

**ITEM 6**  
**FINAL STAFF ANALYSIS**  
**AND PROPOSED STATEMENT OF DECISION**

Education Code Sections 81663, 81800, 81805, 81807, 81808, 81820, 81821, 81822, 81823,  
81836, 81837, 81839

Statutes 1980, Chapter 910, Statutes 1981, Chapter 470, Statutes 1981, Chapter 891, Statutes  
1990, Chapter 1372, Statutes 1991, chapter 1038, Statutes 1995, Chapter 758

California Code of Regulations, Title 5, Sections 57001, 57001.5, 57001.7, 57002, 57010,  
57011, 57013, 57014, 57015, 57016, 57033.1, 57050, 57051, 57052, 57053, 57054, 57055,  
57060, 57061, 57062, 57063, 57150, 57152, 57154, 57156, 57158

Register 75, No. 40 (Oct. 4, 1975) page 673; Register 77, No. 45 (Nov. 6, 1977) pages 673-674;  
Register 80, No. 39 (Sept. 27, 1980) page 675-676.1; Register 80, No. 44 (Nov. 1, 1980) pages  
676.5-676.6; Register 81, No. 3 (Jan. 17, 1981) pages 673-676.6; Register 83, No. 18  
(April 30, 1983) pages 666.27 – 666.36; Register 91, No. 23 (June 7, 1991) pages 371 – 377;  
Register 91, No. 43 (Oct. 25, 1991) pages 371-372; Register 94, No. 38 (Sept. 23, 1994)  
page 371; Register 95, No. 23 (June 9, 1995) pages 371 – 389.

*Community College Construction*  
02-TC-47

Santa Monica Community College District, Claimant

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State of California  
COMMISSION ON STATE MANDATES  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
(916) 323-3562  
CSM 2 (1/91)

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STATE MANDATES

Exhibit A

**TEST CLAIM FORM**

Claim No. 02-TC-47

Local Agency or School District Submitting Claim

**SANTA MONICA COMMUNITY COLLEGE DISTRICT**

Contact Person

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Representative Organization to be Notified

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Fax: 916-446-2011

This claim alleges the existence of a reimbursable state mandated program within the meaning of section 17514 of the Government Code and section 6, article XIII B of the California Constitution. This test claim is filed pursuant to section 17551(a) of the Government Code.

Identify specific section(s) of the chaptered bill or executive order alleged to contain a mandate, including the particular statutory code citation(s) within the chaptered bill, if applicable.

**758/95 Community College Construction**

See: Attached

**IMPORTANT: PLEASE SEE INSTRUCTIONS AND FILING REQUIREMENTS FOR COMPLETING TEST CLAIM ON THE REVERSE SIDE.**

Name and Title of Authorized Representative

Telephone No.

Thomas J. Donner  
Executive Vice President of Business and Administration

(310) 434-4201  
FAX (310) 434-8200

Signature of Authorized Representative

Date

*Thomas J. Donner*  
*Thomas J. Donner*

June 23, 2003  
6-23-03

Attached Exhibit to Form CSM 2 (1/91)  
Test Claim of Santa Monica Community College District  
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Chaptered Bills:

Chapter 758, Statutes of 1995  
Chapter 1038, Statutes of 1991  
Chapter 1372, Statutes of 1990  
Chapter 891, Statutes of 1981  
Chapter 470, Statutes of 1981  
Chapter 910, Statutes of 1980

Education Codes:

Education Code Section 81663  
Education Code Section 81800  
Education Code Section 81805  
Education Code Section 81807  
Education Code Section 81808  
Education Code Section 81820  
Education Code Section 81821  
Education Code Section 81822  
Education Code Section 81823  
Education Code Section 81836  
Education Code Section 81837  
Education Code Section 81839

California Code of Regulations:

Title 5, Section 57001  
Title 5, Section 57001.5  
Title 5, Section 57001.7  
Title 5, Section 57002  
Title 5, Section 57010  
Title 5, Section 57011  
Title 5, Section 57013  
Title 5, Section 57014  
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Title 5, Section 57152  
Title 5, Section 57154  
Title 5, Section 57156  
Title 5, Section 57158

1 Claim Prepared By:  
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6 Voice: (858) 514-8605  
7

8 BEFORE THE  
9  
10 COMMISSION ON STATE MANDATES  
11  
12 STATE OF CALIFORNIA  
13

14 Test Claim of: )

15 )  
16 Santa Monica Community College )  
17 District )

18 )  
19 Test Claimant. )

No. CSM \_\_\_\_\_

Chapter 758, Statutes of 1995  
Chapter 1038, Statutes of 1991  
Chapter 1372, Statutes of 1990  
Chapter 891, Statutes of 1981  
Chapter 470, Statutes of 1981  
Chapter 910, Statutes of 1980

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35 )  
36 )  
37 )  
38 )  
39 )  
40 )  
41 )  
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46 )

Education Code Sections:  
81663            81800            81805  
81807            81808            81820  
81821            81822            81823  
81836            81837            81839

Title 5, California Code of Regulations,  
Sections:

57001            57001.5            57001.7  
57002            57010            57011  
57013            57014            57015  
57016            57033.1            57050  
57051            57052            57053  
57054            57055            57060  
57061            57062            57063  
57150            57152            57154  
57156            57158

COMMUNITY COLLEGE  
CONSTRUCTION

TEST CLAIM FILING



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1 1980. Subdivision (b) provides the legislative intent to assist districts in the construction  
2 of community college facilities.

3 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
4 81805<sup>3</sup>. The Chancellor must administer the Community College Construction Act of  
5 1980 and the Board of Governors shall, as may be necessary, adopt all necessary rules  
6 and regulations. The Chancellor must assemble statewide data on facility and  
7 construction costs, and formulate cost and construction standards.

8 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
9 81807<sup>4</sup> to require the allocation and disbursement of all funds appropriated for a

---

community college districts.

In enacting this chapter, the Legislature considers that there is a need to provide adequate community college facilities that will be required to accommodate community college students resulting from growth in population and from legislative policies expressed through implementation of the Master Plan for Higher Education.”

<sup>3</sup> Education Code Section 81805, as added by Chapter 910, Statutes of 1980, Section 2:

“This chapter shall be administered by the chancellor, and for purposes of such administration the board of governors may adopt all necessary rules and regulations.

For purposes of this chapter, the chancellor shall assemble statewide data on facility and construction costs, and on the basis thereof formulate cost standards and construction standards. The formulation of standards shall include also the formulation of average ratios of equipment cost to total project costs, unit equipment costs per faculty or other staff measure, and unit costs related to floor areas.”

<sup>4</sup> Education Code Section 81807, as added by Chapter 910, Statutes of 1980, Section 2:

“Funds appropriated for a project of a community college district for purposes of this chapter shall be allocated and disbursed upon order of the chancellor, and by warrants of the State Controller issued pursuant thereto.”

1 district's project under the Community College Construction Act of 1980 upon order of  
2 the Chancellor.

3 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
4 81808<sup>5</sup> to require the transfer of any unused project funds appropriated, or authorized  
5 for appropriation, to a district under the Community College Construction Act of 1980,  
6 when the existing district is included in a newly formed district.

7 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
8 81820<sup>6</sup> to require the governing board to prepare and submit a plan for capital  
9 construction to the Chancellor. The plan must reflect the five-year period commencing

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<sup>5</sup> Education Code Section 81808, as added by Chapter 910, Statutes of 1980,  
Section 2:

"In the event an existing community college district is included in a newly formed community college district, any unused funds appropriated or authorized to be appropriated for a finally approved project of the included district pursuant to this chapter shall be transferred to the newly formed or including community college district on the date that such district is effective for all purposes, or prior to such effective date where the governing boards of the districts agree to such earlier transfer."

<sup>6</sup> Education Code Section 81820, as added by Chapter 910, Statutes of 1980,  
Section 2:

"On or before February 1, 1981, the governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district. The plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The five-year plan shall be subject to continuing review by the governing board and annually shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the five-year plan."



1 with the next proposed year of funding. The plan is subject to annual review by the  
2 Chancellor, and a report outlining required modifications or changes must be submitted  
3 to the Chancellor on or before the first day of February.

4 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
5 81821<sup>7</sup>. The five-year plan for capital construction must set out the estimated capital  
6 construction needs of the district referencing at least the following: (a) the district's  
7 plans concerning its future academic and student services programs, and the effect on  
8 estimated construction needs arising from particular courses of instruction, subject

---

<sup>7</sup> Education Code Section 81821, as added by Chapter 910, Statutes of 1980,  
Section 2:

"The five-year plan for capital construction shall set out the estimated capital  
construction needs of the district with reference to elements including at least all of the  
following:

(a) The plans of the district concerning its future academic and student services  
programs, and the effect on estimated construction needs which may arise because of  
particular courses of instruction or subject matter areas or student services to be  
emphasized.

(b) The enrollment projections for each district formulated by the Department of  
Finance, expressed in terms of weekly student contact hours. The enrollment  
projections for each individual college and educational center within a district shall be  
made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly  
student contact hours and based upon the space and utilization standards for  
community college classrooms and laboratories adopted by the board of governors.

(d) District office, library, and supporting facility capacities as derived from the  
physical plant standards for office, library, and supporting facilities adopted by the  
board of governors in consultation with the California Postsecondary Education  
Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard  
definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay  
matching purposes pursuant to Section 81838."

1 matter areas, or student services to be emphasized; (b) the district's enrollment  
2 projections; (c) the district's current enrollment capacity; (d) the district's office, library,  
3 and supporting facility capacities; (e) the district's annual inventory of all facilities and  
4 land; and (f) the district's estimate of funds available for capital outlay matching  
5 purposes.

6 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
7 81822<sup>8</sup> to require the Chancellor to review and evaluate the district's plan for capital  
8 construction. The Chancellor shall then make such revisions and changes, and  
9 approve or disapprove the plan. The Chancellor must also review and evaluate  
10 continuing five-year plans and notify the districts of approval or disapproval.

11 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
12 81823<sup>9</sup>. Subdivision (a) provides that a district maintaining colleges, or one college and

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<sup>8</sup> Education Code Section 81822, as added by Chapter 910, Statutes of 1980,  
Section 2:

"The chancellor shall review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and approve or disapprove the plan. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each community college district shall be made on or before each succeeding first day of April. The chancellor shall, promptly after such approval or disapproval, notify the governing board of each community college district of the content of the district's plan for capital construction."

