

KEY NJ COMMUNITY COLLEGE STATUTES

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General Responsibilities of a Public Higher Education Board of Trustees

Powers Transferred to Boards of Trustees

18A:3B-6 Powers, duties of governing boards of institutions of higher education.

6. The governing board of each public institution of higher education shall have the following general powers and duties to fulfill its mission and the Statewide goals in cooperation with other institutions and the State coordinating structures:
 - a. To develop an institutional plan and to determine the programs and degree levels to be offered by the institution consistent with this plan and the institution's programmatic mission;
 - b. To have authority over all matters concerning the supervision and operations of the institution including fiscal affairs, the employment and compensation of staff not classified under Title 11A of the New Jersey Statutes, and capital improvements in accordance with law;
 - c. To set tuition and fees; however, prior to the date of the adoption of a tuition or fee schedule or an overall institutional budget, and with reasonable notice thereof, the governing board shall conduct a public hearing at such times and places as will provide those members of the college community who wish to testify with an opportunity to be heard;
 - d. To establish admission standards and requirements and standards for granting diplomas, certificates and degrees;
 - e. To recommend for appointment by the Governor, members to the institution's governing board. The recommendation shall be made with regard to the mission of the institution and the diversity of the community to be served;
 - f. To have final authority to determine controversies and disputes concerning tenure, personnel matters of employees not classified under Title 11A of the New Jersey Statutes, and other issues arising under Title 18A of the New Jersey Statutes involving higher education except as otherwise provided herein. Any matter arising under this subsection may be assigned to an administrative law judge, an independent hearing officer or to a subcommittee of the governing board for hearing and initial decision by the board, except for tenure hearings under N.J.S.18A:6-18. Any hearings conducted pursuant to this section shall conform to the requirements of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The final administrative decision of a governing board of a public institution of higher education is appealable to the Superior Court, Appellate Division;

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- g. To invest and reinvest the funds of the institution; however, institutions which invest the funds of the institution through the Director of the Division of Investment in the Department of the Treasury on or before the effective date of this act shall continue to do so, unless this requirement is waived by the State Treasurer on an annual basis, which waiver shall not be unreasonably withheld;
- h. To retain legal counsel of the institution's choosing. State entities may choose representation by the Attorney General; however, as to claims of a tortious nature, the institution shall elect within 75 days of the effective date of this act whether it, and its employees, shall be represented in all such matters by the Attorney General. If the institution elects not to be represented by the Attorney General, it shall be considered and its employees considered employees of a sue and be sued entity for the purposes of the "New Jersey Tort Claims Act" only. The institution shall be required in that circumstance to provide its employees with defense and indemnification consistent with the terms and conditions of the Tort Claims Act in lieu of the defense and indemnification that such employees would otherwise seek and be entitled to from the Attorney General pursuant to N.J.S.59:10-1 et seq. and P.L.1972, c.48 (C.59:10A-1 et seq.);
- i. To be accountable to the public for fulfillment of the institution's mission and Statewide goals and for effective management of the institution;
- j. To submit a request for State support to the Division of Budget and Accounting in the Department of the Treasury and to the commission in accordance with the provisions of this act;
- k. To have prepared and made available to the public an annual financial statement, and a statement setting forth generally the moneys expended for government relations, public relations and legal costs;
- l. To have prepared an annual independent financial audit, which audit and any management letters regarding that audit shall be deemed public documents.

These powers and duties are in addition to and not a limitation of the specific powers and duties provided for the governing board of each public institution under chapters 64, 64A, 64G or 64E of Title 18A of the New Jersey Statutes. If the provisions of this section are inconsistent with these specific powers and duties, the specific powers and duties shall govern.

County College Statute (18A: 64A)

General Definitions

18A:64A-1. As used in this chapter:

- a. "Base year" means the fiscal year two years prior to that in which the budget is to be

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implemented; provided, however, for determining the level of State aid for fiscal 1982, the "base year" shall be the fiscal year three years prior to that in which the budget is to be implemented;

b. "Capital outlay expense" means those funds devoted to or required for the acquisition, landscaping or improvement of land; the acquisition, construction, reconstruction, improvement, remodeling, alteration, addition or enlargement of buildings or other structures; and the purchase of furniture, apparatus and other equipment;

c. "County college" means an educational institution established or to be established by one or more counties, offering programs of instruction, extending not more than two years beyond the high school, which may include but need not be limited to specialized or comprehensive curriculums, including college credit transfer courses, terminal courses in the liberal arts and sciences, and technical institute type programs;

d. "Educational and general costs" means expenditures of a county college according to regulations established by the State Treasurer;

e. "Local bond law" means the local bond law, chapters 1 and 2 of Title 40A of the New Jersey Statutes (N.J.S.40A:1-1 et seq.);

f. "Operational expense" means those funds devoted to or required for the regular or ordinary expenses of the college, including administrative, maintenance, minor capital and salary expenses but excluding capital outlay expenses;

g. "Elected public official" means a person elected to a public office in the State of New Jersey other than an elected representative serving on a board of education pursuant to the provisions of N.J.S.18A:12-1 and section 1 of P.L.1977, c.30 (C.18A:54-16.1).

Board of Trustee Membership

18A:64A-8 Boards of trustees; apportionment of membership where established in more than one county.

For each county college there shall be a board of trustees, consisting of the county superintendent of schools and 10 persons, eight of whom shall be appointed by the appointing authority of the county with the advice and consent of the board of chosen freeholders, at least two of whom shall be women and two of whom shall be appointed by the Governor, according to criteria and for such initial terms as shall be established. However, no trustee shall be appointed after July 1, 1994 who is an employee of a constituent county. The president of the college shall serve as an ex officio member of the board of trustees without vote. In addition, the student body of each county college shall be entitled to elect from the graduating class one representative to serve as a member on the board of trustees for a term of one year commencing at the first meeting of the board in July following graduation of his class. The student representative may be granted voting rights by a majority vote of the members of the board of trustees. If the board of trustees grants the student representative voting rights and all members of the board are present at the

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board meeting and there is a tie vote, the chairman shall break the tie.

The appointing authority of the county shall establish a trustee search committee of not less than five members who shall be residents of the county. The members of the trustee search committee shall not be elected public officials and shall not be eligible for appointment to the board of trustees for a period of six months after their service on the trustee search committee. The trustee search committee shall nominate individuals for consideration by the appointing authority of the county for appointment to the board of trustees.

When a county college is established by more than one county, the board of trustees shall be increased by two members for each additional participating county. The membership of the board of trustees shall be apportioned by the commission among the several counties as nearly as may be according to the number of inhabitants in each county as shown by the last federal census, officially promulgated in this State. Each apportionment shall continue in effect until a reapportionment shall become necessary by reason of the official promulgation of the next federal census or the enlargement of the board by the admission of one or more additional counties as provided for in section 18A:64A-24. Each county shall be entitled to have at least two members and the county superintendent of the schools of said county on the board of trustees.

18A:64A-9. Qualifications of appointed members of boards, terms of office, etc.; filling vacancies; no compensation of members

Appointed members of the board of trustees shall have been residents of the county for a period of four years prior to said appointment, and no elected public official or employee of the county college shall serve as a voting member of the board. The term of office of appointed members, except for the first appointments, shall be for four years. Each member shall serve until his successor shall have been appointed and qualified.

Vacancies shall be filled in the same manner as the original appointment for the remainder of the unexpired term. Any appointed member may be removed by the board of chosen freeholders of the appointing county for cause upon notice and opportunity to be heard. Members shall serve without compensation but shall be entitled to be reimbursed for all reasonable and necessary expenses.

A voting member of a board of trustees shall not be eligible to accept employment as an employee of the college at which he has served as a member of the board for a period of two years following resignation or expiration of his term as a member.

In the case of a county college established by one county, the terms of office of members initially appointed to the board of trustees by the appointing authority of the county shall be as follows: two persons shall receive terms of one year; two, terms of two years; two, terms of three years; and two, terms of four years.

In the case of a county college established by more than one county, the terms of the members

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initially appointed to the board of trustees shall be fixed so that as nearly as possible, one-quarter of the appointed members will receive terms of four years, one-quarter terms of three years, one-quarter terms of two years and the remainder terms of one year. Such terms shall be allocated by the commission among the participating counties, in accordance with the number of members on the board of trustees apportioned to each county, starting with the terms of four years, by allocating one of such terms to each of the participating counties in alphabetical order of the names of such counties, and continuing, still in such order, with the terms of three years, the terms of two years and the terms of one year.

Members initially appointed to the board may serve from the time of their respective appointments, but the term of such office shall be deemed to commence as of November 1 of the year in which the appointment was made.

County College Board Powers, Responsibilities

18A:64A-10. County college board officers

The board of trustees of a county college shall organize annually in November by the election of a chairman, vice chairman and such other officers as the board shall determine.

18A:64A-11. Boards of trustees bodies corporate; designation, custody and responsibility for property and management and control of college; annual report

The board of trustees shall be a body corporate and shall be known as the "board of trustees of" (here insert the name of the county college).

