

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL****No. 744** Session of  
2003

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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, SAINATO, YUDICHAK AND ADOLPH,  
MARCH 6, 2003

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AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF  
REPRESENTATIVES, AS AMENDED, MAY 7, 2003

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## 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:

1 Section 1901-A. Definitions.--The following words and  
2 phrases, as used in this article, shall, unless a different  
3 meaning is plainly required by the context, have the following  
4 meaning:

5 \* \* \*

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

8 Section 2. Section 1902-A(a) and (f) of the act, added July  
9 1, 1985 (P.L.103, No.31), are amended to read:

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

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

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

29 (3) To approve or disapprove petitions of school districts  
30 or municipalities applying for participation in an established

1 community college. No petition may be approved unless it is  
2 accompanied by the consent of the governing bodies of the  
3 majority of the members of the local sponsor of the established  
4 community college to the participation of the petitioning school  
5 district or municipality.

6 \* \* \*

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

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

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

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

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

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

30 (ii) career and occupational training degrees, certificates

1 and short courses;

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

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

6 (v) community services; and

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

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

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

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

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

30 (2) Promoting initiatives and innovation in the community

1 college sector.

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

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

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

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

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

14 (b) The membership of the Board of Community Colleges shall  
15 be representative of the State geographically and

16 demographically. Of the members appointed by the Governor, at  
17 least one appointee shall be from a rural area and one from an

18 ~~urban area. At least one of the Governor's appointees shall be a~~ <—  
19 ~~member of a labor organization and at least one shall be an~~

20 URBAN AREA. AT LEAST TWO OF THE GOVERNOR'S APPOINTEES SHALL BE <—  
21 MEMBERS OF A LABOR ORGANIZATION REPRESENTING EMPLOYEES OF

22 COMMUNITY COLLEGES AND AT LEAST ONE SHALL BE AN employer or  
23 management-level employe. Members shall be citizens of the

24 United States and residents of this Commonwealth. No appointee  
25 shall be an officer, employe or member of a board of any

26 community college. No appointee shall be engaged in providing,  
27 or employed by a person or company whose primary function is to

28 provide, work force development services and activities.

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

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

3 (2) Two senators, one appointed by the President pro tempore  
4 of the Senate and one appointed by the Minority Leader of the  
5 Senate.

6 (3) Two members of the House of Representatives, one  
7 appointed by the Speaker of the House of Representatives and one  
8 appointed by the Minority Leader of the House of  
9 Representatives.

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

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

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

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

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

29 (c) A chairperson shall be elected by the members of the  
30 Board of Community Colleges and shall serve in that capacity for

1 a period of one year. The Board of Community Colleges shall  
2 elect the chairperson annually in a manner prescribed by the  
3 board.

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

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

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

17 (g) Members shall receive no compensation but shall be  
18 entitled to receive an allowance for expenses incurred in the  
19 performance of duties.

20 Section 1902.4-A. Power and Duties of Board of Community  
21 Colleges.--The Board of Community Colleges shall have the  
22 following powers and duties:

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

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

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

3       (4) To promote and strengthen the development of community  
4 colleges as the primary network for meeting the needs of  
5 Pennsylvania's work force by actively working with the business,  
6 industry and government sectors to provide high-quality training  
7 and education and to increase the capacity of community colleges  
8 to provide work force training.

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

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

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

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

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

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

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

30       (12) To develop an effective information database and common

1 definitions that can be used to make informed decisions about  
2 community college policy and assess the impact such information  
3 provides.

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

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

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

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

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

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

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

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

29 (21) To develop a long-range strategic plan for community  
30 colleges which the State Board of Education shall consider in

1 developing the State master plan for higher education.

2 (22) To distribute Federal vocational education funding  
3 provided under the Carl D. Perkins Vocational and Applied  
4 Technology Education Act (Public Law 88-210, 20 U.S.C. § 2301 et  
5 seq.).

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

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

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

15 (3) To employ and direct staff as necessary and appropriate  
16 to carry out the duties and responsibilities of the Board of  
17 Community Colleges.

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

21 (5) To represent the Board of Community Colleges before  
22 legislative bodies.

