.103, No.31), is amended to read:

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

17 (1) To adopt such policies, standards, rules and regulations
18 formulated by the Council of Higher Education, as may be
19 necessary to provide for the establishment, operation and

1 maintenance of community colleges, including minimum
2 requirements for physical facilities and equipment, curriculum,
3 faculty, standards and professional requirements, qualifications
4 for admission and advancement of students, student enrollment,
5 student population of the area to be served by the community
6 college, requirements for satisfactory completion of a two-year
7 program and the degrees or diplomas or certificates to be
8 awarded therefor, means of financing and financial resources for
9 the establishment and support of the community college, and all
10 matters necessary to effectuate the purposes of this act.

11 (2) To approve or disapprove plans for the establishment or
12 operation of a community college.

13 (3) To approve or disapprove petitions of school districts
14 or municipalities applying for participation in an established
15 community college. No petition may be approved unless it is
16 accompanied by the consent of the governing bodies of the
17 majority of the members of the local sponsor of the established
18 community college to the participation of the petitioning school
19 district or municipality.

20 (b) In determining such policies, standards, rules and
21 regulations, the State Board of Education may consider relevant
22 all minimum requirements established by statute or by regulation
23 with respect to the State colleges and universities of the
24 Commonwealth and may consider relevant such minimum requirements
25 established by statute or by regulation with respect to
26 secondary and special education programs in the school district
27 or districts of the area to be served by the community college.
28 Regulations promulgated under this article shall take effect at
29 the beginning of the school year following promulgation.

30 (c) In approving or disapproving such plans, the State Board

1 of Education shall consider the needs of areas adjacent to the
2 areas to be served by the community college and of the State
3 with respect to higher education and long range plans therefor
4 established by the State Board of Education. Other school
5 districts and municipalities may petition the State Board of
6 Education to become a part of a local sponsor as hereafter in
7 this act provided.

8 (d) No plan for the establishment of a community college
9 shall be approved unless the State Board of Education determines
10 that the local sponsor has a population of a sufficient number
11 to assure a sustained minimum enrollment, has sufficient wealth
12 to financially support such college and is not adequately served
13 by established institutions of higher learning. No plan for the
14 establishment of a community college shall be approved unless it
15 contains an estimate of operating cost for administration,
16 instruction, operation and maintenance and such other accounts
17 as the State Board of Education may, from time to time,
18 determine. No plan for the establishment of a community college
19 shall be approved unless it contains an estimate of any proposed
20 capital improvements for the next following ten years.

21 (e) To confer with and obtain the approval of the Governor's
22 Office as to the number of community colleges which can be
23 approved for participation during the ensuing fiscal period.

24 (f) Wherever in this act the approval of the State Board of
25 Education is required in any matter, the State Board of
26 Education may require the Department of Education to make and
27 report its findings and recommendations on such matter to the
28 Council of Higher Education for the formulation of policies,
29 standards, rules and regulations for consideration by the State
30 Board of Education.

1 Section 2. Section 1913-A of the act, amended or added July
2 1, 1985 (P.L.103, No.31), October 20, 1988 (P.L.827, No.110),
3 June 7, 1993 (P.L.49, No.16), June 22, 2001 (P.L.530, No.35) and
4 July 13, 2005 (P.L.226, No.46), is amended to read:

5 Section 1913-A. Financial Program; Reimbursement of
6 Payments.--(a) The plan submitted by the local sponsor shall
7 set forth a financial program for the operation of the community
8 college. The plan shall provide that the local sponsor shall
9 appropriate or provide to the community college an amount at
10 least equal to the community college's annual operating costs
11 less the student tuition as determined in section 1908-A(a) less
12 the Commonwealth's payment as determined in subsection (b)(1) of
13 this section. The plan shall also provide that one-half of the
14 annual capital expenses shall be appropriated or provided by the
15 local sponsor to the community college. The local sponsor's
16 appropriation for annual operating costs and annual capital
17 expenses may in part be represented by real or personal property
18 or services made available to the community college. The plan
19 shall indicate whether the appropriation shall come from general
20 revenues, loan funds, special tax levies or from other sources,
21 including student tuitions.