<sup>9</sup> Education Code Section 81823, as added by Chapter 910, Statutes of 1980,  
Section 2:

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1 one or more educational centers, shall, as may be necessary, submit its plan for capital  
2 construction on the basis of each college or educational center maintained by it if either  
3 of the following circumstances is present such that students will be better served by  
4 evaluating the capital outlay program on that basis: (1) the isolation of students within  
5 the district in terms of distance or inadequacy of transportation, and student financial  
6 inability to meet the costs of transportation to an educational program; or (2) the  
7 inability of existing colleges and educational centers to meet the unique educational  
8 and cultural needs of a significant number of ethnic students. Subdivision (b) requires a  
9 district submitting such a plan to include justification and documentation for doing so.  
10 Subdivision (c) requires the review and evaluation of the plan, as submitted, to include  
11 a review and evaluation of the justification and documentation for so doing.

12 Chapter 910, Statutes of 1980, Section 2, added Education Code Section

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“(a) If a community college district maintains colleges, or one college and one or more educational centers, it may additionally submit the plan required by Section 81820 on the basis of each college or educational center maintained by the district, if either of the following circumstances is present such that students will be better served by evaluating the capital outlay program for the district on that basis: (1) the isolation of students within a district in terms of the distance of students from the location of an educational program, or inadequacy of transportation, and student financial inability to meet costs of transportation to an educational program; or (2) the inability of existing colleges and educational centers in the district to meet the unique educational and cultural needs of a significant number of ethnic students.

(b) If a district elects to submit such a plan, it shall include therewith justification and documentation for so doing.

(c) When a district so elects, the evaluation of the plan pursuant to Section 81822 shall include an evaluation of both of the following:

(1) The justification and documentation for so doing, including enrollment projections for individual campuses and centers.

(2) The plan as thus submitted.”

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1 81836<sup>10</sup>. Subdivision (a) requires the Chancellor to advise the governing board on the  
2 acquisition of new college sites and charge the board a reasonable fee as determined  
3 by the Chancellor's office for each school site reviewed.

4 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
5 81837<sup>11</sup> to require the governing board before letting any contract or contracts totaling

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<sup>10</sup> Education Code Section 81836, as added by Chapter 910, Statutes of 1980,  
Section 2:

"The chancellor shall:

(a) Advise the governing board of each community college district on the acquisition of new college sites, and after a review of available plots, give the governing board of the district in writing a list of the approved locations in the order of their merit, considering especially the matters of educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction, and charge the governing board of the community college district a reasonable fee as determined by the chancellor's office for each 10 acres or fraction thereof of school site reviewed.

(b) Establish standards for community college facilities.

(c) Review plans and specifications for all construction in those community college districts that have submitted plans and specifications therefor to the chancellor for approval.

(d) For services rendered for the review of plans and specifications of a proposed project pursuant to Section 81831, the chancellor's office shall charge a reasonable fee as established by the board of governors.

(e) Approve plans and specifications submitted by governing boards of community college districts, and return without approval and with recommendation for changes, any plans not conforming to established standards."

<sup>11</sup> Education Code Section 81837, as added by Chapter 910, Statutes of 1980,  
Section 2:

"The governing board of each community college district, except districts governed by a city board of education, before letting any contract or contracts totaling one hundred thousand dollars (\$100,000), or more, in the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the chancellor's office, and obtain the

1 one hundred thousand dollars (\$100,000), or more, for any new college facility, or for  
2 any addition to, or alteration of, an existing facility must submit plans therefore to the  
3 Chancellor's office, and obtain written approval. No contract is valid, nor will any public  
4 money be paid out, for any facility in contravention of this Section.

5 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
6 81839<sup>12</sup> to provide that a district's governing board shall, as may be necessary, include  
7 a proposed site in its plans for a project and enter into an agreement with the owner of  
8 property constituting such proposed site whereby the district, for an annual  
9 consideration to be borne by the district, is given an option to purchase, or lease with an  
10 option to purchase such property at an unspecified future date, as a building site. The  
11 existence of such an agreement will not affect the determination of the share of the cost

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written approval of the plans by that office. No contract for construction made by any governing board of a community college district contrary to this section is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section."

<sup>12</sup> Education Code Section 81839, as added by Chapter 910, Statutes of 1980, section 2:

"The governing board of a community college district may include a proposed site in its plans for a project and may enter into an agreement with the owner of property constituting such proposed site whereby the district, for an annual consideration to be borne by the district, is given an option to purchase, or lease with an option to purchase such property at an unspecified future date, as a building site.

The existence of such an agreement shall in no way affect the determination of the share of the cost of the project to be borne by the state under this chapter, and the consideration paid by the district for such option or lease shall not be considered part of the cost of the project in determining the state's share of the funding thereof.

Such option or lease agreement shall constitute an obligation of the district and shall not be construed as in any way creating an obligation on the part of the state."

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1 of the project to be borne by the state under this Chapter, and the consideration paid by  
2 the district for such option or lease shall not be considered part of the cost of the project  
3 in determining the state's share of the funding thereof. Such option or lease agreement  
4 constitutes an obligation of the district and does not create a state obligation.

5 Chapter 470, Statutes of 1981, Section 256, amended Education Code Section  
6 81821<sup>13</sup>, subdivision (c), to require the Board of Governors to work in consultation with  
7 the California Postsecondary Education Commission to determine the current

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<sup>13</sup> Education Code Section 81821, as added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 470, Statutes of 1981, Section 256:

"The five-year plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(d) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to Section 81838."

1 enrollment capacity of the district.

2 Chapter 891, Statutes of 1981, Section 2, amended Education Code Section  
3 81821 without change.

4 Chapter 891, Statutes of 1981, Section 3, amended Education Code Section  
5 81822<sup>14</sup> to make technical changes.

6 Chapter 891, Statutes of 1981, Section 6, amended Education Code Section  
7 81837<sup>15</sup> to increase the dollar amounts.

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<sup>14</sup> Education Code Section 81822, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 891, Statutes of 1981, Section 3:

"The chancellor shall review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and ~~approve or disapprove the plan~~ notify the district. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each community college district shall be made on or before each succeeding first day of April. The chancellor shall, promptly after ~~such approval or disapproval~~ review, notify the governing board of each community college district of the content of the district's revised plan for capital construction."

<sup>15</sup> Education Code Section 81837, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 891, Statutes of 1981, Section 6:

"The governing board of each community college district, except districts governed by a city board of education, before letting any contract or contracts totaling one hundred fifty thousand dollars (~~\$400,000~~) (\$150,000), or more, in the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the chancellor's office, and obtain the written approval of the plans by that office. No contract for construction made by any governing board of a community college district contrary to this section is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section."

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1 Chapter 1372, Statutes of 1990, Section 566, amended Education Code Section  
2 81805<sup>16</sup> to transfer all duties of the Chancellor under this Section to the Board of  
3 Governors while requiring the Board to adopt all necessary rules and regulations.

4 Chapter 1372, Statutes of 1990, Section 568, amended Education Code Section  
5 81807<sup>17</sup> to transfer all duties of the Chancellor under this Section to the Board of  
6 Governors.

7 Chapter 1372, Statutes of 1990, Section 571, amended Education Code Section  
8 81820<sup>18</sup> to require the governing board to submit its five-year plan and any annual

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<sup>16</sup> Education Code Section 81805, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 1372, Statutes of 1990, Section 566:

"This chapter shall be administered by the chancellor Board of Governors of the California Community Colleges, and for purposes of such the administration the board of governors may shall adopt all necessary rules and regulations.

For purposes of this chapter, the chancellor board of governors shall assemble statewide data on facility and construction costs, and on the basis thereof formulate cost standards and construction standards. The formulation of standards shall include also the formulation of average ratios of equipment cost to total project costs, unit equipment costs per faculty or other staff measure, and unit costs related to floor areas."

<sup>17</sup> Education Code Section 81807, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 1372, Statutes of 1990, section 568:

"Funds appropriated for a project of a community college district for purposes of this chapter shall be allocated and disbursed upon order of the chancellor Board of Governors of the California Community Colleges, and by warrants of the State Controller issued pursuant thereto."

<sup>18</sup> Education Code Section 81820, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 1372, Statutes of 1990, Section 571:

~~"On or before February 1, 1981, t~~The governing board of each community



1 modifications or changes to the Board of Governors as opposed to the Chancellor.

2 Chapter 1372, Statutes of 1990, Section 573, amended Education Code Section  
3 81822<sup>19</sup> to require review and evaluation of the district's capital construction plan by the  
4 Board of Governors as opposed to the Chancellor.

5 Chapter 1372, Statutes of 1990, Section 577, amended Education Code Section  
6 81836<sup>20</sup> to transfer all duties of the Chancellor under this Section to the Board of

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college district shall prepare and submit to the chancellor Board of Governors of the California Community Colleges a plan for capital construction for community college purposes of the district. The plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The five-year plan shall be subject to continuing review by the governing board and annually shall be extended one year, and there shall be submitted to the chancellor board of governors, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the five-year plan."

<sup>19</sup> Education Code Section 81822, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 1372, Statutes of 1990, Section 573:

"The chancellor board of governors shall review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of such the review and evaluation, make such the revision and changes therein as are appropriate, and notify the district. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each community college district shall be made ~~on or before each succeeding first day of April~~. The chancellor board of governors shall, promptly after review, notify the governing board of each community college district of the content of the district's revised plan for capital construction."

<sup>20</sup> Education Code Section 81836, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 1372, Statutes of 1990, Section 577:

"The chancellor Board of Governors of the California Community Colleges shall:  
(a) Advise the governing board of each community college district on the

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1 Governors.

2 Chapter 1372, Statutes of 1990, Section 578, amended Education Code Section  
3 81837<sup>21</sup> to require the governing board to submit its plans to the Board of Governors as  
4 opposed to the Chancellor's office and receive written approval from them.

5 Chapter 1038, Statutes of 1991, Section 8, added Education Code Section

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acquisition of new college sites, and after a review of available plots, give the governing board of the district in writing a list of the approved locations in the order of their merit, considering especially the matters of educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction, and charge the governing board of the community college district a reasonable fee as determined by the ~~chancellor's office~~ board of governors for each 10 acres or fraction thereof of school site reviewed.