The board of trustees shall have custody of and be responsible for the property of the college and shall be responsible for the management and control of said college. The board shall make an annual report to the Commission on Higher Education and to the board of chosen freeholders of each participating county.

18A:64A-12 General powers of board.

18A:64A-12. For the effectuation of the purposes of this chapter, the board of trustees of a county college in addition to such other powers expressly granted to it by law, is hereby granted the following powers:

- a. To adopt or change the name of the county college;
- b. To adopt and use a corporate seal;
- c. To sue and be sued;
- d. To determine the educational curriculum and program of the college consistent with the programmatic mission of the institution or approved by the Commission on Higher Education;

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- e. To appoint and fix the compensation and term of office of a president of the college who shall be the executive officer of the college and an ex officio member of the board of trustees;
- f. To appoint, upon nomination of the president, members of the administrative and teaching staffs and fix their compensation and terms of employment subject to the provisions of N.J.S.18A:64A-13;
- g. To appoint or employ, upon nomination of the president, such other officers, agents and employees as may be required to carry out the provisions of this chapter and to fix and determine their qualifications, duties, compensation, terms of office and all other conditions and terms of employment and retention;
- h. To fix and determine tuition rates and other fees to be paid by students;
- i. To grant diplomas, certificates or degrees;
- j. To enter into contracts and agreements with the State or any of its political subdivisions or with the United States, or with any public body, department or other agency of the State or the United States or with any individual, firm or corporation which are deemed necessary or advisable by the board for carrying out the provisions of this chapter;
- k. To accept from any government or governmental department, agency or other public or private body or from any other source grants or contributions of money or property which the board may use for or in aid of any of its purposes;
- l. To acquire (by gift, purchase, condemnation or otherwise), own, lease, use and operate property, whether real, personal or mixed, or any interest therein, which is necessary or desirable for college purposes;
- m. To determine that any property owned by the county college is no longer necessary for college purposes and to sell the same at such price and in such manner and upon such terms and conditions as shall be established by the board;
- n. To exercise the right of eminent domain, pursuant to the provisions of Title 20, Eminent Domain, of the Revised Statutes, to acquire any property or interest therein;
- o. To make and promulgate such rules and regulations, not inconsistent with the provisions of this chapter or with the rules and regulations promulgated hereunder that are necessary and proper for the administration and operation of a county college and to implement the provisions of this chapter;
- p. To exercise all other powers, not inconsistent with the provisions of this chapter or with the rules and regulations promulgated hereunder which may be reasonably necessary or incidental to the establishment, maintenance and operation of a county college; and
- q. To establish and maintain a dedicated reserve fund for minor capital needs which in any given year shall not exceed 3% of the replacement value of the college's physical plant.

Employee Pension and Benefits

18A:64A-13 Teaching staff, employees and administrative officers other than president; rights and privileges.

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The teaching staff employees and administrative officers other than the president of the county college are hereby held to possess all the rights and privileges of teachers employed by local boards of education. The president and teaching staff members shall be eligible for membership in the teachers' pension and annuity fund.

For the benefit of its other officers and employees, the county college, as a public agency, may elect to participate in the public employees' retirement system.

18A:64A-13.1 County college employee permitted to waive health care coverage.

Notwithstanding the provisions of any other law to the contrary, a county college that enters into a contract providing group health care benefits to its employees may allow any employee who is eligible for other health care coverage to waive coverage under the county college's plan to which the employee is entitled by virtue of employment with the county college. The waiver shall be in such form as the county college shall prescribe and shall be filed with the county college. In consideration of filing such a waiver, a county college may pay to the employee annually an amount, to be established in the sole discretion of the county college, which shall not exceed 50% of the amount saved by the county college because of the employee's waiver of coverage, and, for a waiver filed on or after the effective date of P.L.2010, c.2, which shall not exceed 25%, or \$5,000, whichever is less, of the amount saved by the county college because of the employee's waiver of coverage. An employee who waives coverage shall be permitted to resume coverage under the same terms and conditions as apply to initial coverage if the employee ceases to be covered through the other health care coverage for any reason, including, but not limited to, the retirement or death of the employee's spouse or divorce. An employee who resumes coverage shall repay, on a pro rata basis, any amount received which represents an advance payment for a period of time during which coverage is resumed. An employee who wishes to resume coverage shall file a declaration with the county college in such form as the county college shall prescribe, that the waiver is revoked. The decision of a county college to allow its employees to waive coverage and the amount of consideration to be paid therefor shall not be subject to the collective bargaining process.

18A:64A-13.1a Premiums paid by county college employees.

Commencing on the effective date of P.L.2010, c.2 and upon the expiration of any applicable binding collective negotiations agreement in force on that effective date, employees of a county college shall pay 1.5 percent of base salary, through the withholding of the contribution from the pay, salary or other compensation, for health care benefits coverage provided by the employer, notwithstanding any other amount that may be required additionally by the employer or through collective negotiations agreements for such coverage. This section shall apply also when the health care benefits coverage is provided through an insurance fund or joint insurance fund or in any other manner.

18A:64A-13.2 County college board of trustees, notices of certain layoffs; required.

The board of trustees of a county college shall provide to a member of the non-academic support

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staff who has been employed for at least one year a notice not less than 30 days prior to the date of the layoff of the member which is necessary for reasons of financial exigency or enrollment decline. If the member has been employed for less than one year, the board shall provide a notice of not less than 14 days prior to the date of the layoff of the member which is necessary for reasons of financial exigency or enrollment decline. The provisions of this section shall not apply to a negotiated agreement in which the deadlines for such notices exceed the applicable 30 days or 14 days.

Property Leasing

18A:64A-14. Selling, giving or leasing property to boards

Counties, municipalities, school districts or special schools may sell, give or lease any of their property, including county or municipal funds, to the board of trustees of a county college.

Board of School Estimate

18A:64A-15. Boards of school estimate

Each county college shall have a board of school estimate.

In the case of a county college established by one county, such board shall consist of the chairman of the board of chosen freeholders, two members of the board of chosen freeholders appointed by that board and two members of the board of trustees appointed by that board.

18A:64A-16. Appointments to boards of school estimate; filling vacancies; secretary; powers

Appointments to the board of school estimate shall be made annually on or before December 1 and any vacancy in the board's membership by reason of the resignation, death or removal of any member thereof shall be filled by the board which originally appointed the members. The secretary of the board of trustees shall be the secretary of the board of school estimate but shall receive no additional compensation therefor.

The board of school estimate shall fix and determine by official action taken at a public meeting of the board the amount of money necessary to be appropriated for use of the county college for the operation and capital outlay expenses for the school year, exclusive of the amount to be received from the state and other sources.

18A:64A-17. Method of fixing amounts necessary for operation and capital outlay expenses of college; certification; apportionment between participating counties

On or before February 1 in each year, the board of trustees of the county college shall prepare and deliver to each member of the board of school estimate an itemized statement of the amount

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of money estimated to be necessary for the operation and capital outlay expenses for the ensuing year. Said board of trustees shall, at the same time, fix a date, place and time for the holding of a public hearing by the board of school estimate with respect to said itemized statement of the amount of money estimated to be necessary for the operation and capital outlay expenses for the ensuing year and with respect to the various items and purposes for which said money is to be appropriated, which date shall be between February 1 and February 15 and which date shall be not less than seven days after the publication of said itemized statement as herein provided and shall cause notice of such public hearing and said statement to be published at least once in at least one newspaper published in the county not less than seven days prior to the date fixed for such public hearing, and said notice shall also set forth that said itemized statement will be on file and open to examination of the public, between reasonable hours to be fixed therein, and, at a place to be named therein, from the date of said publication until the date of the holding of said public hearing and said board of trustees shall cause said itemized statement to be on file and open to the examination of the public accordingly and to be produced at said public hearing for the information of those attending the same.

On the date and at the time and place so fixed by the board of trustees for such public hearing, the board of school estimate shall at a public hearing grant the taxpayers and other interested persons an opportunity to present objections and to be heard with respect to said itemized statement of the amount of money estimated to be necessary for the operation and capital outlay expenses for the ensuing year and with respect to the various items and purposes for which said money is to be appropriated and at or after said public hearing but not later than February 15 of each year, the board of school estimate shall fix and determine, by official action taken at a public meeting of the board, the amount of money necessary for the operation and capital outlay expenses of the college for the ensuing year, exclusive of the amount to be received from the State and from other sources.

The board of school estimate shall, on or before February 15 of each year, make a certificate of such amount signed by at least a majority of its members. Copies thereof shall be delivered to the board of trustees of the college and to each participating board of chosen freeholders.