22 (b) (1) The Commonwealth shall pay to a community college
23 on behalf of the sponsor on account of its operating costs
24 during the fiscal year from funds appropriated for that purpose
25 an amount equal to:

26 (i) for the 1993-1994 fiscal year through the 2000-2001
27 fiscal year, the lesser of such college's variable State share
28 ceiling as determined in clause (1.3) or such college's
29 equivalent full-time student reimbursement as determined in
30 clause (1.4);

(ii) for the 2001-2002 fiscal year through the 2004-2005 fiscal year, the college's equivalent full-time student reimbursement as determined in clause (1.4);

(iii) for the 2005-2006 fiscal year, the college's payment as determined in clause (1.5); and

(iv) for the 2006-2007 fiscal year and each fiscal year thereafter, the college's payment as determined in clause (1.6).

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

(1.3) The variable State share ceiling of a community college shall be determined as follows:

(i) Subtract the taxable income per person of the local sponsor from the highest taxable income per person of any county in the Commonwealth.

(ii) Divide the amount determined under subclause (i) by the difference between the highest taxable income per person of any county in the Commonwealth and the lowest taxable income per person of any county in the Commonwealth.

(iii) Multiply the quotient determined under subclause (ii) by one-sixth.

(iv) Add one-third to the product determined under paragraph

1 (iii).

2 (v) Multiply the sum determined under subclause (iv) by the
3 community college's operating costs in the year for which
4 reimbursement is being claimed.

5 (vi) The taxable income per person data used in the
6 preceding calculation shall be data certified to the Secretary
7 of Education by the Secretary of Revenue under section 2501(9.1)
8 for school district local sponsors or data otherwise published
9 by the Secretary of Revenue for a municipal local sponsor.

10 (1.4) The equivalent full-time student reimbursement of a
11 community college shall be the sum of credit course, noncredit
12 course and stipend reimbursements. These reimbursements shall be
13 calculated using a reimbursement factor of one thousand and
14 forty dollars (\$1,040) for the 1993-1994 fiscal year, of one
15 thousand eighty dollars (\$1,080) for the 1994-1995 fiscal year
16 and of one thousand one hundred eighty dollars (\$1,180) for the
17 1995-1996 fiscal year and one thousand and two hundred and ten
18 dollars (\$1,210) for the 1996-1997 fiscal year and one thousand
19 two hundred sixty dollars (\$1,260) for the 1997-1998 fiscal year
20 and the 1998-1999 fiscal year and one thousand three hundred
21 dollars (\$1,300) for the 1999-2000 fiscal year and one thousand
22 four hundred dollars (\$1,400) for the 2000-2001 fiscal year and
23 one thousand five hundred dollars (\$1,500) for the 2001-2002
24 fiscal year and for each year thereafter and shall be determined
25 as follows:

26 (i) Credit course reimbursement shall be calculated by
27 multiplying the reimbursement factor by the number of equivalent
28 full-time students enrolled in credit courses as determined by
29 an audit to be made in a manner prescribed by the State Board of
30 Education. The following apply:

1 (A) Course enrollment is to be determined by the standards
2 of the community college.

3 (B) Computer-based documentation or paper-based
4 documentation may be used to verify enrollment.

5 (C) Enrollment in a program of study is to be determined
6 solely by the declaration of the student.

7 (ii) Noncredit course reimbursement shall be calculated as
8 follows:

9 (A) [eighty] Eighty percent (80%) of the reimbursement
10 factor multiplied by the number of equivalent full-time students
11 enrolled in eligible noncredit courses for the 1993-1994 fiscal
12 year, as determined by the audit referred to in paragraph
13 (i)[;]_.

14 (B) [seventy] Seventy percent (70%) of the reimbursement
15 factor multiplied by the number of equivalent full-time students
16 enrolled in eligible noncredit courses for the 1994-1995 fiscal
17 year and for each year thereafter, as determined by the audit
18 referred to in paragraph (i)[; or]_.

19 (C) [one] One hundred percent (100%) of the reimbursement
20 factor multiplied by the number of equivalent full-time students
21 enrolled in eligible noncredit public safety courses that
22 provide training for volunteer firefighters and emergency
23 medical services for the 1995-1996 fiscal year and for each year
24 thereafter, as determined by the audit referred to in paragraph
25 (i).

26 (D) A noncredit course is eligible for reimbursement if all
27 of the following apply:

28 (I) The course is in the area of public safety; adult basic
29 education or adult literacy; occupational skills; academics; or
30 a program for certification in accordance with standards

1 established by statute, regulation or appropriate industry.

2 (II) Regardless of whether the instructor's compensation is
3 paid directly by the community college or paid by an entity that
4 contracts with the community college, the community college is
5 responsible for selecting; supervising; and, if appropriate,
6 dismissing the instructor.

7 (E) Course enrollment is to be determined by the standards
8 of the community college.