(b) Establish standards for community college facilities.

(c) Review plans and specifications for all construction in those community college districts that have submitted plans and specifications therefor to the ~~chancellor~~ board of governors for approval.

(d) For services rendered for the review of plans and specifications of a proposed project pursuant to ~~Section 81834~~, the ~~chancellor's office~~ board of governors shall charge a reasonable fee as established by ~~the board of governors~~ it.

(e) Approve plans and specifications submitted by governing boards of community college districts, and return without approval and with recommendation for changes, any plans not conforming to established standards."

<sup>21</sup> Education Code Section 81837, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 1372, Statutes of 1990, Section 578:

"The governing board of each community college district, ~~except districts governed by a city board of education~~, before letting any contract or contracts totaling one hundred fifty thousand dollars (\$150,000), or more, in the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the ~~chancellor's office~~ Board of Governors of the California Community Colleges, and obtain the written approval of the plans by ~~that office~~ the board of governors. No contract for construction made by any governing board of a community college district contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section."

1 81663<sup>22</sup>, subdivision (a), to provide that a college district shall, as may be necessary,  
2 borrow funds from federal or state regulated financial institutions for design and  
3 construction costs associated with retrofitting buildings to become more energy  
4 efficient. The amount borrowed shall not exceed the amount that can be repaid from  
5 energy cost avoidance savings accumulated from the improvement of facilities.  
6 Subdivision (b) provides that any savings association may make loans or advances of  
7 credit in an amount not in excess of 5 percent of its total assets.

8 Chapter 758, Statutes of 1995, Section 121, amended Education Code Section  
9 81821<sup>23</sup> to make technical changes.

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<sup>22</sup> Education Code Section 81663, added by Chapter 1038, Statutes of 1991,  
Section 8:

“(a) The governing board of any community college district may borrow funds from federal or state regulated financial institutions for design and construction costs associated with retrofitting buildings to become more energy efficient. The amount borrowed shall not exceed the amount that can be repaid from energy cost avoidance savings accumulated from the improvement of facilities.

(b) Any savings association may make loans or advances of credit pursuant to subdivision (a) in an amount not in excess of 5 percent of its total assets. This investment may be in addition to any other investment savings associations are permitted to undertake.”

<sup>23</sup> Education Code Section 81821, added by Chapter 910, Statutes of 1980,  
Section 2, as amended by Chapter 758, Statutes of 1995, Section 121:

“The five-year plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

1 Title 5, California Code of Regulations, Section 57001 (added in 1991), defines  
2 the terms and phrases: "a small community college," "leased or rented," "permanent  
3 building," "temporary building," and "weekly student contact hours."

4 Section 57001.5 (added in 1991), subdivision (a), defines the term "project" as  
5 the purpose for which a community college district has applied for assistance under the  
6 Community College Construction Act of 1980 for one or more institutions under its  
7 authority or for district wide facilities. A project shall include, as may be necessary:

8 (1) The planning, acquisition, and improvement of community college sites;

9 (2) The planning, construction, reconstruction, or remodeling of any

10 permanent structure necessary for use as a classroom, a laboratory, a

11 library, a performing arts facility, a gymnasium, the basic outdoor physical

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(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(d) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to ~~Section 81838~~ regulations adopted by the board of governors."

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1 education facilities, the basic food service facilities, or child development  
2 centers;

3 (3) Related facilities necessary for the instruction of students or for  
4 administration of the educational program;

5 (4) Maintenance or utility facilities essential to the operation of the foregoing  
6 facilities and the initial acquisition of equipment; and

7 (5) The initial furnishing of, and initial acquisition of equipment for, any facility  
8 leased or lease-purchased by a district as of August 1, 1987, for  
9 educational purpose or purposes.

10 Subdivision (b) further provides that a project shall, as may be necessary, include the  
11 reconstruction or remodeling of any facility leased or lease-purchased for educational  
12 purposes. The Chancellor's Office must then require transfer to the community college  
13 district of title or any other interest considered sufficient by the district, in and to facilities  
14 presently leased or to be leased in the future by the district, to the extent of the funds  
15 appropriated for reconstruction or remodeling of leased facilities. If sufficient title or  
16 interest has not been transferred, the term of the lease must be of sufficient duration to  
17 completely amortize the reconstruction or remodeling cost as determined by utilizing  
18 current interest rates and normal accounting practices. However, if the lease is  
19 terminated prior to amortizing the reconstruction or remodeling costs the district must  
20 repay the state for any unamortized state costs. If the governing board leases property  
21 from the federal government, the state, or any county, city and county, city, or district for

1 the purpose of constructing school buildings and facilities thereon in accordance with  
2 Education Code Section 81530, subdivision (b), it is eligible for state funding. The  
3 terms of a lease must be of sufficient duration to completely amortize the cost of the  
4 project and the governing board must provide in the lease agreement a hold harmless  
5 clause satisfactory to the lessor. The amortization shall be determined by utilizing  
6 current interest rates and normal accounting practices. If the lease is terminated prior  
7 to amortizing the project, the district must pay the state for any unamortized state costs.  
8 Subdivision (c) provides that the Board of Governors retains discretion as to the type or  
9 possible number of projects that may be considered during any fiscal year. Subdivision  
10 (d) prohibits the inclusion of the planning or construction of dormitories, student centers  
11 other than cafeterias, stadia, the improvement of sites for student or staff parking, or  
12 single-purpose auditoriums.

13 Section 57001.7 (added in 1991 and last amended in 1994), defines the term  
14 "educational center."

15 Section 57002 (added in 1991), requires that prorated federal funds, for a project  
16 subject to a federal grant that differs materially from the physical detail and intent for  
17 which state funds are appropriated, be applicable to the project subject to the state  
18 matching funds.

19 Section 57010 (added in 1991), provides that an affected governing board shall,  
20 as may be necessary appeal to the Board of Governors any action of the Chancellor.  
21 The appeal must be placed on the agenda of the Board in accordance with the general

1 agenda practices of the Board. The decision of the Board on such appeals is final.

2 Section 57011 (added in 1991), requires the governing board to submit to the  
3 Chancellor, within 30 days after the closure of the current fiscal year, a final report on  
4 all expenditures in connection with the sources of the funds expended for completed  
5 projects. The district is subject to a state post-audit review of fund claims for all such  
6 projects.

7 Section 57013 (added in 1991), requires the governing board to meet with  
8 appropriate local government recreation and park authorities to review all possible  
9 methods of coordinating planning, design, and construction of new facilities and sites or  
10 major additions to existing facilities and recreation and park facilities in the community.  
11 Any district planning, designing, or constructing new facilities must report to the  
12 Chancellor's Office on plans to achieve:

- 13 (a) A greater use of any joint or contiguous recreation and park facilities by  
14 the district; and  
15 (b) Possible use by the total community of such facilities and sites and  
16 recreation and park facilities.

17 Section 57014 (added in 1991), provides for the submission of a district's  
18 proposed project to the Chancellor for review and approval or disapproval. The  
19 proposed project must be an element of the district's plan for capital construction, and  
20 be in such form and contain such detail as will permit its evaluation and approval with  
21 reference to the elements of the five-year capital construction program as specified in

1 Education Code Section 81821.

2 Section 57015 (added in 1991), requires the Chancellor to review and evaluate  
3 each proposed project with reference to the elements of the capital construction  
4 program specified in Education Code Section 81821. The review shall include the  
5 following elements:

- 6 (a) An architectural analysis to determine costs of the various phases of the  
7 project, with particular attention to be directed to the type of construction,  
8 unit costs, and the efficiency of particular buildings and facilities in terms  
9 of effective utilization of area.
- 10 (b) Determining the amount of federal funds available for the project, and  
11 taking appropriate measures to ensure that the project will qualify for the  
12 maximum amounts of federal funds practicable under the circumstances.
- 13 (c) Determining the total cost of the project, reducing the total cost by the  
14 amount of federal funds available thereof, and determining the remainder  
15 thereof to be borne by the state, or, if the district has matching funds, by  
16 the state and by the district. Whether the district has funds to provide all  
17 or part of its matching share of the project shall be made on the basis of  
18 district ability. If the district ability, as determined by Section 57033.1, is  
19 sufficient to meet the matching costs of the project or its individual phases  
20 of planning, working drawings, construction, equipment, or land  
21 acquisition, the district must bear its matching share of the cost of the



1 project or one or more of its phases. If the district funds available are  
2 insufficient to provide the district's matching share for the cost of the  
3 project or one or more of its phases, computed pursuant to section  
4 57033.1, the district shall provide the moneys available, as defined by the  
5 Board of Governors, and state funds may be requested to provide the  
6 balance of funds required. Private funds available for specific projects  
7 shall be used, as may be necessary, as a credit toward the district match.

8 (d) Determining the total of funds required for the first phase of the project  
9 to be provided on a matching basis by the state and the district, and the  
10 total state appropriation required to be provided for the project or one or  
11 more of its phases.

12 Section 57016 (added in 1991), provides that the submission of a district's  
13 proposal to the Chancellor prior to February 1st of each year must be acted upon by the  
14 Chancellor on or before the next succeeding May 1st of each year.

15 Section 57033.1 (added in 1991), requires the Chancellor to adopt criteria for  
16 determining districts' matching shares of the cost of capital outlay projects. Pursuant to  
17 that criteria, the Chancellor must recommend each district's match, which shall be  
18 reviewed by the Board of Governors in forwarding its annual budget request to the  
19 Department of Finance for determination by the Legislature.

20 Section 57050 (added in 1980 and last amended in 1991), requires the  
21 administration and implementation of this subchapter's provisions to the Community

1 College Construction Act.

2 Section 57051 (added in 1980 and last amended in 1991), defines the terms  
3 "Energy Conservation Project," "Energy Conservation Program," "Energy Audit (EA),"  
4 "Technical Audit (TA)," "Technical Auditor," "Pay-back Period," and "Energy  
5 Conservation Measure."

6 Section 57052 (added in 1980 and last amended in 1991), subdivision (a),  
7 requires districts requesting a state supported energy conservation project, to include a  
8 summary of the local district energy conservation program as adopted by the governing  
9 board in the district's annual five-year construction plan. Subdivision (b) requires a  
10 district submitting an energy conservation project for state aid under the capital outlay  
11 program of the Community College Construction Act of 1980 to indicate the need for  
12 such assistance in the annual district five-year construction plan.