In the case of a county college established by more than one county, the amount to be raised for the annual operation and capital outlay expenses shall be apportioned among the participating counties upon the basis of apportionment valuations, as defined in R.S.54:4-49. In the case of a county college joinder created pursuant to N.J.S.18A:64A-24 subsequent to the enactment of P.L.1998, c.140, the amount to be raised for the annual operation and capital outlay expenses may be apportioned among the participating counties upon the basis of apportionment valuations, as defined in R.S.54:4-49; or, upon the basis of unweighted student credit hours; or upon the basis of any combination of apportionment valuations and unweighted student credit hours. The certificate of the board of school estimate shall certify the proportioned part of the total to be raised by each participating county. In the case of a county college joinder created pursuant to N.J.S.18A:64A-24 subsequent to the enactment of P.L.1998, c.140, operational expenses shall include any facility use fee or other charge which may be agreed upon by the participating counties and the board of trustees upon the approval of a majority of the members

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of the board of school estimate.

18A:64A-18. Appropriation of amounts to be raised by boards of chosen freeholders and raising by taxation

The board of chosen freeholders shall, upon receipt of the certificate, appropriate the amount of the operation expenses certified therein, in the same manner as other appropriations are made by said board and the amount shall be assessed, levied and collected in the same manner as moneys appropriated for other purposes in the counties are appropriated, levied and collected.

County May Issue Bonds for College Capital Needs

18A:64A-19. Issuance of bonds

(1) Whenever the board of trustees of a county college shall decide that it is necessary to raise money for the purpose of acquiring or improving lands or buildings for use by the college or erecting, enlarging, improving, altering, reconstructing, furnishing or equipping buildings or other structures for use by the college, it may, in lieu of proceeding in accordance with N.J.S.18A:64A-16 and 18A:64A-17, at any time prepare and deliver to each member of the board of school estimate a statement of the estimated cost of such purpose and of the amount of money estimated by the board of trustees to be then needed for such purpose. If the amount of money so estimated shall include any funds expected to be received for said purpose as State or federal aid, such statement shall specify the amount and source of said funds and may include an agreement by the board of trustees to repay the county, out of the said funds when received, for any amounts appropriated by any county for the county college in anticipation of said funds. After receipt of such statement, the board of school estimate shall fix and determine the sum of money then needed for the purpose specified in said statement and the amount thereof to be raised by the participating county or counties which shall, if there be two or more such counties, be apportioned among them upon the basis of apportionment valuations as defined in R.S.54:4-49 and which may include amounts expected to be repaid as aforesaid by the board of trustees. [Section regarding county college joinder not included.]

(2) The board of chosen freeholders of a participating county upon receipt of any such certificate shall appropriate the amount certified therein for the purpose therein specified, or upon receipt of a certificate as provided in N.J.S.18A:64A-17 shall appropriate the amount of the capital outlay expenses certified therein, either:

(a) By the method provided for in N.J.S.18A:64A-18; or

(b) By a bond ordinance authorizing the issuance of bonds or notes of the county to finance such appropriation and purpose adopted in accordance with the limitations and any exceptions thereto, and in the manner or mode of procedure, prescribed by the local bond law, and the sale and issuance of said bonds or notes pursuant to the local bond law; provided, however, that no down payment shall be required and the provisions of N.J.S.40A:2-11 of the local bond law shall

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not be applicable to such bond ordinance and that the purpose for which the bonds or notes are to be issued may be stated and identified as and shall be the purpose specified in said certificate notwithstanding that the appropriation therefor may be sufficient only for planning or other preliminary or initial expenses in connection therewith or may be made in anticipation of State or federal aid expected to be received for said purpose and applied to repayment to the county.

(3) The proceeds of the sale of such bonds or notes shall be paid to the treasurer of the county college and shall be paid out by him only on the warrants or orders of the board of trustees of the county college. The treasurer shall in no event disburse such proceeds, except to pay and retire any such notes and pay the expenses of issuing and selling such bonds or notes and for the purpose or purposes for which such bonds or notes were issued. If for any reason any part of such proceeds are not applied to or necessary for such purpose or purposes, the board of trustees of the county college may transfer the balance remaining unapplied to the capital outlay account of the county college.

(4) Except with the concurrence and consent of the board of chosen freeholders of the county expressed by resolution, no amount shall be appropriated under this section which, if added to the amount of bonds or notes of the county for county college purposes outstanding or authorized but unissued at the date of such appropriation, shall exceed an amount equal to one half of one per cent of the equalized valuation basis of said county as shown on the annual debt statement of the county last filed pursuant to the local bond law.

Emergency County Appropriations

18A:64A-20. Emergency appropriation for college purposes

If the board of trustees shall determine that it is necessary in any school year to raise money in addition to the amount in its annual budget for such year for:

- (1) current expenses for the operation and maintenance of the college when the amount necessary therefor was underestimated in the budget;
- (2) repair or utilization of property destroyed or made unsuitable by accident or other unforeseen cause; or
- (3) meeting emergencies arising since the preparation of such budget;

The board shall prepare and deliver to each member of the board of school estimate a statement of the amount of money determined to be necessary therefor.

The board of school estimate shall meet within a reasonable time after the delivery of the statement and fix and determine the amount necessary for such purpose or purposes. In the case of a county college established by more than one county, the board shall apportion upon the basis of the apportionment valuations as defined in R.S.54:4-49, such amount among the participating counties. In the case of a county college joinder created pursuant to N.J.S.18A:64A-24 subsequent to the enactment of P.L.1998, c.140, the amount to be raised may be apportioned among the participating counties upon the basis of apportionment valuations, as defined in R. S.

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54:4-49; or, upon the basis of unweighted student credit hours; or upon the basis of any combination of apportionment valuations and unweighted student credit hours as determined by the board of school estimate. The board shall then certify the amount so determined and apportioned to the board of trustees of the college and to each participating board of chosen freeholders.

The board of chosen freeholders, upon receipt of such certificate, shall appropriate the amount certified therein and shall raise such amount in the manner provided for by N.J.S.18A:64A-18 and 18A:64A-19.

State Funding for Community Colleges (never implemented)

18A:64A-22. Annual budget requests for State support of colleges

Notwithstanding any other law to the contrary, the Council of County Colleges may submit to the State Treasurer annual budget requests for State support of county colleges. Within the limits of funds appropriated for such purposes, the board of trustees of a county college may based upon the itemized statement fixed and determined pursuant to N.J.S.18A:64A-17 apply to the State Treasurer and receive State support:

- a. For capital projects in amounts not to exceed one-half of the cost of said capital projects, and
- b. For operational costs to the extent of 43% but not to exceed 50% of the educational and general costs of the county colleges in the base year; provided, however, that for the purposes of determining State aid, only credit courses and noncredit remedial, developmental, general education development and adult basic education courses shall be included in calculating such costs. This sum shall be distributed to the county colleges by the treasurer in consultation with the Council of County Colleges according to a formula that includes categorical support and differential funding based on program costs.

No county college shall receive more than 50% of its projected educational and general costs through the provisions of this act.

Each county which operates a county college shall continue to provide moneys for the support of the college in an amount no less than those moneys provided in the year in which this act is enacted or 25% of the operational expense in the base State fiscal year, whichever is greater.

State support for the operational expenses of county colleges shall be made within limits of State appropriation.

Chapter 12 Statute

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18A:64A-22.1 County college capital project aid.

1. Whenever the funds appropriated are insufficient to satisfy the State's share of capital projects for county colleges pursuant to N.J.S.18A:64A-22, additional State support for such projects shall be made available to counties in which county colleges are located for the payment of interest and principal on bonds and notes entitled to the benefits of this act and interest on notes issued in anticipation thereof and entitled to the benefits of the "County College Capital Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.), provided that the total principal amount of such bonds and notes shall not exceed \$265,000,000, except that all administrative costs associated with the approval process and the issuance of bonds shall not be included within the total aggregate principal amount of bonds issued.

18A:64A-22.2 Action by State Treasurer.

2. Whenever the State Treasurer shall determine that he is unable to provide State support for a capital project of a county college pursuant to N.J.S.18A:64A-22 within the limit of available State appropriations, the State Treasurer shall determine the amount of bonds and notes entitled to the benefits of this act and the "County College Capital Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.) and not theretofore allocated to another capital project. The State Treasurer shall determine the necessity or advisability of making available additional State support for the capital project. To the extent he determines additional support is necessary or advisable, he shall certify to the board of chosen freeholders of the county in which said capital project is located, the county college at which the capital project is located, and the New Jersey Educational Facilities Authority the amount of bonds or notes relating to the capital project which shall be entitled to the benefits of this act and the "County College Capital Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.), which amount shall not exceed the amount of bonds and notes entitled to the benefit of those acts and not theretofore allocated to another capital project. A copy of such certification shall be filed by the State Treasurer with the Director of the Division of Local Finance.

18A:64A-22.3 Issuance of bonds, notes.