9 (iii) Stipend reimbursement on account of a community
10 college's operating costs for all equivalent full-time students
11 enrolled in the following categories of two-year or less than
12 two-year occupational or technical programs, shall be the sum of
13 the following:

14 (A) One thousand one hundred dollars (\$1,100) per full-time
15 equivalent student enrolled in advanced technology programs. For
16 the fiscal year 1995-1996, 1996-1997 and 1997-1998, the
17 reimbursement rate shall be calculated at one thousand one
18 hundred seventy-five dollars (\$1,175) per full-time equivalent
19 student enrolled in advanced technology programs. For the fiscal
20 year 1998-1999 and each year thereafter, the reimbursement rate
21 shall be calculated at one thousand four hundred sixty dollars
22 (\$1,460) per full-time equivalent student enrolled in advanced
23 technology programs. Advanced technology programs are programs
24 using new or advanced technologies which hold promise for
25 creating new job opportunities, including such fields as
26 robotics, biotechnology, specialized materials and engineering
27 and engineering-related programs.

28 (B) One thousand dollars (\$1,000) per full-time equivalent
29 student enrolled in programs designated as Statewide programs.
30 For the fiscal year 1995-1996, 1996-1997 and 1997-1998, the

1 reimbursement rate shall be calculated at one thousand seventy-
2 five dollars (\$1,075) per full-time equivalent student enrolled
3 in programs designated as Statewide programs. For the fiscal
4 year 1998-1999 and each year thereafter, the reimbursement rate
5 shall be calculated at one thousand three hundred sixty dollars
6 (\$1,360) per full-time equivalent student enrolled in programs
7 designated as Statewide programs. A Statewide program is a
8 program which meets one or more of the following criteria:

9 (I) Program enrollment from out-of-sponsor area is twenty
10 per cent or more of the enrollment for the program.

11 (II) A consortial arrangement exists with another community
12 college to cooperatively operate a program or share regions in
13 order to avoid unnecessary program duplication.

14 (C) Five hundred dollars (\$500) per full-time equivalent
15 student enrolled in other occupational or technical programs.
16 For the fiscal year 1995-1996, 1996-1997 and 1997-1998, the
17 reimbursement rate shall be calculated at five hundred seventy-
18 five dollars (\$575) per full-time equivalent student enrolled in
19 other occupational or technical programs. For the fiscal year
20 1998-1999 and each year thereafter, the reimbursement rate shall
21 be calculated at eight hundred sixty dollars (\$860) per full-
22 time equivalent student enrolled in other occupational or
23 technical programs.

24 (1.5) For the 2005-2006 fiscal year, the payment for a
25 community college shall consist of the following:

26 (i) Each community college shall receive reimbursement for
27 operating costs equal to the reimbursement for the 2004-2005
28 fiscal year as determined under clause (1.4)(i) and (ii). This
29 amount shall be determined based upon the midyear rebudget
30 submitted by a community college in February 2005.

(ii) Each community college shall receive an economic development stipend as calculated under clause (1.7).

(iii) Each community college shall receive a base supplement determined by:

(A) subtracting the total amount of funds determined under subclauses (i) and (ii) from the State appropriation for payment of approved operating expenses of community colleges for the 2005-2006 fiscal year;

(B) dividing the payment under subclauses (i) and (ii) by the sum of the amounts determined for all community colleges under subclauses (i) and (ii); and

(C) multiplying the quotient from subparagraph (B) by an amount equal to seventy-five percent (75%) of the amount determined under paragraph (A).

(iv) Each community college with a 2003-2004 equivalent full-time enrollment in credit, noncredit and workforce development courses greater than its 2002-2003 equivalent full-time enrollment in credit, noncredit and workforce development courses shall receive a growth supplement amount determined by:

(A) subtracting its 2002-2003 equivalent full-time enrollment in credit, noncredit and workforce development courses from its 2003-2004 equivalent full-time enrollment in credit, noncredit and workforce development courses;

(B) dividing the difference from paragraph (A) by the sum of the differences from paragraph (A) for all community colleges; and

(C) multiplying the quotient from paragraph (B) by an amount equal to twenty-five percent (25%) of the amount determined under subclause (iii)(A).

Calculations under this subclause shall be based upon the final

1 claim forms submitted by a community college for the 2002-2003
2 and 2003-2004 fiscal years.

3 (1.6) For the 2006-2007 fiscal year and each fiscal year
4 thereafter, the payment for a community college shall consist of
5 the following:

6 (i) Each community college shall receive an amount equal to
7 the reimbursement for operating costs, base supplement and
8 growth supplement amounts it received in the immediately
9 preceding fiscal year.