13 Section 57053 (added in 1980 and last amended in 1991), subdivision (a),  
14 requires that when the need for state financial assistance for an energy conservation  
15 project has been adequately established, it must be submitted as a project planning  
16 guide in accordance with established format to the Chancellor's Office. Subdivision (b)  
17 requires that the project planning guide contain evidence of an approved Energy Audit  
18 (EA) on file with the California Energy Commission.

19 Section 57054 (added in 1980 and last amended in 1991), requires the ranking  
20 of all projects submitted as energy conservation related on the basis of criteria  
21 developed by the Chancellor's Office, including but not limited to:

1 (a) The level of energy use. Those projects identified to correct conditions of  
2 higher energy use application shall receive higher priority evaluation.

3 (b) The pay-back period. Those projects which by their design or proposed  
4 application demonstrate the shortest possible pay-back period shall  
5 receive higher priority evaluation.

6 (c) The extent to which the district has implemented an energy conservation  
7 program which meets the objectives specified in Board of Governors  
8 Policy Statement on Energy and Resource Conservation.

9 Section 57055 (added in 1980 and last amended in 1991), subdivision (a),  
10 requires the Chancellor to evaluate and rank for approval energy conservation related  
11 projects following the existing procedures for the statewide capital outlay program.

12 Subdivision (b) provides that the governing board shall submit, as may be necessary,  
13 the preliminary plans upon securing approval of a proposed energy conservation project  
14 by all appropriate review agencies, to the Chancellor for approval, or disapproval.

15 Subdivision (c) requires that the preliminary plans for energy related projects include:

16 (1) The results of a technical audit (TA) performed by an authorized  
17 Technical Auditor which describes in detail the energy conservation  
18 measures the project is to institute.

19 (2) The status of the project as related to the various federal and state aided  
20 programs for energy conservation.

21 (3) An architectural and/or engineering analysis setting forth the detailed

1 costs of the various elements of the project.

2 Section 57060 (added in 1991), encourages districts to retrofit buildings so as to  
3 conserve energy and reduce the costs of supplying energy.

4 Section 57061 (added in 1991), subdivision (a), provides that districts shall, as  
5 may be necessary, borrow funds from state regulated financial institutions for the  
6 purposes of design and construction costs associated with retrofitting buildings to  
7 become more energy efficient. Districts are only authorized to borrow an amount which  
8 does not exceed that which can be repaid from energy cost avoidance savings  
9 accumulated from the improvement of school facilities. Subdivision (b) provides that  
10 any savings and loan association may make loans or advances of credit in an amount  
11 not in excess of 5 percent of its total assets.

12 Section 57062 (added in 1991), requires districts, to the extent that services are  
13 available, to arrange for the pre-audit and post-audit of buildings by investor-owned or  
14 municipal utility companies or by independent energy audit companies or organizations  
15 which are recognized by federal or state regulated financial institutions. The pre-audit  
16 must identify the type and amount of work necessary to retrofit the buildings and shall  
17 include an estimate of projected energy savings. The post-audit must be conducted  
18 upon completion of the retrofitting of the buildings to insure that the project satisfies the  
19 recommendations of the pre-audit.

20 Section 57063 (added in 1991), requires districts taking action under this article  
21 to contract with qualified businesses capable of retrofitting school buildings. To the  
22 extent that lists of qualified businesses are made available to community college

1 districts by investor-owned or municipal utility companies or federal or state regulated  
2 financial institutions, districts may utilize the services of these businesses.

3 Section 57150 (added 1980 and last amended in 1991), provides these  
4 regulations as basic definitions, principles, and standards for use by the Chancellor in  
5 considering any district-funded construction project subject to the requirements  
6 Education Code Section 81837.

7 Section 57152 (added in 1980 and last amended in 1991), defines the terms:

8 (A) "Capital Outlay Project" to include the purchase of land and costs related  
9 thereto, including court costs, condemnation costs, legal fees, title fees,  
10 etc.; construction projects, including working drawings; and equipment  
11 related to a construction project regardless of cost or timing.

12 (b) "Construction Project" to include new construction, alteration, and  
13 extension or betterment of existing structures.

14 (c) "State-Funded Project" to mean a capital outlay project qualifying as a  
15 project pursuant to section 81805 of the Education Code, and for which a  
16 district requests or receives State funding assistance.

17 (d) "District-Funded Project" to mean a capital outlay project subject to the  
18 provisions of section 81837 of the Education Code for which any funds,  
19 other than state funds, are paid or to be paid for erecting, adding to, or  
20 altering any community college facility.

21 (e) "Five-Year Construction Plans" to mean a plan for capital construction for  
22 community college purposes of a district for the five-year period

1 commencing with the next proposed year of funding.

2 Section 57154 (added in 1980 and last amended in 1991), requires that each  
3 application for approval of plans for a district-funded project be accompanied by the  
4 plans and full, complete and accurate take-off of assignable and gross square feet of  
5 space, complying with any and all requirements prescribed by the Chancellor.

6 Section 57156 (added in 1980 and last amended in 1991), requires the  
7 Chancellor to review and evaluate the plans for a district-funded project including:

- 8 (a) Reference to the elements of the capital construction program specified in  
9 Education Code Section 81821; and  
10 (b) Whether the locally funded project is of appropriate size, is appropriately  
11 timed and is justified in terms of the elements of the capital construction  
12 plans and where applicable, the standards as adopted by the Board of  
13 Governors.

1 Section 57158 (added in 1980 and last amended in 1991), subdivision (a),  
2 requires plan approval when the Chancellor's analysis reveals locally-funded  
3 construction of a community college facility would not result in facilities which would be  
4 substantially at variance with space and utilization standards adopted by the Board of  
5 Governors. Subdivision (b) requires that, when approval of the plans would result in  
6 facilities which would be substantially at variance with space and utilization standards  
7 adopted by the Board of Governors, the Chancellor respond by:

- 8 (1) Imposing conditions for the approval of the plans; or  
9 (2) Finding that despite the substantial variance with space standards, the

1 plans, as submitted, are acceptable, and responding to the district with:

2 (A) Cautions, and/or

3 (B) Appraisal of the potential consequences of this variance.

4 PART III. STATEMENT OF THE CLAIM

5 SECTION 1. COSTS MANDATED BY THE STATE

6 The code sections and regulations referenced in this test claim result in  
7 community college districts incurring costs mandated by the state, as defined in  
8 Government Code section 17514<sup>24</sup>, by creating new state-mandated duties related to  
9 the uniquely governmental function of providing public services and these statutes  
10 apply to community college districts and do not apply generally to all residents and  
11 entities in the state.<sup>25</sup>

2 The new duties mandated by the state upon community colleges districts require

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<sup>24</sup> Government Code section 17514, as added by Chapter 1459/84:

"Costs mandated by the state" means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

<sup>25</sup> Public schools are a Article XIII B, Section 6 "program," pursuant to Long Beach Unified School District v. State of California, (1990) 225 Cal.App.3d 155; 275 Cal.Rptr. 449:

"In the instant case, although numerous private schools exist, education in our society is considered to be a peculiarly government function. (Cf. Carmel Valley Fire Protection Dist. V. State of California (1987) 190 Cal.App.3d at p.537) Further, public education is administered by local agencies to provide service to the public. Thus public education constitutes a 'program' within the meaning of Section 6."

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1 state reimbursement of the direct and indirect costs of labor, materials and supplies,  
2 data processing services and software, contracted services and consultants, equipment  
3 and capital assets, staff and student training and travel to implement the following  
4 activities:

5           A) To transfer any unused project funds appropriates, or authorized for  
6                    appropriation, when the existing district is incorporated into a newly  
7                    formed district, pursuant to Education Code Section 81808.

8           B) To prepare and submit a plan for capital construction to the Board of  
9                    Governors of the California Community Colleges reflecting the five-year  
10                   period commencing with the next proposed year of funding, pursuant to  
11                   Education Code Section 81820. The capital construction plan is subject  
12                   to annual review by the Board and a report outlining any required  
13                   modifications or changes must be submitted on or before the 1<sup>st</sup> day of  
14                   February, pursuant to Education Code Sections 81820 and 81823, and  
15                   Title 5, California Code of Regulations Section 57014.

16           C) To set out the estimated capital construction needs of the district in its  
17                   five-year capital construction plan including:

18                   1) The district's plans concerning its future academic and student  
19                   services programs, and the effect on estimated construction needs  
20                   arising from particular courses of instruction, subject matter areas,  
21                   or student services to be emphasized, pursuant to Education Code  
22                   Section 81821, subdivision (a);



- 1           2)    The district's enrollment projections, pursuant to Education Code  
2                    Section 81821, subdivision (b);
- 3           3)    The district's current enrollment capacity, pursuant to Education  
4                    Code Section 81821, subdivision (c);
- 5           4)    The district's office, library and supporting facility capacities,  
6                    pursuant to Education Code Section 81821, subdivision (d);
- 7           5)    The district's annual inventory of all facilities and land, pursuant to  
8                    Education Code Section 81821, subdivision (e); and
- 9           6)    The district's estimate of funds available for capital outlay matching  
10                   purposes, pursuant to Education Code Section 81821, subdivision  
11                   (f).

12           D)    To include justification and documentation in its capital construction plan  
13                   when it is deemed necessary by the district to submit its plan for capital  
14                   construction on the basis of each college or educational center  
15                   maintained by it to better serve its students because:

- 16           1)    The students are isolated within the district in terms of distance or  
17                   inadequacy of transportation, and the students are financially  
18                   unable to meet the costs of transportation to an educational  
19                   program, pursuant to Education Code Section 81823, subdivisions  
20                   (a)(1) and (b), or
- 21           2)    The inability of the existing colleges and educational centers to  
22                   meet the unique educational and cultural needs of a significant

1                    number of ethnic students, pursuant to Educational Code Section  
2                    81823, subdivisions (a)(2) and (b).

3            E)    To pay to the Board of Governors any reasonable fees charged for the  
4            review of proposed new college sites, pursuant to Education Code  
5            Section 81836.