3. At any time within one year of the certification by the State Treasurer to the board of chosen freeholders, the county college at which the capital project is located, and the New Jersey Educational Facilities Authority pursuant to section 2 of P.L.1971, c.12 (C.18A:64A-22.2), the board of chosen freeholders is authorized to issue bonds, or notes in anticipation thereof, in an aggregate amount not exceeding the amount set forth in the treasurer's certification. Bonds or notes may also be issued by the New Jersey Educational Facilities Authority pursuant to the provisions of the "County College Capital Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.) or by another legally empowered issuer in an aggregate amount not exceeding the amount set forth in the State Treasurer's certification. Bonds issued by any issuer other than the authority or the board of chosen freeholders pursuant to the "County College Capital Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.) shall be subject to the provisions of P.L.1971, c.12 (C.18A:64A-22.1 et seq.) in the same manner as bonds or notes issued by the

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board of chosen freeholders; provided that in the event bonds or notes are issued by another legally empowered issuer, the bonds or notes shall be sold by the issuer by competitive sale unless the State Treasurer expressly consents in writing to a negotiated sale of the bonds or notes by the issuer. Such bonds shall be in addition to the sums authorized to be borrowed by said board pursuant to N.J.S.18A:64A-19 for the purpose of funding the county share of such capital projects. No bonds or notes, other than bonds or notes issued by the New Jersey Educational Facilities Authority as authorized pursuant to the "County College Capital Projects Fund Act," P.L.1997, c.360 (C.18A:72A-12.2 et seq.), shall be issued pursuant to this act bearing an interest rate in excess of a maximum rate theretofore specified by the State Treasurer and, in the case of bonds, unless the State Treasurer has theretofore approved the maturity schedule for the repayment of said bonds.

18A:64A-22.4 Deduction from gross debt.

4. Such additional borrowing, if entered into by the county, shall constitute a deduction from the gross debt of such county and shall not be considered in determining its net debt for debt incurring purposes.

18A:64A-22.5 Issuance of temporary notes.

5. Any board of chosen freeholders or other legally empowered issuer which has authorized such additional bonds may issue temporary notes in anticipation of the issuance of permanent bonds to the extent permitted by applicable law.

18A:64A-22.6 Debt service certification; appropriation, payment of funds.

6. Within 10 days after issuance of any bonds or notes entitled to the benefits of this act, the treasurer of the county issuing such bonds or notes, or if applicable, the treasurer of the other legally empowered issuer of the bonds or notes, shall certify to the State Treasurer the exact amounts payable on account of interest and principal on such bonds and interest on such notes and the dates upon which such amounts are payable by the county or other issuer and the name and address of the paying agent or paying agents therefor. The amounts so certified by the county treasurer or the treasurer of the other issuer to the State Treasurer shall be appropriated and paid to the county, or paid to the other legally empowered issuer, on or before the dates of each payment by the county or other issuer on such bonds or notes in an amount with respect to each such date equal to the amount payable on such date and shall be used by the county or other issuer only for such payment.

18A:64A-22.6a. Designation of paying agent; payments of state aid

No bonds or notes entitled to the benefits of this act shall be issued unless there is designated therefor a paying agent or paying agents, at least one of which is a bank or trust company authorized to do business in this State. All amounts of State aid to be paid under the provisions of this act for debt service (principal and interest) on bonds or notes entitled to the benefits of this act shall, on or before the date for such payment of interest and principal, be paid on behalf

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of the county issuing such bonds or notes to the paying agent or paying agents for such bonds or notes in amount with respect to such date as reflects the amount of principal or interest, respectively, payable as to such date by reason of such State aid hereunder payable with respect to such county. Amounts so paid to such paying agent or paying agents shall be applied to the payment of debt service (principal and interest) on such bonds or notes and for no other purpose.

18A:64A-22.7 Investments of proceeds; disposition of earnings.

7. On January 10 in each year the county treasurer or the treasurer of the other legally empowered issuer shall certify and pay to the State Treasurer the amount of the earnings received by the county or the issuer during the preceding year from the investment of the proceeds from the sale of such bonds or notes, provided that prior to the application of the proceeds to the purposes for which the bonds or notes have been issued such proceeds shall be invested in the State of New Jersey Cash Management Fund, established pursuant to section 1 of P.L.1977, c.281 (C.52:18A-90.4) or in such other investment as shall be explicitly authorized in writing by the State Treasurer.

18A:64A-22.8. Bonds or notes not debt or liability of state

Bonds or notes issued under the provisions of this act shall not be deemed to constitute a debt or liability of the State or a pledge of the faith and credit of the State but are dependent for repayment upon appropriations provided by law from time to time.

County College Chargeback

18A:64A-23. Acceptance of students residing in other counties; required certificates; charges to home counties

- a. Each county college shall, to the extent its facilities will permit accept students who are residents of any other county in the State.

- b. Any person desiring to enroll in a county college as a nonresident student shall apply to the chief fiscal officer of his county of residence for a certificate of residence showing that said person is a resident of said county. The chief fiscal officer of each county shall, upon application and submission to him of satisfactory evidence of such residence, issue said certificate provided that (1) the county does not sponsor a county college or contribute to the support of a county assisted college, or (2) the local county or county assisted college certifies that it does not offer the particular course or program of study desired by the applicant, or (3) the local county or county assisted college certifies that it cannot admit the applicant into a particular course or the desired program of study, pursuant to criteria established by the Commission on Higher Education. If the chief fiscal officer of a county refuses to issue such a certificate, the applicant may appeal to the board of chosen freeholders of the county within 10 days of the receipt of notice of such refusal. The board of chosen freeholders shall make a determination after a hearing, upon 10 days' notice to such chief fiscal officer and the applicant, and such determination shall be final and binding on the county.

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Upon his registration for each college year, the nonresident student shall file with the college such a certificate of residence issued not earlier than two months prior thereto and such certificate of residence shall be valid for the current or next academic year succeeding the date of issuance, as the case may be.

c. Any county college so admitting nonresident students shall charge to and collect from each county within the State which has issued a certificate or certificates of residence pursuant to subsection b. and on the basis of which such nonresident students are attending such college, the sending county's share of the operating expenses of such county college, as certified by the board of school estimate and as paid by the receiving county for resident students, computed on a per full-time equated (FTE) student basis and multiplied by cost ratios as determined by the State Treasurer pursuant to N.J.S.18A:64A-22 for various instructional categories. Any county college shall additionally charge and collect the sum of \$1.00 per credit hour for each student so enrolled to compensate for minor capital costs of the college.

d. Within 10 days after the commencement of each college term, the county college shall charge the county's per FTE student share of operating expenses of such college for that term as aforesaid to each county which has issued a certificate or certificates of residence pursuant to subsection b., on the basis of which nonresident students are attending such county college. The amount so charged to the county issuing the certificate or certificates shall be paid within 30 days of the date of the billing.

Unemployed Student Waivers

18A:64A-23.1. Job training course

As used in this act, "job training course" means any course of instruction which will provide the individual with an identifiable job skill and will assist the individual in gaining reemployment, any course of instruction which is part of a training program approved pursuant to the provisions of paragraph (4) of subsection (c) of R.S.43:21-4, or any course of instruction which is part of the education and training described in the Employability Development Plan developed for the individual pursuant to section 3 of P.L.1992, c.47 (C.43:21-59).

18A:64A-23.2. County college courses

Each county college shall permit a person who has been in the labor market for at least two years and is unemployed or has received a layoff notice as a result of a factory or plant closing to enroll without payment of tuition in a job training course, provided that the person is not eligible for any available State or federal student financial aid and that available classroom space permits and that tuition paying students constitute the minimum number required for the course. Nothing herein shall preclude a county college from requiring a registration fee not to exceed \$20.00 per academic term.

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18A:64A-23.3. Eligibility for continued participation in program

In order to remain eligible for participation in this program, the unemployed worker shall be required to maintain a passing grade in the job training course in which he is enrolled.

18A:64A-23.4. Rules, regulations

The Commissioner of Labor shall promulgate rules and regulations necessary to effectuate the purposes of this act. Regulations of the State Board of Higher Education implementing this act shall remain in full force and effect until modified or repealed by the Commissioner of Labor.

Joinder of Community Colleges

18A:64A-24. Joinder in operation of county colleges by other counties

If the board of trustees of a county college shall determine that it is in the best interest of the college to allow one or more additional counties to join in the operation of said county college and the board or boards of chosen freeholders of the county or counties then operating the county college shall approve, said board of trustees shall fix the terms and conditions under which said additional county or counties may participate in the operation of the county college.

County College Contracts Law

18A:64A-25.1. Short title; citation

This article shall be known and may be cited as the "County College Contracts Law" .

18A:64A-25.2. Definitions

As used in this article, unless the context otherwise indicates:

- a. "Board of trustees" means the board of trustees of a county college and the community college commission of a community college agency;
- b. "County college" means any body corporate known as
 - (1) the board of trustees of a county college established pursuant to chapter 64A of Title 18A of the New Jersey Statutes, or
 - (2) the community college commission of a community college agency established pursuant to P.L.1974, c.89 (C.18A:64A-30 et seq.);
- c. "Contracting agent" means the business officer of the county college having the power to prepare advertisements to advertise for and receive bids and to make awards for the county college in connection with the purchases, contracts or agreements permitted by this article, or

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such officer, committee or employee to whom such power has been delegated by the county college;

d. "Contracts" mean contracts or agreements for the performance of work or the furnishing or hiring of services, materials or supplies as distinguished from contracts of employment;

e. "Legal newspaper" means a newspaper circulating in the county or counties in which the county college has been established, printed and published in the English language at least once a week for at least one year continuously;

f. "Materials" include goods and property subject to chapter 2 of Title 12A of the New Jersey Statutes, apparatus or any other tangible thing except real property or any interest therein;

g. "Extraordinary unspecifiable services" mean services or products which cannot be reasonably described by written specifications;

h. "Professional services" mean services rendered or performed by a person authorized by law to practice a recognized profession and whose practice is regulated by law and the performance of which services requires knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction and study as distinguished from general academic instruction or apprenticeship and training. Professional services also mean services rendered in the performance of work that is original and creative in character in a recognized field of artistic endeavor;

i. "Project" means any work, undertaking, construction or alteration;

j. "Purchases" are transactions, for a valuable consideration, creating or acquiring an interest in goods, services and property, except real property or any interest therein;

k. "Work" includes services and any other activity of a tangible or intangible nature performed or assumed pursuant to a contract or agreement with a county college.