10 (ii) Each community college shall receive an economic
11 development stipend as calculated under clause (1.7). The amount
12 available for economic development stipends shall increase each
13 year by the percent increase in the State appropriation for
14 payment of approved operating expenses of community colleges.

15 (iii) Each community college shall receive a base supplement
16 determined by:

17 (A) subtracting the total amount of funds determined under
18 subclauses (i) and (ii) from the State appropriation for payment
19 of approved operating expenses of community colleges;

20 (B) dividing the payment under subclause (i) by the sum of
21 the amounts determined for all community colleges under
22 subclause (i); and

23 (C) multiplying the quotient from paragraph (B) by an amount
24 equal to seventy-five percent (75%) of the amount determined
25 under paragraph (A).

26 (iv) Each community college with an equivalent full-time
27 enrollment in credit, noncredit and workforce development
28 courses for the year prior to the immediately preceding year
29 greater than its equivalent full-time enrollment in credit,
30 noncredit and workforce development courses for the second year

1 prior to the immediately preceding year shall receive a growth
2 supplement amount determined by:

3 (A) subtracting its equivalent full-time enrollment in
4 credit, noncredit and workforce development courses for the
5 second year prior to the immediately preceding year from its
6 equivalent full-time enrollment in credit, noncredit and
7 workforce development courses for the year prior to the
8 immediately preceding year;

9 (B) dividing the difference from paragraph (A) by the sum of
10 the differences from paragraph (A) for all community colleges;
11 and

12 (C) multiplying the amount from paragraph (B) by an amount
13 equal to twenty-five percent (25%) of the amount determined
14 under subclause (iii)(A).

15 Secondary senior high school students enrolled in credit-
16 bearing, nonremedial college courses shall be included in the
17 calculation under paragraph (A). Calculations under this
18 subclause shall be based upon the audited financial statements
19 submitted by a community college pursuant to subsection (k.1).

20 (1.7) The payment for a community college shall include an
21 economic development stipend which shall consist of the
22 following:

23 (i) For the 2005-2006 fiscal year, each community college
24 shall receive an amount equal to the reimbursement for the 2004-
25 2005 fiscal year as determined under clause (1.4)(iii) and under
26 section 1501 of the act of December 18, 2001 (P.L.949, No.114),
27 known as the "Workforce Development Act." This amount shall be
28 determined based upon the midyear rebudget submitted by a
29 community college in February 2005.

30 (ii) For the 2006-2007 fiscal year and each fiscal year

1 thereafter, each community college shall receive, subject to the
2 provisions of subclause (iii), an amount determined by:

3 (A) Adding the following:

4 (I) the number of full-time equivalent students enrolled in
5 high-priority and high-instructional-cost occupation programs at
6 the community college multiplied by 1.50;

7 (II) the number of full-time equivalent students enrolled in
8 high-priority occupation programs at the community college
9 multiplied by 1.25; and

10 (III) the number of full-time equivalent students enrolled
11 in noncredit workforce development courses at the community
12 college.

13 (B) Dividing the total from paragraph (A) by the sum of the
14 totals from paragraph (A) for all community colleges.

15 (C) Multiplying the amount from paragraph (B) by the amount
16 allocated for the economic development stipend pursuant to
17 clause (1.6)(ii).

18 The number of full-time equivalent students shall be determined
19 based upon the final midyear rebudget submitted by a community
20 college for the prior fiscal year. Such rebudget shall be
21 submitted, as required by the Department of Education, no later
22 than May 31, 2006, and May 31 of each year thereafter.

23 (iii) For the 2006-2007 and 2007-2008 fiscal years, the
24 following shall apply:

25 (A) Full-time equivalent students enrolled in stipend
26 advanced technology programs shall be counted as full-time
27 equivalent students enrolled in high-priority and high-
28 instructional-cost occupation programs for the purpose of the
29 calculation in subclause (ii).

30 (B) Full-time equivalent students enrolled in stipend

1 Statewide programs shall be counted as full-time equivalent
2 students enrolled in high-priority occupation programs for the
3 purpose of the calculation in subclause (ii).

4 (C) Full-time equivalent students enrolled in other stipend
5 occupational programs and workforce development courses shall be
6 counted as full-time equivalent students enrolled in noncredit
7 workforce development courses for the purpose of the calculation
8 in subclause (ii).

9 (D) For reimbursement for any semester that begins on or
10 after January 1, 2006, this subclause shall only apply for
11 students who were enrolled in such programs during the fall 2005
12 semester.