6            F)    To submit its capital construction plans for any new college facility, or for  
7            any addition to, or alteration of, an existing facility totaling for than one  
8            hundred fifty thousand dollars (\$150,000) to the Board of Governors  
9            before contracting for such, pursuant to Education Code Section 81837.

10           No contract is valid, nor will any public money be paid out before the  
11           district receives written approval from the Board of Governors, pursuant to  
12           Education Code Section 81837.

13           G)    The district shall, as may be necessary, include a proposed site in its  
14           capital construction plan, and enter into an option contract with the  
15           property owner whereby the district pays the consideration for the option,  
16           pursuant to Education Code Section 81839.

17           H)    To apply, as may be necessary, for project assistance under the  
18           Community College Construction Act of 1980, including:

19           1)    The planning, acquisition, and improvement of community college  
20           sites, pursuant to Title 5, California Code of Regulations Section  
21           57001.5, subdivision (a);

22           2)    The planning, construction, reconstruction, or remodeling of any

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1 permanent structure necessary for use as a classroom, a  
2 laboratory, a library, a performing arts facility, a gymnasium, the  
3 basic outdoor physical education facilities, the basic food service  
4 facilities, or child development centers, pursuant to Title 5,  
5 California Code of Regulations Section 57001.5, subdivision (a);

6 3) Related facilities necessary for the instruction of students or for  
7 administration of the educational program, pursuant to Title 5,  
8 California Code of Regulations Section 57001.5, subdivision (a);

9 4) Maintenance or utility facilities essential to the operation of the  
10 foregoing facilities and the initial acquisition of equipment, pursuant  
11 to Title 5, California Code of Regulations Section 57001.5,  
12 subdivision (a);

13 5) The initial furnishing of, and initial acquisition of equipment for, any  
14 facility leased or lease-purchased by a district as of August 1,  
15 1987, for educational purpose or purposes, pursuant to Title 5,  
16 California Code of Regulations Section 57001.5, subdivision (a);  
17 and

18 6) The reconstruction or remodeling of any facility leased or leased-  
19 purchased for educational purposes, pursuant to Title 5, California  
20 Code of Regulations Section 57001.5, subdivision (b). Title or any  
21 other interest considered sufficient by the district shall be  
22 transferred, but a district must repay the state for any unamortized

1 state costs if the lease is terminated prior to amortizing the  
2 reconstruction or remodeling costs. If the district leases property  
3 from the federal government, the state, or any county, city and  
4 county, city, or district for the purposes of constructing school  
5 buildings and facilities, it is eligible for state funding, pursuant to  
6 Title 5, California Code of Regulations Section 57001.5, subdivision  
7 (b).

8 I) To appeal to the Board of Governors any action of the Chancellor  
9 adversely affecting the district, pursuant to Title 5, California Code of  
10 Regulations Section 57010.

11 J) To submit to the Chancellor, within 30 days after the closure of the current  
12 fiscal year, a final report on all expenditures in connection with the  
13 sources of funds expended for completed projects, pursuant to Title 5,  
14 California Code of Regulations Section 57011. The district must further  
15 submit to any state post-audit review of fund claims for all projects,  
16 pursuant to Title 5, California Code of Regulations Section 57011.

17 K) To meet with appropriate local government recreation and park authorities  
18 to review all possible methods of coordinating planning, design, and  
19 construction of new facilities and sites or major additions to existing  
20 facilities and recreation and park facilities in the community, pursuant to  
21 Title 5, California Code of Regulations Section 57013. Any district  
22 planning, designing, or constructing new facilities must report to the

Chancellor's office on plans to achieve:

- 1) A greater use of any joint or contiguous recreation and park facilities by the district, pursuant to Title 5, California Code of Regulations Section 57013, subdivision (a);
- 2) Possible use by the total community of such facilities and sites and recreation and park facilities, pursuant to Title 5, California Code of Regulations Section 57013, subdivision (b).

L) To include in its capital construction program submission to the Chancellor's office the following to aid in the review and evaluation process:

- 1) An architectural analysis to determine costs of the various phases of the project, with particular attention to be directed to the type of construction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area, pursuant to Title 5, California Code of Regulations Section 57015, subdivision (a).
- 2) A determination of the amount of federal funds available for the project, taking appropriate measures to ensure that the project will qualify for the maximum amounts of federal funds practicable under the circumstances, pursuant to Title 5, California Code of Regulations Section 57015, subdivision (b).
- 3) A determination of the total cost of the project, reducing the total

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1 cost by the amount of federal funds available thereof, and  
2 determining the remainder thereof to be borne by the state, or, if  
3 the district has matching funds, by the state and by the district,  
4 pursuant to Title 5, California Code of Regulations Section 57015,  
5 subdivision (c). If the district ability is sufficient to meet the  
6 matching costs of the project or its individual phases of planning,  
7 working drawings, construction, equipment, or land acquisition, the  
8 district must bear its matching share of the cost of the project or  
9 one or more of its phases, but if the district funds available are  
10 insufficient to provide the district's matching share for the cost of  
11 the project or one or more of its phases, the district shall provide  
12 the moneys available, as defined by the Board of Governors, and  
13 state funds may be requested to provide the balance of funds  
14 required, pursuant to Title 5, California Code of Regulations  
15 Section 57015, subdivision (c).

16 4) A determination of the total of funds required for the first phase of  
17 the project to be provided on a matching basis by the state and the  
18 district, pursuant to Title 5, California Code of Regulations Section  
19 57015, subdivision (d).

20 M) To must include a summary of the local district energy conservation  
21 program and indicate its need for such assistance in its annual five-year  
22 construction plan when requesting a state supported energy conservation

1 project, pursuant to Title 5, California Code of Regulations Section 57052,  
2 subdivisions (a) and (b).

3 N) When the need for state financial assistance has been adequately  
4 established, the energy conservation project must be submitted as a  
5 project planning guide in accordance with the Chancellor's office's  
6 established format including evidence of an approved Energy Audit on file  
7 with the California Energy Commission, pursuant to Title 5, California  
8 Code of Regulations Section 57053.

9 O) To include in its preliminary plans for energy related projects: (1) the  
10 results of a technical audit performed by an authorized Technical Auditor  
11 which describes in detail the energy conservation measures the project is  
12 it institute, (2) the status of the project as related to the various federal  
13 and state aided programs for energy conservation; and (3) an  
14 architectural and/or engineering analysis setting forth the detailed costs of  
15 the various elements of the project, pursuant to Title 5, California Code of  
16 Regulations Section 57055, subdivision (b).

17 P) To arrange, to the extent that services are available, for the pre-audit and  
18 post-audit of buildings by investor-owned or municipal utility companies or  
19 by independent energy audit companies or organizations which are  
20 recognized by federal or state regulated financial institutions, pursuant to  
21 Title 5, California Code of Regulations Section 57062. The pre-audit must  
22 identify the type and amount of work necessary to retrofit the buildings

1 and shall include an estimate of projected energy savings, while the post-  
2 audit must be conducted upon completion of the retrofitting of the  
3 buildings to insure that the project satisfies the recommendations of the  
4 pre-audit, pursuant to Title 5, California Code of Regulations Section  
5 57062.

6 Q) To contract only with qualified business capable of retrofitting school  
7 buildings, pursuant to Title 5, California Code of Regulations Section  
8 57063.

9 R) To include complete and accurate take-off of assignable and gross square  
10 feet of space, complying with any and all requirements prescribed by the  
11 Chancellor in each application for capital construction plan approval,  
12 pursuant to Title 5, California Code of Regulations Section 57154.

## 13 SECTION 2. EXCEPTIONS TO MANDATE REIMBURSEMENT

14 None of the Government Code Section 17556<sup>26</sup> statutory exceptions to a finding of

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<sup>26</sup> Government Code section 17556, as last amended by Chapter 589, Statutes of 1989:

"The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

(a) The claim is submitted by a local agency or school district which requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district which requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this paragraph.

(b) The statute or executive order affirmed for the state that which had been



1 costs mandated by the state apply to this test claim. Note, that to the community  
2 college districts may have previously performed functions similar to those mandated by  
3 the referenced code sections, such efforts did not establish a preexisting duty that  
4 would relieve the state of its constitutional requirement to later reimburse community  
5 college districts when these activities became mandated.<sup>27</sup>

6 SECTION 3. FUNDING PROVIDED FOR THE MANDATED PROGRAM

7 No funds are appropriated by the state for reimbursement of these costs  
8 mandated by the state and there is no other provision of law for recovery of costs from  
9 any other source.

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declared existing law or regulation by action of the courts.

(c) The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.

(d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

(e) The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

(f) The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a statewide election.

(g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction."

<sup>27</sup> Government Code section 17565, added by Chapter 879, Statutes of 1986:

"If a local agency or a school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate."

1                                   PART IV. ADDITIONAL CLAIM REQUIREMENTS

2                   The following elements of this claim are provided pursuant to Section 1183, Title  
3 2, California Code of Regulations:

4   Exhibit 1:    Thomas J. Donner, Executive Vice President of  
5                    Business and Administration  
6                    Santa Monica Community College District

7   Exhibit 2:   Copies of Statutes Cited

8                                   Chapter 758, Statutes of 1995

9                                   Chapter 1038, Statutes of 1991

10                                  Chapter 1372, Statutes of 1990

11                                  Chapter 891, Statutes of 1981

12                                  Chapter 470, Statutes of 1981

13                                  Chapter 910, Statutes of 1980

14   Exhibit 3:   Copies of Code Sections Cited

15                                  Education Code Section 81663

16                                  Education Code Section 81800

17                                  Education Code Section 81805

18                                  Education Code Section 81807

19                                  Education Code Section 81808

20                                  Education Code Section 81820

21                                  Education Code Section 81821

22                                  Education Code Section 81822

23                                  Education Code Section 81823

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1 Education Code Section 81836

2 Education Code Section 81837

3 Education Code Section 81839

4 Exhibit 4: Copies of Regulations Cited

5 Title 5, California Code of Regulations, Section 57001

6 Title 5, California Code of Regulations, Section 57001.5

7 Title 5, California Code of Regulations, Section 57001.7

8 Title 5, California Code of Regulations, Section 57002

9 Title 5, California Code of Regulations, Section 57010

10 Title 5, California Code of Regulations, Section 57011

11 Title 5, California Code of Regulations, Section 57013

12 Title 5, California Code of Regulations, Section 57014

13 Title 5, California Code of Regulations, Section 57015

14 Title 5, California Code of Regulations, Section 57016

15 Title 5, California Code of Regulations, Section 57033.1

16 Title 5, California Code of Regulations, Section 57050

17 Title 5, California Code of Regulations, Section 57051

18 Title 5, California Code of Regulations, Section 57052

19 Title 5, California Code of Regulations, Section 57053

20 Title 5, California Code of Regulations, Section 57054

21 Title 5, California Code of Regulations, Section 57055

22 Title 5, California Code of Regulations, Section 57060

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- 1 Title 5, California Code of Regulations, Section 57061
- 2 Title 5, California Code of Regulations, Section 57062
- 3 Title 5, California Code of Regulations, Section 57063
- 4 Title 5, California Code of Regulations, Section 57150
- 5 Title 5, California Code of Regulations, Section 57152
- 6 Title 5, California Code of Regulations, Section 57154
- 7 Title 5, California Code of Regulations, Section 57156
- 8 Title 5, California Code of Regulations, Section 57158

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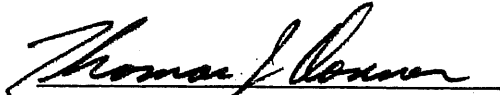
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PART V. CERTIFICATION

I certify by my signature below, under penalty of perjury, that the statements made in this document are true and complete of my own knowledge or information and belief.