18A:64A-25.3 Purchases, contracts and agreements not requiring advertising.

3. a. Any purchase, contract or agreement for the performance of any work or the furnishing or hiring of materials or supplies, the cost or price of which, together with any sums expended for the performance of any work or services in connection with the same project or the furnishing of similar materials or supplies during the same fiscal year, paid with or out of college funds, does not exceed the total sum of \$25,000 or, commencing January 1, 2003, the amount determined pursuant to subsection b. of this section in any fiscal year may be made, negotiated and awarded by a contracting agent, when so authorized by resolution of the board of trustees of the county college, without public advertising for bids and bidding therefor.

b. Commencing January 1, 2003 and every two years thereafter, the Governor, in consultation with the Department of the Treasury, shall adjust the threshold amount set forth in

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subsection a. of this section in direct proportion to the rise or fall of the Consumer Price Index for all urban consumers in the New York and Northeastern New Jersey and the Philadelphia areas as reported by the United States Department of Labor. The adjustment shall become effective on July 1 of the year in which it is reported.

c. Any purchase, contract or agreement made pursuant to this section may be awarded for a period of 24 consecutive months, notwithstanding that such 24 -month period does not coincide with the fiscal year.

18A:64A-25.4. Contracts and agreements requiring advertising

Every contract or agreement for the performance of any work or the furnishing or hiring of any materials or supplies, the cost or the contract price of which is to be paid with or out of college funds, not included within the terms of section 3 hereof, shall be made and awarded only by the county college after public advertising for bids and bidding therefor, except as provided otherwise in this article or specifically by any other law. No work, materials or supplies shall be undertaken, acquired or furnished for a sum exceeding in the aggregate \$7,500.00 or, commencing January 1, 1985, the amount determined pursuant to subsection b. of section 3 of P.L.1982, c. 189 (C. 18A:64A-25.3), except by written contract or agreement.

18A:64A-25.5 Exceptions to requirement for advertising.

5. Any purchase, contract or agreement of the character described in section 4 may be made, negotiated or awarded by the county college by resolution at a public meeting of its board of trustees without public advertising for bids or bidding therefor if:

- a. The subject matter thereof consists of:
 - (1) Professional services; or
 - (2) Extraordinary unspecifiable services and products which cannot reasonably be described by written specifications, subject however, to procedures consistent with open public bidding whenever possible; or
 - (3) Materials or supplies which are not available from more than one potential bidder, including without limitation materials or supplies which are patented or copyrighted; or
 - (4) The doing of any work by employees of the county college; or
 - (5) The printing of all legal notices and legal briefs, records and appendices to be used in any legal proceeding to which the county college may be a party; or
 - (6) Textbooks, copyrighted materials, student produced publications and services

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- incidental thereto, library materials including without limitation books, periodicals, newspapers, documents, pamphlets, photographs, reproductions, microfilms, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, slides, films, filmstrips, video and magnetic tapes, other printed or published matter and audiovisual and other materials of a similar nature, necessary binding or rebinding of library materials and specialized library services; or
- (7) Food supplies and services including food supplies and management contracts for student centers, dining rooms and cafeterias; or
 - (8) The supplying of any product or the rendering of any service by the public utility which is subject to the jurisdiction of the Board of Public Utilities, in accordance with tariffs and schedules of charges made, charged and exacted, filed with said board; or
 - (9) Equipment repair service if in the nature of an extraordinary unspecifiable service and necessary parts furnished in connection with such services; or
 - (10) Specialized machinery or equipment of a technical nature which will not reasonably permit the drawing of specifications, and the procurement thereof without advertising is in the public interest; or
 - (11) Insurance, including the purchase of insurance coverage and consulting services, which exceptions shall be in accordance with the requirements for extraordinary unspecifiable services; or
 - (12) Publishing of legal notices in newspapers, as required by law; or
 - (13) The acquisition of artifacts or other items of unique intrinsic, artistic or historic character; or
 - (14) The collection of amounts due on student loans, including without limitation loans guaranteed by or made with funds of the United States of America; or
 - (15) Professional consulting services; or
 - (16) Entertainment, including without limitation theatrical presentations, band and other concerts, movies and other audiovisual productions; or
 - (17) Contracts employing funds created by student activities fees charged to students or otherwise raised by students, not under the direct control of the college and expended by student organizations; or
 - (18) Printing, including without limitation catalogs, yearbooks and course announcements;
or

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- (19) Providing goods or services for the use, support or maintenance of proprietary computer hardware, software peripherals and system development for the hardware; or
- (20) Personnel recruitment and advertising, including without limitation advertising seeking student enrollment; or
- (21) Educational supplies, books, articles of clothing and other miscellaneous articles purchased by a county college bookstore, or by a service or management company under contract with a county college to operate a county college book store for resale to college students and employees; or
- (22) Purchase or rental of graduation caps and gowns and award certificates or plaques; or
- (23) Expenses for travel or conferences; or
- (24) Items available from vendors at costs below State contract pricing for the same product or service, which meets or exceeds the State contract terms or conditions.

b. It is to be made or entered into with the United States of America, the State of New Jersey, a county or municipality or any board, body, or officer, agency or authority or any other state or subdivision thereof.

c. The county college has advertised for bids pursuant to section 4 of P.L.1982, c.189 (C.18A:64A-25.4) on two occasions and (i) has received no bids on both occasions in response to its advertisement, or (ii) has rejected such bids on two occasions because the county college has determined that they are not reasonable as to price, on the basis of cost estimates prepared for or by the county college prior to the advertising therefor, or have not been independently arrived at in open competition, or (iii) on one occasion no bids were received pursuant to (i) and on one occasion all bids were rejected pursuant to (ii), in whatever sequence; any such contract or agreement may then be negotiated by a two-thirds affirmative vote of the authorized membership of the board of trustees authorizing such contract or agreement; provided, however, that:

(1) A reasonable effort is made by the contracting agent to determine that the same or equivalent materials or supplies at a cost which is lower than the negotiated price are not available from any agency or authority of the United States, the State of New Jersey or from the county in which the county college is located, or any municipality in close proximity to the county college;

(2) The terms, conditions, restrictions and specifications set forth in the negotiated contract or agreement are not substantially different from those which were the subject of competitive bidding pursuant to section 4 of P.L.1982, c.189 (C.18A:64A-25.4); and

(3) Any relevant amendment or modification of any of the terms, conditions, restrictions and specifications, which were the subject of competitive bidding pursuant to section 4 of

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P.L.1982, c.189 (C.18A:64A-25.4), shall be stated in the resolution awarding such contract or agreement; provided, further, however, that if on the second occasion the bids received are rejected as unreasonable as to price, the county college shall notify each responsible bidder submitting bids on the second occasion of its intention to negotiate and afford each such bidder a reasonable opportunity to negotiate, but the county college shall not award such contract or agreement unless the negotiated price is lower than the lowest rejected bid price submitted on the second occasion by a responsible bidder, is the lowest negotiated price offered by any responsible vendor, and is a reasonable price for such work, materials, supplies or services.

Whenever a county college shall determine that a bid was not arrived at independently in open competition pursuant to subsection c. (ii) of this section, it shall thereupon notify the county prosecutor of the county in which the county college is located and the Attorney General of the facts upon which its determination is based and, when appropriate, it may institute appropriate proceedings in any State or federal court of competent jurisdiction for a violation of any State or federal antitrust law or laws relating to the unlawful restraint of trade.

18A:64A-25.6 Emergency purchases and contracts.

6. Any purchase, contract, or agreement may be made, negotiated or awarded by a county college without public advertising for bids and bidding therefor, notwithstanding that the cost or contract price will exceed \$25,000 or, commencing January 1, 2003, the amount determined pursuant to subsection b. of section 3 of P.L.1982, c.189 (C.18A:64A-25.3), when an emergency affecting the health, safety or welfare of occupants of college property requires the immediate delivery of the materials or supplies or the performance of the work, provided that such purchases, contracts or agreements are awarded or made in the following manner:

a. A written requisition for the performance of such work or the furnishing of materials or supplies, certified by the employee in charge of the building, facility or equipment where the emergency occurred, is filed with the contracting agent or his deputy in charge, describing the nature of the emergency, the time of its occurrence, and the need for invoking this section. The contracting agent, or his deputy in charge, being satisfied that the emergency exists, is hereby authorized to award a contract for said work, materials or supplies.

b. Upon the furnishing of such work, materials or supplies in accordance with the terms of the contract or agreement, the contractor furnishing such work, materials or supplies shall be entitled to be paid therefor and the county college shall be obligated for said payment.

c. The board of trustees may prescribe rules and procedures to implement the requirements of this section.