13 (1.8) (i) The Department of Education shall annually
14 approve high-priority and high-instructional-cost occupation
15 programs, high-priority occupation programs and noncredit
16 workforce development courses.

17 (ii) In order to qualify as a high-priority and high-
18 instructional-cost occupation program, the program must:

19 (A) Provide training:

20 (I) in a high-priority occupation as defined by the Center
21 for Workforce Information and Analysis within the Department of
22 Labor and Industry; or

23 (II) in an occupation designed to meet regional workforce
24 needs as documented through collaboration with one or more
25 employers.

26 (B) Bear an instructional cost to the community college, per
27 full-time-equivalent student, of at least one hundred thirty
28 percent (130%) of the average cost per full-time-equivalent
29 student enrolled in the community college's credit courses.

30 Instructional costs shall be defined by the Department of

1 Education and may include personnel, equipment, curricula and
2 other costs necessary for the program.

3 (iii) In order to qualify as a high-priority occupation
4 program or a noncredit workforce development course, the high-
5 priority occupation program or noncredit workforce development
6 course must:

7 (A) provide training in a high-priority occupation as
8 defined by the Center for Workforce Information and Analysis
9 within the Department of Labor and Industry; or

10 (B) provide training in an occupation designed to meet
11 regional workforce needs as documented through collaboration
12 with one or more employers.

13 (iv) In order to qualify under subclause (ii)(A)(II) or
14 (iii)(B), the community college shall submit an application to
15 the Department of Education. The application shall contain:

16 (A) Evidence of collaboration with one or more employers.

17 (B) Information as to the nature of the proposed program.

18 (C) Evidence as to how the program will increase workforce
19 opportunities for participants.

20 (v) The Department of Education shall:

21 (A) Determine the form and manner by which applications are
22 to be submitted under subclause (iv).

23 (B) Approve or reject applications received pursuant to
24 subclause (iv) within twenty (20) days of receipt of a completed
25 application; otherwise, such applications will be deemed
26 approved.

27 (C) Annually publish guidelines listing criteria and
28 establishing the approval process for programs and courses under
29 this clause.

30 (2) For the 1993-1994 fiscal year, each community college

1 shall be reimbursed under clause (1) in an amount which is at
2 least equal to a one percent (1%) increase over its 1992-1993
3 operating cost and stipend reimbursement. In no case shall a
4 community college's 1993-1994 reimbursement under clause (1) per
5 full-time equivalent student, insofar as said reimbursement does
6 not include a proportionate share attributable to stipend
7 reimbursement under clause (1.4)(iii), exceed its 1992-1993
8 operating cost reimbursement per full-time equivalent student by
9 more than ten percent (10%).

10 (2.1) For the 1994-1995 fiscal year, each community college
11 shall be reimbursed under clause (1) in an amount which is at
12 least equal to a one percent (1%) increase over its 1993-1994
13 reimbursement under clause (1). In no case shall a community
14 college's 1994-1995 reimbursement under clause (1) per full-time
15 equivalent student, insofar as said reimbursement does not
16 include the proportionate share attributable to stipend
17 reimbursement under clause (1.4)(iii), exceed its 1993-1994
18 reimbursement under clause (1) per full-time equivalent student,
19 insofar as said reimbursement does not include the proportionate
20 share attributable to stipend reimbursement under clause
21 (1.4)(iii) by more than ten percent (10%).

22 (2.2) For the 1995-1996 fiscal year, each community college
23 shall be reimbursed under clause (1) in an amount which is at
24 least equal to its 1994-1995 reimbursement under clause (1).

25 (3) The [Secretary] Department of Education annually shall
26 [establish] promulgate regulations establishing criteria to be
27 used to determine eligibility of programs for each of the above
28 stipend categories[,]. The department shall approve programs for
29 funding [in the following fiscal year] according to these
30 [criteria and] regulations. The Secretary of Education shall

1 submit to chairmen of the committees of education in the House
2 of Representatives and Senate a report setting forth [the
3 established criteria,] any programs approved for funding under
4 these [criteria] regulations and the recipient community
5 colleges.

6 (4) Each community college shall maintain such accounting
7 and student attendance records on generally accepted auditing
8 principles and standards [as will lend themselves to
9 satisfactory audit]. The department must complete an audit of a
10 community college for a school year within one year after the
11 completion of that school year. If the department does not meet
12 the time requirement of this clause, the community college
13 affected shall be required to forfeit reimbursement only for an
14 intentional violation or for a violation of previously cited and
15 resolved findings. The Commonwealth shall pay to a community
16 college on behalf of the sponsor on account of its capital
17 expenses an amount equal to one-half of such college's annual
18 capital expenses from funds appropriated for that purpose to the
19 extent that said capital expenses have been approved as herein
20 provided.