Executed on June 23, 2003, at Santa Monica, California by:



Thomas J. Donner  
Executive Vice President of  
Business and Administration  
Santa Monica Community College District

Voice: (310) 434-4201  
Fax: (310) 434-8200

PART VI. APPOINTMENT OF REPRESENTATIVE

Santa Monica Community College District appoints Keith B. Petersen, SixTen and Associates, as its representative for this test claim.



Thomas J. Donner  
Executive Vice President of  
Business and Administration  
Santa Monica Community College District

6-23-03

Date

EXHIBIT 1  
DECLARATION

**DECLARATION OF THOMAS J. DONNER**

**Santa Monica Community College District**

**Test Claim of Santa Monica Community College District**

COSM No. \_\_\_\_\_

Chapter 758, Statutes of 1995  
Chapter 1038, Statutes of 1991  
Chapter 1372, Statutes of 1990  
Chapter 891, Statutes of 1981  
Chapter 470, Statutes of 1981  
Chapter 910, Statutes of 1980

Education Code Sections:

81663	81800	81805
81807	81808	81820
81821	81822	81823
81836	81837	81839

Title 5, California Code of Regulations, Sections:

57001	57001.5	57001.7
57002	57010	57011
57013	57014	57015
57016	57033.1	57050
57051	57052	57053
57054	57055	57060
57061	57062	57063
57150	57152	57154
57156	57158	

**Community College Construction**

I, Thomas J. Donner, Executive Vice President of Business and Administration, Santa Monica Community College District, make the following declaration and statement.

In my capacity as Executive Vice President of Business and Administration, I am

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responsible for the acquisition of funding for facility construction. I am familiar with the provisions and requirements of the statutes, code sections and regulations enumerated above, which require the district to:

- A) To transfer any unused project funds appropriates, or authorized for appropriation, when the existing district is incorporated into a newly formed district, pursuant to Education Code Section 81808.
- B) To prepare and submit a plan for capital construction to the Board of Governors of the California Community Colleges reflecting the five-year period commencing with the next proposed year of funding, pursuant to Education Code Section 81820. The capital construction plan is subject to annual review by the Board and a report outlining any required modifications or changes must be submitted on or before the 1<sup>st</sup> day of February, pursuant to Education Code Sections 81820 and 81823, and Title 5, California Code of Regulations Section 57014.
- C) To set out the estimated capital construction needs of the district in its five-year capital construction plan including:
  - 1) The district's plans concerning its future academic and student services programs, and the effect on estimated construction needs arising from particular courses of instruction, subject matter areas, or student services to be emphasized, pursuant to Education Code Section 81821, subdivision (a);



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- 2) The district's enrollment projections, pursuant to Education Code Section 81821, subdivision (b);
  - 3) The district's current enrollment capacity, pursuant to Education Code Section 81821, subdivision (c);
  - 4) The district's office, library and supporting facility capacities, pursuant to Education Code Section 81821, subdivision (d);
  - 5) The district's annual inventory of all facilities and land, pursuant to Education Code Section 81821, subdivision (e); and
  - 6) The district's estimate of funds available for capital outlay matching purposes, pursuant to Education Code Section 81821, subdivision (f).
- D) To include justification and documentation in its capital construction plan when it is deemed necessary by the district to submit its plan for capital construction on the basis of each college or educational center maintained by it to better serve its students because:
- 1) The students are isolated within the district in terms of distance or inadequacy of transportation, and the students are financially unable to meet the costs of transportation to an educational program, pursuant to Education Code Section 81823, subdivisions (a)(1) and (b), or
  - 2) The inability of the existing colleges and educational centers to

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meet the unique educational and cultural needs of a significant number of ethnic students, pursuant to Educational Code Section 81823, subdivisions (a)(2) and (b).

- E) To pay to the Board of Governors any reasonable fees charged for the review of proposed new college sites, pursuant to Education Code Section 81836.
- F) To submit its capital construction plans for any new college facility, or for any addition to, or alteration of, an existing facility totaling for than one hundred fifty thousand dollars (\$150,000) to the Board of Governors before contracting for such, pursuant to Education Code Section 81837. No contract is valid, nor will any public money be paid out before the district receives written approval from the Board of Governors, pursuant to Education Code Section 81837.
- G) The district shall, as may be necessary, include a proposed site in its capital construction plan, and enter into an option contract with the property owner whereby the district pays the consideration for the option, pursuant to Education Code Section 81839.
- H) To apply, as may be necessary, for project assistance under the Community College Construction Act of 1980, including:
  - 1) The planning, acquisition, and improvement of community college sites, pursuant to Title 5, California Code of Regulations Section

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- 57001.5, subdivision (a);
- 2) The planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, a laboratory, a library, a performing arts facility, a gymnasium, the basic outdoor physical education facilities, the basic food service facilities, or child development centers, pursuant to Title 5, California Code of Regulations Section 57001.5, subdivision (a);
  - 3) Related facilities necessary for the instruction of students or for administration of the educational program, pursuant to Title 5, California Code of Regulations Section 57001.5, subdivision (a);
  - 4) Maintenance or utility facilities essential to the operation of the foregoing facilities and the initial acquisition of equipment, pursuant to Title 5, California Code of Regulations Section 57001.5, subdivision (a);
  - 5) The initial furnishing of, and initial acquisition of equipment for, any facility leased or lease-purchased by a district as of August 1, 1987, for educational purpose or purposes, pursuant to Title 5, California Code of Regulations Section 57001.5, subdivision (a);  
and
  - 6) The reconstruction or remodeling of any facility leased or lease-purchased for educational purposes, pursuant to Title 5, California

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Code of Regulations Section 57001.5, subdivision (b). Title or any other interest considered sufficient by the district shall be transferred, but a district must repay the state for any unamortized state costs if the lease is terminated prior to amortizing the reconstruction or remodeling costs. If the district leases property from the federal government, the state, or any county, city and county, city, or district for the purposes of constructing school buildings and facilities, it is eligible for state funding, pursuant to Title 5, California Code of Regulations Section 57001.5, subdivision (b).

- I) To appeal to the Board of Governors any action of the Chancellor adversely affecting the district, pursuant to Title 5, California Code of Regulations Section 57010.
- J) To submit to the Chancellor, within 30 days after the closure of the current fiscal year, a final report on all expenditures in connection with the sources of funds expended for completed projects, pursuant to Title 5, California Code of Regulations Section 57011. The district must further submit to any state post-audit review of fund claims for all projects, pursuant to Title 5, California Code of Regulations Section 57011.
- K) To meet with appropriate local government recreation and park authorities to review all possible methods of coordinating planning, design, and

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construction of new facilities and sites or major additions to existing facilities and recreation and park facilities in the community, pursuant to Title 5, California Code of Regulations Section 57013. Any district planning, designing, or constructing new facilities must report to the Chancellor's office on plans to achieve:

- 1) A greater use of any joint or contiguous recreation and park facilities by the district, pursuant to Title 5, California Code of Regulations Section 57013, subdivision (a);
- 2) Possible use by the total community of such facilities and sites and recreation and park facilities, pursuant to Title 5, California Code of Regulations Section 57013, subdivision (b).

L) To include in its capital construction program submission to the Chancellor's office the following to aid in the review and evaluation process:

- 1) An architectural analysis to determine costs of the various phases of the project, with particular attention to be directed to the type of construction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area, pursuant to Title 5, California Code of Regulations Section 57015, subdivision (a).
- 2) A determination of the amount of federal funds available for the

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project, taking appropriate measures to ensure that the project will qualify for the maximum amounts of federal funds practicable under the circumstances, pursuant to Title 5, California Code of Regulations Section 57015, subdivision (b).

- 3) A determination of the total cost of the project, reducing the total cost by the amount of federal funds available thereof, and determining the remainder thereof to be borne by the state, or, if the district has matching funds, by the state and by the district, pursuant to Title 5, California Code of Regulations Section 57015, subdivision (c). If the district ability is sufficient to meet the matching costs of the project or its individual phases of planning, working drawings, construction, equipment, or land acquisition, the district must bear its matching share of the cost of the project or one or more of its phases, but if the district funds available are insufficient to provide the district's matching share for the cost of the project or one or more of its phases, the district shall provide the moneys available, as defined by the Board of Governors, and state funds may be requested to provide the balance of funds required, pursuant to Title 5, California Code of Regulations Section 57015, subdivision (c).
- 4) A determination of the total of funds required for the first phase of

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the project to be provided on a matching basis by the state and the district, pursuant to Title 5, California Code of Regulations Section 57015, subdivision (d).