18A:64A-25.7. Contracts not to be divided

7. No purchase, contract or agreement which is single in character or which necessarily or by reason of the quantities required to effectuate the purpose of the purchase, contract or agreement includes the furnishing of additional services or equipment or buying materials or supplies or the

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doing of additional work, shall be subdivided so as to bring it or any of the parts thereof under the maximum price or cost limitation set forth in section 3 of P.L.1982, c.189 (C.18A:64A-25.3), thus dispensing with the requirement of public advertising and bidding therefor. Where the doing of any work is included in or incident to the performance or completion of any project which is single in character or inclusive of the furnishing of additional work, materials or supplies or which requires the furnishing of more than one article of materials or supplies, all of the work, materials or supplies requisite for the completion of such project shall be included in one purchase, contract or agreement.

18A:64A-25.8. Periodic solicitation of bids

Except as provided in section 28, every county college shall, on an annual basis or at such lesser intervals as may be fixed by it, solicit by public advertisement the submission of bids for the furnishing of all work, materials and supplies which are and which under section 4 can be purchased or agreed or contracted to be furnished only after public advertising for bids and bidding therefor.

18A:64A-25.9 County college purchases through State agency; procedure.

9. a. Any county college, without advertising for bids, or after having rejected all bids obtained pursuant to advertising therefor, may purchase any materials, supplies, goods, services or equipment pursuant to a contract or contracts for such materials, supplies, goods, services or equipment entered into on behalf of the State by the Division of Purchase and Property.

b. A county college may also use, without advertising for bids, or having rejected all bids obtained pursuant to advertising, the Federal Supply Schedules of the General Services Administration as permitted by the "Federal Acquisition Streamlining Act of 1994," Pub.L. 103-355, and federal regulations adopted thereunder or schedules from other federal procurement programs.

c. Whenever a purchase is made, the county college shall place its order with the vendor offering the lowest price, including delivery charges, that best meets the requirements of the county college. Prior to placing such an order, the county college shall document with specificity that the materials, supplies, goods, services or equipment selected best meet the requirements of the county college.

18A:64A-25.10 Joint purchases by county colleges, municipalities or counties; authority.

10. The board of trustees of two or more county colleges may provide jointly by agreement for the purchasing of work, materials or supplies for their respective colleges, or one or more county colleges may provide for such purchase by joint agreement with the governing bodies of any municipality or of the county within whose boundaries any such college or colleges is or are wholly or partly located and may enter agreements with other institutions of higher education or with other units of government pursuant to the "Local Public Contracts Law," P.L.1971, c.198 (C.40A:11-1 et seq.).

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18A:64A-25.11. Contents of agreement

a. Such agreement shall set forth the categories of work, materials or supplies to be purchased, the manner of advertising for bids and of awarding of contracts, the method of payment by each participating county college, municipality or county and other matters deemed necessary to carry out the purposes of the agreement.

b. Funds for each participant's share of expenditures for purchases under any such agreement shall be appropriated and paid in the manner set forth in the agreement and in the same manner as appropriations are made for other expenses of the participant.

18A:64A-25.13. Specifications generally

All specifications for any purchase, contract or agreement governed by this article shall be drafted in a manner to encourage free, open and competitive bidding. In particular, no specifications under this article may:

a. Require a standard, restriction, condition or limitation not directly related to the purpose, function or activity for which the purchase, contract or agreement is made; or

b. Require that any bidder be a resident of, or that his place of business be located in, the county in which the purchase will be made or the contract or agreement performed, unless the physical proximity of the bidder is requisite to the efficient and economical purchase or performance of the contract or agreement; or

c. Discriminate on the basis of race, religion, sex or national origin; or

d. Require with regard to any purchase, contract or agreement the furnishing of any "brand name", although specifications may in all cases require "brand name or equivalent," nor shall materials or supplies which are patented or copyrighted be specified, unless the resolution authorizing the purchase, contract or agreement sets forth the manner in which the special need for such patented or copyrighted materials or supplies is directly related to the performance or purpose for which the purchase, contract or agreement is made; or

e. Fail to include any option for renewal, extension or release which the county college may intend to exercise or require; or

f. Fail to include any terms and conditions necessary for the performance of any extra work; or

g. Fail to disclose any matter necessary to the substantial performance of the contract or agreement.

Any specification adopted by the county college which knowingly excludes prospective bidders

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by reason of the impossibility of performance, bidding or qualification by any but one bidder, except as provided herein, shall be null and void and of no effect, and such purchase, contract or agreement shall be readvertised, and the original purchase, contract or agreement shall be set aside by the board of trustees of the county college.

18A:64A-25.14 Advertisements for bids; bids; general requirements; notice of revisions.

14. a. All advertisements for bids shall be published in a legal newspaper sufficiently in advance of the date fixed for receiving the bids to promote competitive bidding but in no event less than 10 days prior to such date. The advertisement shall designate the manner of submitting and of receiving the bids and the time and place at which the bids will be received. If the published specifications provide for receipt of bids by mail, those bids which are mailed to the county college shall be sealed and shall be opened only at such time and place as all bids received are unsealed and announced. At such time and place, the contracting agent of the county college shall publicly receive the bids and thereupon immediately proceed to unseal them and publicly announce the contents, which announcement shall be made in the presence of any parties bidding or their agents who are then and there present. A proper record of the prices and terms shall be made. No bids shall be received after the time designated in the advertisement.

b. Notice of revisions or addenda to advertisements or bid documents relating to bids shall be published in a legal newspaper no later than seven days, Saturdays, Sundays and holidays excepted, prior to the bid due date. The notice shall be provided to any person who has submitted a bid or who has received a bid package, in one of the following ways: (a) in writing by certified mail or (b) by certified facsimile transmission, meaning that the sender's facsimile machine produces a receipt showing date and time of transmission and that the transmission was successful or (c) by a delivery service that provides certification of delivery to the sender. Failure to advertise or provide proper notification of revisions or addenda to advertisements or bid documents related to bids as prescribed by this section shall prevent the acceptance of bids and require the readvertisement for bids. Failure to obtain a receipt when good faith notice is sent or delivered to the address or telephone facsimile number on file with the county college shall not be considered failure by the county college to provide notice.

18A:64A-25.15. Bids to conform to specifications; rejection of bids

No bid shall be accepted which does not conform to the specifications furnished therefor. Nothing contained in this article shall be construed as depriving any county college of the right to reject all bids.

18A:64A-25.16. Guaranty to accompany bids; amount

[This section focuses on surety bonds]

18A:64A-25.18. Time for making awards; deposits returned

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The county college shall award the contract or reject all bids within such time as may be specified in the specifications or other documents issued to all bidders, but in no case more than 60 days, except the bids of any bidders who consent thereto, either before or after said 60 day period, may, at the request of the county college, be held for consideration for such longer period as may be agreed. All bid security except the security of the three apparent lowest responsible bidders shall, if requested, be returned within 30 days from the opening of the bids, Sundays and holidays excepted, and the bids of such bidders shall be considered as withdrawn. Within 3 days, Sundays and holidays excepted, after the awarding of the contract and the approval of the successful bidder's performance bond, if any, the bid guaranty of the remaining bidders shall be returned to them.

18A:64A-25.19. Award of purchases, contracts or agreements

All purchases, contracts or agreements which require public advertisement for bids shall be awarded by the board of trustees to the lowest responsible bidder.

Prior to the award of any other purchase, contract or agreement the estimated cost of which is 20% or more, of the amount set forth in or, commencing January 1, 1985, 20% of the amount determined by the Governor pursuant to subsection b. of section 3 of P.L.1982, c. 189 (C. 18A:64A-25.3), the contracting agent shall, except in the case of professional services, solicit quotations therefor whenever practicable, and the award thereof shall be made, in accordance with section 3, on the basis of the lowest responsible quotation received which is most advantageous to the county college, price and other factors considered; provided, however, if the contracting agent deems it impractical to solicit competitive quotations or having sought such quotations determines that the award should not be on the basis of the lowest quotation received, the contracting agent shall file a statement of explanation of the reason or reasons therefor, which shall be placed on file with such purchase, contract or agreement.

18A:64A-25.20. Award of contracts when bids are equal

Whenever two or more quotations or bids of equal amounts are the lowest quotations or bids submitted by responsible parties, the county college may award the contract to any one of such parties, as, in its discretion, it may determine.

18A:64A-25.22. Liquidated damages

Any purchase, contract or agreement made pursuant to this article may include liquidated damages for the violation of any of the terms and conditions thereof or the failure to perform said contract or agreement in accordance with its terms and conditions or the terms and conditions of this article.