21 (5) For purposes of determining Commonwealth reimbursement
22 of operating costs, Federally funded expenditures for those
23 programs in which the Commonwealth participates in the cost
24 shall be deducted from total operating expenditures to determine
25 net reimbursable operating costs.

26 (c) (1) Capital expenses shall mean only such expenses as
27 are incurred with the approval of the Department of Education
28 for amortization of the purchase of lands; purchase,
29 construction or improvement of buildings for administrative and
30 instructional purposes, including libraries; the lease of lands

1 or buildings, or for rentals to an authority for the same
2 purpose; and, prior to July 1, 2005, for the purchase, lease or
3 rental of capital equipment and furniture used for instructional
4 or administrative purposes. Capital expenses shall include
5 library books and complementary audio-visual equipment purchased
6 during the first five years after establishment. On or after
7 July 1, 2005, capital expenses may include such expenses as are
8 incurred with the approval of the Department of Education for
9 the purchase, lease or rental of capital equipment and furniture
10 used for instructional or administrative purposes. For the
11 purpose of calculating the Commonwealth's share of operating,
12 and capital costs incurred prior to the actual admission of
13 students to a community college, all such costs shall be
14 interpreted as capital costs. No costs and expenses incurred in
15 the establishment, construction, operation or maintenance of
16 dormitories, or the equipment or furnishings for such purposes,
17 shall be included in capital expenses or operating costs for
18 purposes of Commonwealth reimbursement.

19 (2) The provisions of this subsection shall not prevent the
20 Commonwealth from reimbursing a community college for capital
21 expenses incurred prior to the effective date of this act. Such
22 reimbursement must have approval of the Secretary of Education.

23 (3) Notwithstanding any other provision of this act, a
24 community college may use a portion of its payment of approved
25 operating expenses for capital expenses not otherwise reimbursed
26 by the Department of Education.

27 (c.1) Notwithstanding any provision of law to the contrary,
28 two or more community colleges may jointly enter into a
29 financing arrangement through the State Public School Building
30 Authority for the purchase, lease or construction of capital

1 projects deemed necessary by the community colleges. The terms
2 and conditions of the financing arrangement shall be consistent
3 with the terms and conditions set forth in the act of July 5,
4 1947 (P.L.1217, No.498), known as the "State Public School
5 Building Authority Act."

6 (d) The State Board of Education shall adopt policies,
7 standards, rules and regulations for determining reimbursable
8 capital expenses and operating costs, and the Department of
9 Education shall approve such expenses and costs for the purpose
10 of reimbursement by the Commonwealth.

11 (e) The State Board of Education shall apply for, receive
12 and administer, subject to any applicable regulations or laws of
13 the Federal Government or any agency thereof, any Federal
14 grants, appropriations, allocations and programs to fulfill the
15 purpose of this act.

16 (f) All administrative personnel, faculty, and other
17 employees of the community colleges in the Commonwealth shall be
18 eligible for inclusion in the Public School Employees'
19 Retirement System of Pennsylvania, the Pennsylvania State
20 Employees' Retirement System, or any independent retirement
21 program approved by the Board of Trustees of a community
22 college, and the Secretary of Education.

23 (g) The community college in the Commonwealth shall be
24 eligible for participation in the act of July 5, 1947 (P.L.1217,
25 No.498), known as the "State Public School Building Authority
26 Act," and the act of May 2, 1945 (P.L.382, No.164), known as the
27 "Municipality Authorities Act of 1945."

28 (h) In all cases where the board of trustees of any
29 community college fails to pay or provide for the payment of any
30 rental or rentals due the State Public School Building Authority

1 or any municipality authority for any period in accordance with
2 the terms of any lease entered into between the board of
3 trustees of any community college and the State Public School
4 Building Authority or any municipality authority, or fails to
5 pay or to provide for the payment of any other indebtedness when
6 due, upon written notice thereof from the State Public School
7 Building Authority or any municipality authority, or in such
8 cases where an audit reveals any unpaid indebtedness due, the
9 Secretary of Education shall notify the board of trustees of its
10 obligation and shall withhold out of any State appropriation
11 that may be due to such community college an amount equal to the
12 amount of rental or rentals owing by such board of trustees to
13 the State Public School Building Authority or any municipality
14 authority, or an amount equal to the amount of any other
15 indebtedness owing by such board of trustees, and shall pay over
16 the amount or amounts so withheld to the State Public School
17 Building Authority or any municipality authority or to
18 whomever any other indebtedness is due and owing.