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

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

1 annually. The council shall meet quarterly or at the call of the  
2 chairperson of the council.

3 Section 1902.7-A. Appropriations; Allocation of Funds.--(a)  
4 The Board of Community Colleges shall consolidate the annual  
5 capital and operating budget requests submitted by the community  
6 colleges for State funding. The Board of Community Colleges  
7 shall present the consolidated annual budgets with comments to  
8 the Secretary of Education for presentation to the State Board  
9 of Education. The State Board of Education shall return such  
10 budget requests, recommending approval or disapproval with  
11 comments, if any, to the Secretary of Education prior to their  
12 submission to the Secretary of the Budget. The Board of  
13 Community Colleges may also submit its budget recommendations  
14 and findings to the General Assembly subsequent to the  
15 submission of the Governor's budget to the General Assembly.

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

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

30 (1) Enrollment.

1       (2) Population in the area served.

2       (3) Age of facilities.

3       (4) Square footage.

4       (5) Acreage.

5       (6) Other relevant objective criteria.

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

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

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

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

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

28       (2) To hold, rent, lease, sell, purchase and improve land,  
29 buildings, furnishings, equipment, materials, books and  
30 supplies.

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

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

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

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

13 (7) To enter into contracts for services to high schools of  
14 member districts to provide area vocational-technical education  
15 services.

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

19 \* \* \*

20 Section 1908-A. Tuition.--\* \* \*

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

26 Section 5. Section 1913-A(b)(1.2) and (3), (c), (d), (e),  
27 (f), (h), (i), (j) and (k) of the act, amended or added July 1,  
28 1985 (P.L.103, No.31), October 20, 1988 (P.L.827, No.110), June  
29 7, 1993 (P.L.49, No.16) and June 22, 2001 (P.L.530, No.35), are  
30 amended to read:

1 Section 1913-A. Financial Program; Reimbursement of  
2 Payments.--\* \* \*

3 (b) \* \* \*

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

15 \* \* \*

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

25 \* \* \*

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

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

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

25 (e) The State Board of Education shall apply for, receive  
26 and administer, subject to any applicable regulations or laws of  
27 the Federal Government or any agency thereof, any Federal  
28 grants, appropriations, allocations and programs to fulfill the  
29 purpose of this act. The State Board of Education shall  
30 cooperate with the Board of Community Colleges in applying for

1 and administering all funds available from the Federal  
2 Government and from any private, nongovernmental source.

3 (f) All administrative personnel, faculty, and other  
4 employes of the community colleges in the Commonwealth shall be  
5 eligible for inclusion in the Public School Employees'  
6 Retirement System of Pennsylvania, the Pennsylvania State  
7 Employees' Retirement System, or any independent retirement  
8 program approved by the Board of Trustees of a community  
9 college, and the [Secretary of Education] Board of Community  
10 Colleges.

11 \* \* \*

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

1 so withheld to the State Public School Building Authority or any  
2 municipality authority or to whomsoever any other indebtedness  
3 is due and owing.

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

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

30 (k) (1) Unless otherwise prescribed by the State Board of

1 Education, the Commonwealth's fiscal audits of community  
2 colleges under this section shall be conducted in accordance  
3 with "Government Auditing Standards," latest revision,  
4 promulgated by the United States General Accounting Office.  
5 Written audit reports will be produced and will be sent to the  
6 community college by the [Commissioner of Postsecondary/Higher  
7 Education] Board of Community Colleges. Any cost disallowed  
8 under findings contained in the audit report shall be considered  
9 an adjudication within the meaning of 2 Pa.C.S. (relating to  
10 administrative law and procedure) and regulations promulgated  
11 thereunder.

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

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

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

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

1 would jeopardize the ability of the community college to  
2 continue operations.

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

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

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

27 \* \* \*

28 Section 6. There are hereby transferred from the Department  
29 of Education to the Board of Community Colleges to be used,  
30 employed and expended in connection with the functions, powers

1 and duties established by this act, contract obligations, if  
2 any, records, files, property, supplies and equipment now being  
3 used or held in connection with such functions, powers and  
4 duties and the unexpended balances of appropriations,  
5 allocations and other funds available or to be made available  
6 for use in connection with such functions, powers and duties.

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