18A:64A-25.23. Application of article and subdivision

Purchases, contracts or agreements for the construction of buildings and other improvements shall be subject to all the terms and conditions of this article and to the terms and conditions of

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this subdivision H.

18A:64A-25.24. Plans and specifications, drawn or supervised by appropriate officer

All plans and specifications for the erection, alteration, improvement or repair of college buildings shall be drawn by or under the supervision of an appropriate officer employed by the college to whom such powers shall have been delegated by the Board of Trustees.

18A:64A-25.25 Cost over threshold level; separate plans and specifications; bids; advertisement; award of contract; payment to subcontractor.

25. a. In the preparation of plans and specifications for the construction, alteration or repair of any building by a county college, when the entire cost of the work and materials will exceed \$25,000 or, commencing January 1, 2003, the amount determined pursuant to subsection b. of section 3 of P.L.1982, c.189 (C.18A:64A-25.3), separate plans and specifications may be prepared for each of the following branches of work in the following categories, to include all work and materials related thereto or to be performed or furnished in connection therewith:

- (a) The plumbing and gas fitting work;
- (b) The refrigeration, heating and ventilating systems and equipment;
- (c) The electrical work, including any electrical power plants, tele-data, fire alarm, or security systems;
- (d) The structural steel and ornamental iron work;
- (e) General construction, which shall include all other work and materials required for the completion of the project.

b. With regard to the branch work categories in subsection a. of this section, the contracting agent shall advertise for and receive in the manner provided by law (1) separate bids for each of the foregoing categories (a) through (e), or (2) single bids by general contractors for all work and materials required to complete the entire project, if awarded as a single contract, or (3) both. In the case of separate bids under paragraph (1) or (3) of this subsection for categories (a) through (d) of subsection a. of this section, prime contractors shall not be required to name subcontractors in their bid. In the case of a single bid under paragraph (2) or (3), all bids submitted shall set forth the name or names of, and evidence of performance security from, all subcontractors to whom the general contractor will subcontract the work described in the foregoing categories (a) through (d) of subsection a. of this section. Subcontractors who furnish non-specialty trade work pursuant to category (e) or subcontractors who furnish work to named subcontractors pursuant to categories (a) through (d) shall not be named in the bid. Notwithstanding the foregoing provisions of this subsection, a county college may choose to require in its bid specification that a subcontractor shall be named in a bid when, in the case of paragraph (1) of subsection b. of this section, separate bids for each category, the work of that subcontractor exceeds 35 percent of the county college's estimated amount of value of the work, which shall be set forth in the bid specification.

- c. Contracts shall be awarded to the lowest responsible bidder. In the event that a

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contract is advertised in accordance with (3) above, the contract shall be awarded in the following manner: if the sum total of the amounts bid by the lowest responsible bidder for each category (a) through (e) is less than the amount bid by the lowest responsible bidder for all the work and materials, the county college shall award separate contracts for each of such categories to the lowest responsible bidder therefor, but if the sum total of the amount bid by the lowest responsible bidder for each category is not less than the amount bid by the lowest responsible bidder for all the work and materials, the county college shall award a single contract to the lowest responsible bidder for all of such work and materials. In every case in which a contract is awarded under (2) above, all payments required to be made under the contract for work and materials supplied by a subcontractor shall, upon the certification of the contractor of the amount due to the subcontractor, be paid directly to the subcontractor.

18A:64A-25.26. Specifications

All specifications for the doing of any such construction work for a county college shall fix the date before which the work shall be completed, or the number of working days to be allowed for its completion, and every such contract shall contain a provision for a deduction from the contract price for any moneys paid by the county college to any inspector or inspectors necessarily employed by it on the work for any number of days in excess of the number allowed in the specifications.

18A:64A-25.27 Authorization; resolution; method.

27. Any county college may, by resolution of its board of trustees, authorize the sale in the following manner of its personal property not needed for college purposes:

a. If the estimated fair value of the property to be sold exceeds \$25,000 or, commencing January 1, 2003, the amount determined pursuant to subsection b. of section 3 of P.L.1982, c. 189 (C. 18A:64A-25.3) in any one sale and the property does not consist of perishable goods, it shall be sold at public sale to the highest bidder.

b. Notice of the date, time and place of the public sale, together with a description of the items to be sold and the conditions of sale shall be published once in a legal newspaper. Such sales shall be held not less than seven nor more than 14 days after the publication of the notice thereof.

c. Personal property may be sold to the United States, the State of New Jersey, another county college or to any body politic by private sale without advertising for bids.

d. If no bids are received, the property may then be sold at private sale without further publication or notice thereof but in no event at less than the estimated fair value; or the county college may, if it so elects, reoffer the property at public sale. As used herein, "estimated fair value" means the market value of the property if sold by a willing seller to a willing buyer less the cost to the college of continuing to store or maintain such property.

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e. A county college may reject all bids if it determines such rejection to be in the public interest. In any case in which the college has rejected all bids, it may readvertise such personal property for a subsequent public sale. If it elects to reject all bids at a second public sale pursuant to this section, it may then sell such personal property without further publication or notice thereof at private sale, provided that in no event shall the negotiated price at the private sale be less than the amount of the highest bid rejected at the preceding two public sales, and provided further that in no event shall the terms or conditions of sale be changed or amended.

f. If the estimated fair value of the property to be sold does not exceed \$25,000 or, commencing January 1, 2003, the amount determined pursuant to subsection b. of section 3 of P.L.1982, c.189 (C.18A:64A-25.3) in any one sale or the property consists of perishable goods, it may be sold at private sale without advertising for bids.

g. Notwithstanding the provisions of this section, by resolution of the board of trustees, a purchasing agent may include a sale of personal property no longer needed for county college purposes as part of specifications to offset the price of a new purchase.

18A:64A-25.28 Duration of certain contracts.

28. Duration of certain contracts. A county college may only enter into a contract exceeding 24 consecutive months for the:

- a. Supplying of:
 - (1) Fuel for heating purposes for any term not exceeding in the aggregate three years; or
 - (2) Fuel or oil for use in automobiles, autobuses, motor vehicles or equipment for any term not exceeding in the aggregate three years; or
- b. Plowing and removal of snow and ice for any term not exceeding in the aggregate three years; or
- c. Collection and disposal of garbage and refuse for any term not exceeding in the aggregate three years; or
- d. Providing goods or services for the use, support or maintenance of proprietary computer hardware, software peripherals and system development for the hardware for any term of not more than five years; or
- e. Insurance, including the purchase of insurance coverages, insurance consultant or administrative services, and including participation in a joint self-insurance fund, risk management programs or related services provided by a county college insurance group, or participation in an insurance fund established by a county pursuant to N.J.S.40A:10-6, for any term of not more than three years; or
- f. Leasing or service of automobiles, motor vehicles, electronic communications

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equipment, machinery and equipment of every nature and kind for any term not exceeding in the aggregate five years; or

- g. Supplying of any product or rendering of any service by a company providing voice, data, transmission or switching services, for a term not exceeding five years; or
- h. The providing of food supplies and services, including food supplies and management contracts for student centers, dining rooms and cafeterias, for a term not exceeding 30 years; or
- i. (Deleted by amendment, P.L.2009, c.4).
- j. Any single project for the construction, reconstruction or rehabilitation of a public building, structure or facility, or a public works project including the retention of the services of an architect or engineer in connection with the project, for the length of time necessary for the completion of the actual construction; or
- k. The management and operation of bookstores for a term not exceeding 30 years; or
- l. Custodial or janitorial services for any term not exceeding in the aggregate three years; or
- m. Child care services for a term not exceeding three years; or
- n. Security services for a term not exceeding three years; or
- o. Ground maintenance services for a term not exceeding three years; or
- p. Laundering, dry-cleaning or rental of uniforms for a term not exceeding three years; or
- q. The performance of work or services or the furnishing of materials and supplies for the purpose of producing class I renewable energy, as that term is defined in section 3 of P.L.1999, c.23 (C.48:3-51), at, or adjacent to, buildings owned by, or operations conducted by, the contracting unit, the entire price of which is to be established as a percentage of the resultant savings in energy costs, for a term not to exceed 30 years; provided, however, that these contracts shall be entered into only subject to and in accordance with guidelines promulgated by the Board of Public Utilities establishing a methodology for computing energy cost savings and energy generation costs.

All multi-year leases and contracts entered into pursuant to this section, except contracts and agreements for the provision of work or the supplying of equipment to promote energy conservation through the production of class I renewable energy and authorized pursuant to subsection q. of this section, and except contracts for insurance coverages, insurance consultant or administrative services, participation or membership in a joint self-insurance fund, risk

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management programs or related services of a county college insurance group, and participation in an insurance fund established by a county pursuant to N.J.S.40A:10-6 or a joint insurance fund established pursuant to P.L.1983, c.372 (C.40A:10-36 et seq.), shall contain a clause making them subject to the availability and appropriation annually of sufficient funds to meet the extended obligation or contain an annual cancellation clause.