19 (i) The amount payable to each community college Board of
20 Trustees on behalf of the sponsor shall be paid in the year in
21 which the costs and expenses are incurred in quarterly
22 installments and the Secretary of Education shall draw his
23 requisition quarterly upon the State Treasurer in favor of each
24 community college for the amount of reimbursement to which it is
25 entitled. Reimbursement or payment by the Commonwealth for the
26 operational expenses and capital equipment and the furnishings
27 shall be made on or before the end of the fiscal quarters ended
28 on September 30, December 31, March 31 and June 30 of each
29 Commonwealth fiscal year. Reimbursements or payments shall be
30 made semi-annually for the Commonwealth's share of the annual

1 rentals to an authority or the sponsor or sinking fund or debt-
2 service payments and other leases upon submission of a community
3 college requisition in the form required by the Commonwealth,
4 the reimbursement or payment to be made from funds appropriated
5 for that purpose. Money that is appropriated under this
6 subsection but not expended by a community college Board of
7 Trustees shall not be distributed to a local sponsor.

8 (j) In no event shall the payments or final reimbursement
9 made by the department following audit exceed the appropriation
10 available for community colleges.

11 (k) For fiscal years up to and including the 2004-2005
12 fiscal year, audits of community colleges shall be conducted as
13 follows:

14 (1) Unless otherwise prescribed by the State Board of
15 Education, the Commonwealth's fiscal audits of community
16 colleges under this section shall be conducted in accordance
17 with "Government Auditing Standards," latest revision,
18 promulgated by the United States General Accounting Office.
19 Written audit reports will be produced and will be sent to the
20 community college by the Commissioner of Postsecondary/Higher
21 Education. Any cost disallowed under findings contained in the
22 audit report shall be considered an adjudication within the
23 meaning of 2 Pa.C.S. (relating to administrative law and
24 procedure) and regulations promulgated thereunder.

25 (2) The Secretary of Education is hereby specifically
26 authorized and shall be required to resolve audit findings
27 involving disallowed costs that are contested by community
28 colleges except for audit findings that involve mathematical
29 errors, violation of regulations or alleged illegal activities.
30 The proposed resolution of the Secretary of Education shall not

1 be subject to the provisions of 2 Pa.C.S. The Secretary of
2 Education's notice to resolve audit findings shall be sent to
3 the community college in writing. The Secretary of Education may
4 resolve the audit findings by reducing the disallowed costs
5 related thereto in whole or in part.

6 (3) The Secretary of Education's notice to resolve an audit
7 finding by reducing or eliminating the disallowed costs must be
8 made contingent upon the community college developing and
9 implementing a corrective action plan to address the audit
10 finding. The community college must submit a corrective action
11 plan to the Secretary of Education within 60 business days after
12 receipt of the Secretary of Education's written notice to
13 resolve the audit finding. The Secretary of Education shall
14 approve, reject or alter the plan submitted by the community
15 college within thirty (30) days of submission. After the
16 community college receives written notice of approval or agrees
17 in writing to the Secretary of Education's alterations of the
18 corrective action plan, said plan shall be implemented and shall
19 be binding on the community college. Implementation of the
20 approved or agreed upon corrective action plan will be verified
21 by an audit conducted by the department no later than the end of
22 the fiscal year following the fiscal year during which the plan
23 is implemented. If no agreed upon corrective action plan is in
24 place within one year after the date of the Secretary of
25 Education's written notice to resolve audit findings or if the
26 agreed upon corrective action has not been implemented within
27 one year after the date of the Secretary of Education's written
28 notice to resolve the audit findings, then the Secretary of
29 Education is authorized to adjust payments to the community
30 college to collect any amounts due based upon the findings

1 contained in the audit report that was issued to the college by
2 the commissioner.

3 (4) The department shall deduct any amounts due the
4 Commonwealth as a result of audit findings that are resolved
5 under this subsection from any future payment due to the
6 community college from the Commonwealth. The Secretary of
7 Education is authorized to approve a payment schedule in cases
8 where immediate repayment of the full amount due the
9 Commonwealth would jeopardize the ability of the community
10 college to continue operations.