- M) To must include a summary of the local district energy conservation program and indicate its need for such assistance in its annual five-year construction plan when requesting a state supported energy conservation project, pursuant to Title 5, California Code of Regulations Section 57052, subdivisions (a) and (b).
- N) When the need for state financial assistance has been adequately established, the energy conservation project must be submitted as a project planning guide in accordance with the Chancellor's office's established format including evidence of an approved Energy Audit on file with the California Energy Commission, pursuant to Title 5, California Code of Regulations Section 57053.
- O) To include in its preliminary plans for energy related projects: (1) the results of a technical audit performed by an authorized Technical Auditor which describes in detail the energy conservation measures the project is it institute, (2) the status of the project as related to the various federal and state aided programs for energy conservation; and (3) an architectural and/or engineering analysis setting forth the detailed costs of the various elements of the project, pursuant to Title 5, California Code of

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Regulations Section 57055, subdivision (b).

- P) To arrange, to the extent that services are available, for the pre-audit and post-audit of buildings by investor-owned or municipal utility companies or by independent energy audit companies or organizations which are recognized by federal or state regulated financial institutions, pursuant to Title 5, California Code of Regulations Section 57062. The pre-audit must identify the type and amount of work necessary to retrofit the buildings and shall include an estimate of projected energy savings, while the post-audit must be conducted upon completion of the retrofitting of the buildings to insure that the project satisfies the recommendations of the pre-audit, pursuant to Title 5, California Code of Regulations Section 57062.
- Q) To contract only with qualified business capable of retrofitting school buildings, pursuant to Title 5, California Code of Regulations Section 57063.
- R) To include complete and accurate take-off of assignable and gross square feet of space, complying with any and all requirements prescribed by the Chancellor in each application for capital construction plan approval, pursuant to Title 5, California Code of Regulations Section 57154.

It is estimated that the Santa Monica Community College District will incur more than \$1,000 in costs in excess of the funding provided the district by the state to



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implement these new duties mandated by the state for which the community college district will not be reimbursed by any federal, state, or local government agency, and for which it cannot otherwise obtain reimbursement.

The foregoing facts are known to me personally and, if so required, I could testify to the statements made herein. I hereby declare under penalty of perjury that the foregoing is true and correct except where stated upon information and belief and where so stated I declare that I believe them to be true.

EXECUTED this 23 day of June 2003, at Santa Monica, California



Thomas J. Donner  
Vice President of Business and Administration  
Santa Monica Community College District

EXHIBIT 2  
COPIES OF STATUTES CITED

## CHAPTER 758

An act to amend, repeal, and add Sections 28, 1247.6, 2902, 4939, 4980.40, and 18629 of the Business and Professions Code, to amend, repeal, and add Section 1812.501 of the Civil Code, to amend, repeal, and add Section 10251 of the Corporations Code, to amend Sections 1510, 8152, 12050, 12052, 12053, 12400, 66010, 66015, 66022, 66023, 66202.5, 66743, 66753.5, 66903, 66903.3, 67385, 67500, 68011, 68133, 69509, 69613, 69615.2, 69634, 69900, 69908, 71000, 71020.5, 71090.5, 72023.5, 72411.5, 72425, 72620, 74270, 76000, 76140, 76210, 76225, 76231, 76232, 76240, 76245, 76330, 76330.1, 76355, 76370, 76380, 76391, 78015, 78217, 79121, 81033, 81130.5, 81141, 81162, 81177, 81314, 81345, 81348, 81401, 81530, 81551, 81661, 81821, 84362, 84501, 84751, 84810.5, 84820, 85223, 85233, 85267, 87008, 87017, 87411, 87413, 87414, 87418, 87419, 87420, 87423, 87448, 87451, 87453, 87460, 87464, 87468, 87469, 87470, 87483, 87487, 87603, 87604, 87622, 87672, 87673, 87675, 87676, 87677, 87701, 87715, 87732, 87734, 87740, 87744, 87745, 87746, 87762, 87764, 87768.5, 87770, 87774, 87780, 87781, 87787, 87790, 87832, 88000, 88001, 88002, 88003, 88004.5, 88010, 88013, 88014, 88015, 88020, 88023, 88024, 88030, 88033, 88036, 88050, 88051, 88053, 88054, 88057, 88063.5, 88076, 88083, 88086.5, 88092, 88093, 88097, 88098, 88104, 88105, 88107, 88120, 88125, 88126, 88128, 88132, 88136, 88164, 88165, 88167, 88168, 88185, 88191, 88192, 88194, 88195, 88196, 88197, 88198, 88203, 88205, 88205.5, 88206, 88207, 88227, 88245, 88263, 89002, 89036, 89046, 89047, 89300, 89310, 89537, 92620, 99100, 99103, 99105, and 99106 of, to amend the heading of Article 1 (commencing with Section 10000) of Chapter 1 of Part 7 of, to amend the heading of Article 13 (commencing with Section 69760) of Chapter 2 of Part 42 of, to amend and renumber the heading of Part 43.5 (commencing with Section 70900) of, to amend, repeal, and add Sections 8092, 8092.5, 44227, 49073, 66170, 69509.5, 94050, and 94355 of, to add Sections 67359.9, 84756, 84757, and 84758 to, to add an article heading immediately preceding Section 92020 of, to add Article 12 (commencing with Section 44390) to Chapter 2 of Part 25 of, Article 6 (commencing with Section 66060) and Article 7 (commencing with Section 66070) to Chapter 2 of Part 40 of, and Article 6 (commencing with Section 89250) to Chapter 2 of Part 55 of, to add Chapter 11.3 (commencing with Section 66940) to Part 40 of, and Chapter 7 (commencing with Section 94700) to Part 59 of, to repeal Sections 8081, 8084, 12051, 12061, 66207, 66211, 66605.5, 66723, 66744, 66903.4, 66903.6, 67321, 67386, 67392, 69507.7, 69534, 69534.2, 69534.5, 69534.6, 69639, 69766.1, 72410, 76320, 76392, 78217, 78310, 87012, 87018, 87461, 87772, 87773, 87778, 88032, 88035.5, 88079.1, 89003, 89004, 89009, 89032, 89033, 89040, 89070.45, 89081, 89082, 89083, 89211, 89241, 89242, 89703, 92010, 92610, and 92697 of, to repeal the headings of Article 2 (commencing with Section 92010) and Article 3 (commencing with Section 92030) of Chapter 1 of Part 57 of, to repeal Article 4 (commencing with Section 8225) of Chapter 2 of Part 6 of, Article 5 (commencing with Section 69580) of, Article 6

(commencing with Section 69618) of, Article 6.5 (commencing with Section 69619) of, Article 7 (commencing with Section 69620) of, Article 10 (commencing with Section 69700) of, Article 11 (commencing with Section 69720) of, Article 12 (commencing with Section 69740) of, Article 14 (commencing with Section 69795) of, Chapter 2 of Part 42 of, Article 2.5 (commencing with Section 78230) of Chapter 2 of Part 48 of, Article 3 (commencing with Section 89060) of Chapter 1 of, Article 2 (commencing with Section 90420) of Chapter 10 of, Article 3 (commencing with Section 90430) of Chapter 10 of, Article 4 (commencing with Section 90440) of Chapter 10 of, Article 2 (commencing with Section 90510) of Chapter 11 of, Part 55 of, Article 2 (commencing with Section 92230) of Chapter 3 of, and Article 4 (commencing with Section 92630) of Chapter 6 of, Part 57 of, to repeal Chapter 14 (commencing with Section 11300) of Part 7 of, Chapter 7 (commencing with Section 66501 of, Chapter 11.5 (commencing with Section 66950) of, Chapter 13 (commencing with Section 67100) of, Chapter 14.2 (commencing with Section 67310) of, Part 40 of, Chapter 1 (commencing with Section 69270) of, Chapter 1.5 (commencing with Section 69300) of, Part 42 of, Chapter 2 (commencing with Section 87203) of Part 51 of, Chapter 5.5 (commencing with Section 92580) of, Chapter 5.7 (commencing with Section 92590) of, Part 57 of, and Chapter 3 (commencing with Section 94300) of Part 59 of, to amend and repeal Section 76330.1 of, to repeal and add Sections 66900 and 66903.2 of, and to repeal and add Chapter 14 (commencing with Section 67300) of Part 40 of, the Education Code, to amend, repeal, and add Section 12419.9 of the Government Code, to add Article 1.5 (commencing with Section 447) to Part 1.95 of, and Part 6.5 (commencing with Section 1189) to, Division 1 of, the Health and Safety Code, to amend, repeal, and add Section 11520 of the Insurance Code, and to amend, repeal, and add Section 633 of the Unemployment Insurance Code, relating to postsecondary education.

[Approved by Governor October 10, 1995. Filed with  
Secretary of State October 11, 1995.]

*The people of the State of California do enact as follows:*

SECTION 1. It is the intent of the Legislature in enacting this act to streamline the postsecondary education provisions of the Education Code.

SEC. 2. Section 28 of the Business and Professions Code is amended to read:

28. The Legislature finds that there is a need to ensure that professionals of the healing arts who have demonstrable contact with child abuse victims, potential child abuse victims, and child abusers and potential child abusers are provided with adequate and appropriate training regarding the assessment and reporting of child

purchase of any item and also its total cost for the entire specified term of the contract.

SEC. 120. Section 81661 of the Education Code is amended to read:

81661. In determining the lowest responsible bidder for an energy management system pursuant to Section 20651 of the Public Contract Code, the governing board of any community college district shall consider the net cost or savings of each system. For the purposes of this section, "net cost or savings" means the cost of the system to the district, if any, less the projected energy savings to be realized from the energy management system. The governing board may require an independent evaluation of the projected energy savings.

SEC. 121. Section 81821 of the Education Code is amended to read:

81821. The five-year plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(d) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to regulations adopted by the board of governors.

SEC. 122. Section 84362 of the Education Code is amended to read:

84362. (a) As used in this section, "salaries of classroom instructors" means:

(b) Every organization or person maintaining homes for the aged for pecuniary profit.

This section applies to organizations subject to and operating under Chapter 10 (commencing with Section 1770) of Division 2 of the Health and Safety Code.

(c) This section shall become operative on January 1, 1997.

SEC. 293. Section 633 of the Unemployment Insurance Code is amended to read:

633. (a) For purposes of coverage under Part 2 (commencing with Section 2601) of Division 1, "employment" does not include services performed as an intermittent or adjunct instructor at a postsecondary educational institution which meets the requirements of Section 94310.1 or 94310.2 of the Education Code if the intermittent or adjunct instructor and the employing unit enter a written contract with the following provisions:

(1) That any federal or state income tax liability shall be the responsibility of the party providing the services.