18A:64A-25.30. No action for damages for action by officials

30. No action for damages shall lie against the Board of Higher Education, the Commission on Higher Education, the Presidents' Council, any State official, any county college or its board of trustees or any of its officers because of any action taken by virtue of the provisions of this article.

18A:64A-25.31. Indemnity agreement with the United States, etc.

Any county college may enter into an agreement indemnifying the United States of America or any board, body, officer or agency thereof from any liability for loss or damage to the person or property of others resulting from any project undertaken or to be undertaken by the federal government for the benefit of such county college or any project the cost of which or any part thereof is to be paid out of federal funds.

18A:64A-25.32. Contracts, etc.; validated and confirmed

Any action, purchase, sale, contract or agreement taken, made or entered into prior to the effective date of this article is hereby validated and confirmed; provided that in no event shall multi-year leases or contracts entered into prior to the effective date of this article be renewed or extended except in accordance with the terms and provisions of this article.

18A:64A-25.43 Civil action brought on behalf of county college.

9. a. A county college as defined in and subject to the provisions of the "County College Contracts Law," P.L.1982, c.189 (C.18A:64A-25.1 et seq.), shall implement and comply with the provisions of P.L.2012, c.25 (C.52:32-55 et al.), except that the county college shall rely on the list developed by the State Department of the Treasury pursuant to section 3 of P.L.2012, c.25 (C.52:32-57).

b. If the county college determines that a person or entity has submitted a false certification concerning its engagement in investment activities in Iran pursuant to section 4 of P.L.2012, c.25 (C.52:32-58), the county college shall report to the New Jersey Attorney General the name of that person, and the Attorney General shall determine whether to bring a civil action against the person or entity to collect the penalty prescribed in paragraph (1) of subsection a. of section 5 of P.L.2012, c.25 (C.52:32-59).

The county college may also report to the county college attorney the name of that person,

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together with its information as to the false certification, and the county college attorney may determine to bring such civil action against the person to collect such penalty.

Council of County Colleges Statute

18A:64A-26. Council of County Colleges established

There is established a body corporate and politic, with succession, to be known as the New Jersey Council of County Colleges. The county colleges and the county college commissions shall be members of the council.

18A:64A-27. Membership; alternates; compensation

The council shall consist of the presidents and chairmen of the boards of trustees of the several county community colleges and of the county college commissions. A trustee board chairman may designate another member of the board as an alternate to attend and to vote at council meetings in the chairman's absence.

Members shall serve without compensation but shall be entitled to be reimbursed for all reasonable and necessary expenses.

18A:64A-28. Annual organization meeting

The council shall organize annually by the election of a chairman, vice chairman and such other officers as the council shall determine. Such officers shall serve until the following annual organizational meeting and until their successors are elected and qualified. Vacancies in such offices shall be filled in the same manner for the unexpired terms only. The council may also meet at such other times and at such places within the State as it shall deem necessary.

18A:64A-28.1. Officers; rules

The council shall select such officers and make such rules as may be necessary for the transaction of business.

18A:64A-28.2. Perpetual succession; powers, responsibilities

The council shall have perpetual succession and shall have the following powers and responsibilities:

- a. To make, amend and repeal rules, regulations and bylaws for its own government and guidance, not inconsistent with the purposes of the council;
- b. To adopt an official seal and alter the same at pleasure;
- c. To maintain an office at such place or places in the State as it may designate;
- d. To sue and be sued in its own name;
- e. To acquire, hold and dispose of real and personal property in the exercise of its powers

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and the performance of its duties under this article. All this property shall be exempt from taxation under chapter 4 of Title 54 of the Revised Statutes;

- f. To act as an advocate and promote the advancement of the county community colleges of New Jersey; and
- g. To promote diversity of development among the county community colleges in ways which will be responsive to the particular needs of the particular counties, and the State's diverse population and regions.

18A:64A-28.3. Executive director

The council shall employ an executive director, who shall be responsible for the administration of all the activities of the council including staff services and shall promote the educational quality of the county community colleges. The executive director shall serve at the pleasure of the council. The salary of the executive director and all other personnel shall be determined by the council.

18A:64A-28.4. Improvement of county college education

8. The council shall encourage and aid movements which it deems necessary for the improvement of county college education and shall, from time to time, make recommendations to the Governor, Legislature and Commission on Higher Education regarding the coordination of the county colleges on matters of mutual interest and concern.

18A:64A-28.5. Expenses; assessment for dues

For the purposes of defraying the expenses of the council, the county colleges and county college commissions shall pay the necessary expenses incurred by the council and shall appropriate annually such sums for dues as may be assessed by the council. The assessment shall be made only upon a two-thirds vote of the membership present at the meeting after written notice of the proposed vote shall be given to each county college and county college commission at least 60 days before the council meeting at which the vote will be taken. Dues shall be on a graduated scale according to the size of the county college and county college commission.

18A:64A-29 Purpose of council.

The council will seek to ensure acceptable and effective lines of development in admissions policy, academic standards, programs, financing, including recommending to the State Treasurer a formula for the allocation of annual appropriations among the county colleges and making recommendations for capital funding, and community relations in the several county colleges.

The council will serve as a means of communication between the county colleges, and act as a resource center to aid them in planning, act as a clearing house of information, and provide continuing field services.

The council will act as an advisory body to the Governor, Legislature, Commission on Higher

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Education and Presidents' Council in the carrying out of their respective duties and responsibilities deriving from this chapter.

NJEFA Statute (Chapter 12 Bonding through NJEFA)

18A:72A-12.2 Short title.

1. Sections 1 through 4 of this act shall be known and may be cited as the "County College Capital Projects Fund Act."

18A:72A-12.3 Findings, declarations relative to county college capital projects fund.

2. The Legislature finds and declares that:

a. Higher education plays a vital role in the economic development of the nation and the State by providing the education and training of the work force of the future;

b. The county colleges serve a vital role in the educational system of the State by providing students with an affordable means of obtaining higher education, thereby providing opportunities to the residents of the State which would not otherwise be available;

c. County colleges and the residents of the State would benefit from additional funds and resources enabling counties to undertake and complete county college capital projects;

d. It would therefore be appropriate for the New Jersey Educational Facilities Authority created pursuant to N.J.S.18A:72A-1 et seq. to enter into contracts with counties and the State Treasurer to provide for the financing of county college capital projects.

18A:72A-12.4 County college capital projects fund, established.

3. a. There is created within the New Jersey Educational Facilities Authority , established pursuant to chapter 72A of Title 18A of the New Jersey Statutes, hereinafter referred to as the " authority ," a county college capital projects fund to finance county college capital projects. The authority may issue bonds to finance the State share of county college capital projects and the county share of county college capital projects as certified by the State Treasurer pursuant to section 2 of P.L.1971, c.12 (C.18A:64A-22.2). The State Treasurer is hereby authorized to enter into a contract with the authority pursuant to which the State Treasurer, subject to available appropriation, shall pay the amount necessary to pay the principal and interest on bonds and notes of the authority issued to finance the State share of county college capital projects. The authority may enter into a loan agreement with each county in which a county college capital project is located for the purpose of funding the county share of the applicable county college capital project.

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b. The authority may from time to time issue bonds or notes in an amount sufficient to finance county college capital projects and which shall also finance the administrative costs and any reserves or other issuance costs associated with the issuance of bonds or notes. The authority shall issue the bonds or notes in such manner as it shall determine in accordance with the provisions of this act and the "New Jersey educational facilities authority law," N.J.S.18A:72A-1 et seq. The authority shall not issue any bonds or notes pursuant to this section without the prior written consent of the State Treasurer.

18A:72A-12.5 Loan agreement to issue bonds, notes.

4. a. At any time within one year of the certification by the State Treasurer to the board of chosen freeholders, the county college at which the capital project is located, and the authority, pursuant to section 2 of P.L.1971, c.12 (C.18A:64A-22.2), the board of chosen freeholders is authorized, in lieu of issuing bonds or notes pursuant to N.J.S.18A:64A-19, to enter into a loan agreement with the authority for the issuance of bonds or notes of the authority to fund the county share of the capital project. The county shall issue bonds and notes to the authority which shall be delivered to the authority to evidence the loan, and which shall be the source of payment for the bonds or notes issued by the authority to finance the county share of the capital project. The loan evidenced by the bonds or notes may be made subject to such terms and conditions as the authority determines to be consistent with the purposes thereof. Each loan by the authority shall be subject to approval by the State Treasurer and shall be evidenced by notes or bonds issued by the county which shall be authorized and issued as provided by law for the issuance of notes and bonds by the county. A loan to a county, and the notes, bonds or other obligations thereby issued shall bear interest at a rate or rates per annum as may be agreed upon by the authority and the county.

b. Any bonds or notes authorized by the county to be issued to the authority or to another entity for the purpose of funding the county share of a county college capital project shall be in addition to the sums authorized to be borrowed by the board of chosen freeholders pursuant to the provisions of N.J.S.18A:64A-19 for the purpose of funding the county's share of capital projects, and the additional borrowing, if entered into by the county, shall constitute a deduction from the gross debt of the county and shall not be considered in determining its net debt for debt incurring purposes.