11 (5) Resolution authority provided to the Secretary of
12 Education in this subsection shall be limited to disallowed cost
13 findings relating to policy and/or administrative practices. The
14 resolution authority shall not be used for audit findings in
15 which the audited community college data and documentation is in
16 error, where a violation of applicable law or regulation is
17 found or where criminal violations are suspected by the
18 Commonwealth auditors and brought to the Secretary of
19 Education's attention in writing. Notwithstanding the
20 limitations of this subsection, until June 30, 1995, the
21 Secretary of Education is authorized to resolve audit findings
22 involving disallowed costs for fiscal years prior to and
23 including 1992-1993 when such disallowed costs result from
24 violation of regulations.

25 (6) The department, through the Secretary of Education, is
26 authorized to issue guidelines for the operation of the
27 community college educational and financial programs. The
28 department shall amend these guidelines on an annual basis to
29 reflect the department's position on issues that require
30 resolution under this subsection.

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

(k.1) (1) By January 1, 2007, and January 1 of each year thereafter, a community college shall submit to the department an audited financial statement for the immediately preceding fiscal year. The audited financial statement shall be consistent with the generally accepted accounting principles prescribed by the National Association of College and University Business Officers or its successor, by the American Institute of Certified Public Accountants or its successor or by any other recognized authoritative body and consistent with the financial reporting policies and standards promulgated by Federal Government and State government which apply to community colleges, provided that an audited financial statement shall not be acceptable if the audit is conducted by an employee or member of the board of trustees of the community college or by an organization or firm associated with any employee or member of the board of trustees of the community college. The Department of Education may withhold funds appropriated to community colleges as necessary to ensure that audit reports are submitted in the prescribed fashion.

(2) The audited financial statement required under clause (1) shall include:

(i) results of the tests of the community college's accounting records and other procedures that are considered necessary to enable the independent certified public accountant to express an opinion as to whether the community college's financial statements are fairly presented, in all material respects, consistent with the accounting principles set forth in clause (1);

(ii) a schedule of operating expenses that presents all operating expenses pertaining to the community college's educational program; and

(iii) a verification of equivalent full-time students enrolled in the community college in each of the following categories: credit, noncredit and each economic development stipend category, during the fiscal year for which the audited financial statement is presented.

(3) The department shall review the audited financial statement of a community college to determine whether the State funds allocated to the community college have been expended in accordance with the accounting principles set forth in clause (1). The department shall have ninety (90) days from the receipt of an audited financial statement to review the audited financial statement and notify the community college of any material failure to meet the requirements of this subsection.

(4) A community college that receives notice from the department under clause (3) shall have ninety (90) days from the receipt of such notice to submit a corrective action plan to the department.

(5) The department shall approve, reject or alter the corrective action plan within thirty (30) days of submission. After the community college receives written notice of approval of the corrective action plan or agrees in writing to the department's alterations of the corrective action plan, the plan shall be implemented and binding on the community college. Implementation of the approved or agreed-upon corrective action plan shall be verified by an audit conducted by the department no later than the end of the fiscal year following the fiscal year during which the plan is implemented. If no agreed-upon

1 corrective action plan is in place within one year after the
2 date of the department's written notice under clause (4) or if
3 the agreed-upon corrective action plan has not been implemented
4 within one year after the date of the department's written
5 notice under clause (4), then the department shall adjust
6 payments to the community college to collect any amounts due
7 based upon the findings contained in the audit report.

8 (6) The State Board of Education shall promulgate final-
9 omitted regulations pursuant to the act of June 25, 1982
10 (P.L.633, No.181), known as the "Regulatory Review Act," as
11 necessary to implement this subsection.

12 (1) For the fiscal year 1992-1993, if insufficient funds are
13 appropriated to make Commonwealth payments pursuant to this
14 section, such payments shall be made on a pro rata basis.

15 Section 3. The act is amended by adding a section to read:

16 Section 1919-A. Community College Nonmandated Capital
17 Fund.--(a) The Community College Deferred Maintenance Fund is
18 established as a separate fund in the State Treasury.

19 (b) The sources of the fund are as follows:

20 (1) Reimbursements repaid by community colleges to the
21 Commonwealth pursuant to audits under section 1913-A and
22 regulations under that section.

23 (2) Appropriations.

24 (3) Earnings on money in the fund.

25 (c) The fund shall be used for deferred maintenance projects
26 in community colleges. Guidelines for disbursement shall be
27 developed by the Department of Education in consultation with
28 community colleges.

29 (d) The money in the fund is continuously appropriated to
30 the fund and shall not lapse at the end of any fiscal year.

1 Section 4. The following provisions of 22 Pa.Code are
2 abrogated:

3 (1) 35.61(f)(2).

4 (2) 335.22(3).

5 Section 5. This act shall take effect in 60 days.