(2) That no disability insurance coverage is provided under the contract.

(3) That the party performing the services certifies that he or she is doing so as a secondary occupation or as a supplemental source of income.

(b) This section shall not apply to services performed under a collective bargaining agreement.

(c) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

SEC. 293.5. Section 633 is added to the Unemployment Insurance Code, to read:

633. (a) For purposes of coverage under Part 2 (commencing with Section 2601) of Division 1, "employment" does not include services performed as an intermittent or adjunct instructor at a postsecondary educational institution which meets the requirements of Article 4 (commencing with Section 94760) of Chapter 7 of Part 59 of the Education Code if the intermittent or adjunct instructor and the employing unit enter a written contract with the following provisions:

(1) That any federal or state income tax liability shall be the responsibility of the party providing the services.

(2) That no disability insurance coverage is provided under the contract.

(3) That the party performing the services certifies that he or she is doing so as a secondary occupation or as a supplemental source of income.

(b) This section shall not apply to services performed under a collective bargaining agreement.

(c) This section shall become operative on January 1, 1997.

SEC. 294. Section 282 of this act shall become operative on January 1, 1997.

SEC. 295. (a) Except as provided in subdivision (b), any section of any act enacted by the Legislature during the 1995 calendar year that takes effect on or before January 1, 1996, and that amends, amends and renumbers, adds, repeals and adds, or repeals a provision amended, repealed, or added by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, this act.

(b) Subdivision (a) does not apply to any of the following:

(1) Section 2902 of the Business and Professions Code, as amended by Chapter 279 of the Statutes of 1995.

(2) Section 4980.40 of the Business and Professions Code, as amended by Chapter 327 of the Statutes of 1995.

(3) Section 72023.5 of the Education Code, as amended by Chapter 82 of the Statutes of 1995.

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## CHAPTER 1038

An act to amend Sections 69643, 72000, 72411, 78100, 78103, 78300, 84001, 84713, and 87003 of, to amend and renumber the heading of Article 2.5 (commencing with Section 84750) of Chapter 5 of Part 50 of, to add Sections 81663, 84501, 84810.5, and 87482.7 to, to repeal Article 1 (commencing with Section 84700) of Chapter 5 of Part 50 of, and to repeal and add Sections 72253.3 and 87487 of, the Education Code, to add Section 15814.21 to the Government Code, and to repeal Sections 6 and 7 of Chapter 565 of the Statutes of 1983, relating to community colleges, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

*The people of the State of California do enact as follows:*

SECTION 1. Section 69643 of the Education Code is amended to read:

69643. (a) There is in the state government the Advisory Committee on Extended Opportunity Programs and Services. It shall be comprised of nine members appointed by the board, two members appointed by the Speaker of the Assembly and two members appointed by the Senate Committee on Rules. The nine members appointed by the board shall serve for four-year terms, except the first term of each shall be determined by lot at the first meeting of the board. Three shall serve for four years, three shall serve for three years, and three shall serve for two years. The two members appointed by the Speaker of the Assembly and the two members appointed by the Senate Committee on Rules shall serve at the pleasure of the respective appointing powers.

(b) The chairperson and vice chairperson of the committee shall be designated by the board.

(c) The members of the committee shall serve without compensation, but shall be reimbursed for necessary traveling and other expenses incurred in performing their duties and responsibilities.

(d) The committee shall serve as an advisory body to the board, shall formulate and present policy recommendations as it determines will effect statewide establishment and conduct of community college programs of extended opportunities and services, shall review annually and report to the board the progress made under this article with the California Community Colleges toward the extension of educational opportunities for all students who may profit from instruction, and make other recommendations to implement this article. The Chancellor of the California Community Colleges shall be executive secretary of the committee, shall report to the board on the actions of the committee, and, at the

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recommendation of the committee and its direction, shall make recommendations to the board pursuant to this article.

(e) All meetings of the committee shall be open and public, and all persons shall be permitted to attend any meeting of the committee.

SEC. 2. Section 72000 of the Education Code is amended to read:  
72000. (a) The district and its governing board may sue and be sued, and shall act in accordance with Section 70902.

(b) The district name shall be adopted and changed as follows:  
(1) The first governing board of any new community college district shall, at the first meeting of the board or as soon as practicable thereafter, name the district. The district shall be designated as the "\_\_\_\_\_ Community College District."

(2) The governing board of a community college district may, by resolution, change the name of the district or of any of the community colleges maintained by the district. However, the name shall continue to contain the words "Community College District" or "Community College," as appropriate.

(3) Whenever a petition is presented to the governing board of a community college district, signed by at least 15 qualified electors of any community college district, asking that the name of the district, be changed, the governing board shall, at its next regular meeting, designate a day upon which it will conduct a hearing and act upon the petition, which hearing shall not be less than 10 days nor more than 40 days after that regular meeting. The clerk of the governing board shall give notice to all interested parties by sending a notice of the time for the hearing of the petition. Notices shall be mailed at least 10 days before the day set for the hearing. At the hearing the board shall by resolution either grant or deny the petition, and if the petition is granted, the clerk shall notify the Board of Governors of the California Community Colleges of the change of the name of the district or of any community college maintained by the district.

(4) The name "\_\_\_\_\_ Community College District" and the names of community colleges maintained by the district are the property of the district. No person shall, without permission of the board, use these names, or any abbreviation of them, or any name of which these words are a part in any of the following ways:

(A) To designate any business, social, political, religious, or other organization, including, but not limited to, any corporation, firm, partnership, association, group, activity or enterprise.

(B) To imply, indicate or otherwise suggest that any organization, or any product or service of the organization is connected or affiliated with, or is endorsed, favored or supported by, or is opposed by one or more California community colleges, the Board of Governors of the California Community Colleges, the Board of Chancellors of the California Community Colleges, or the office of the

(C) To display, advertise, or announce these names publicly at or in connection with any meeting, assembly, or demonstration, or any propaganda, advertising or promotional activity of any kind which

has for its purpose or any part of its purpose the support, endorsement, advancement, opposition or defeat of any strike, lockout, or boycott or of any political, religious, sociological, or economic movement, activity or program.

(D) The provisions of this section shall not preclude the use of the name "\_\_\_\_\_ Community College" or "\_\_\_\_\_ Community College District" by any person or organization otherwise subject to this section using the name immediately prior to the effective date of this section, so long as the name is not used in additional, different ways.

(E) Nothing in this section shall interfere with or restrict the right of any person to make a true and accurate statement in the course of stating his or her experience or qualifications for any academic, governmental, business, or professional credit or enrollment, or in connection with any academic, governmental, professional or other employment whatsoever.

(5) Any reference to junior colleges or junior college districts in any law shall be deemed to refer to community colleges and community college districts, respectively.

(c) Meetings of the governing board shall be held as follows:

(1) Within 20 days after the appointment of the community college board provided for by Section 72023, the board of governors shall call an initial organizational meeting of the board by giving at least 10 days' notice by registered mail to each member, for the purposes of organizing the community college board.

At the initial organizational meeting the community college board shall organize by electing a president from its members and a secretary, and may transact any other business relating to the affairs of the community college district.

(2) (A) The governing board of each community college district shall hold an annual organizational meeting. In a year in which a regular election for governing board members is conducted, the meeting shall be held on a day within a 15-day period that commences with the date upon which a governing board member elected at that election takes office. Organizational meetings in years in which no regular election for governing board members is conducted shall be held during the same 15-day period on the calendar. Unless otherwise provided by rule of the governing board, the day and time of the annual meeting shall be selected by the board at its regular meeting held immediately prior to the first day of such 15-day period, and the board shall notify the county superintendent of schools of the day and time selected. The secretary of the board shall, within 15 days prior to the date of the annual meeting, notify in writing all members and members-elect of the date and time selected for the meeting.

(B) If the board fails to select a day and time for the meeting, the county superintendent of schools having jurisdiction over the district shall, prior to the first day of such 15-day period and after the regular meeting of the board held immediately prior to the first day of the

15-day period, designate the day and time of the annual meeting. The day designated shall be within the 15-day period. He or she shall notify in writing all members and members-elect of the date and time.

(C) At the annual meeting, the governing board of the community college district shall organize by electing a president, from its members, and a secretary.

(3) As an alternative to the procedures set forth in paragraph (2), in a community college district the boundaries of which are coterminous with the boundaries of a city and county, the governing board members of which district are elected in accordance with a city and county charter, the annual organizational meeting of the governing board may be held between January 8 and January 31, inclusive, as provided in rules and regulations adopted by the board. At the annual organizational meeting the community college district governing board shall organize by electing a president and vice president from its members.

(4) Subject to this section, the governing board of any community college district shall hold regular monthly meetings and shall by rule and regulation fix the time and place for its regular meetings. The action shall be given proper notice to all members of the board of the regular meetings.

(d) The governing board shall conduct its meetings as follows:

(1) A notice identifying the location, date, and time of the meeting shall be posted in each community college maintained by the district at least 10 days prior to the meeting and shall remain so posted to and including the time of the meeting.

(2) The governing board shall conduct its meetings within the boundaries of the community college district, except as provided in subparagraphs (A) and (B).

(A) The governing board may meet outside of its district boundaries for the limited purpose of meeting with another local agency so long as the meeting meets both of the following criteria:

(i) The meeting occurs within the boundaries of one of the participating local agencies.

(ii) The meeting is open and accessible to the public, including the residents of the district whose board is meeting outside the boundaries of the district.

(B) The governing board may meet outside of its district boundaries if the board finds it necessary to meet in closed session with its attorney to discuss pending litigation and if the attorney's office is located outside of the boundaries of the district.

(3) Except as otherwise provided by law, the governing board shall act by majority vote of all of the membership constituting the governing board.

(4) Every official action taken by the governing board of every community college district shall be affirmed by a formal vote of the members of the board, and the governing board of every community college district shall keep minutes of its meetings, and shall maintain

a journal of its proceedings in which shall be recorded every official act taken.

(5) Notwithstanding any other provision of law, if a community college district governing board consists of seven members and not more than two vacancies occur on the governing board, the vacant position or positions shall not be counted for purposes of determining how many members of the board constitute a majority. Whenever any of the provisions of this code require unanimous action of all or a specific number of the members elected or appointed to the governing board, the vacant position or positions shall be excluded from determination of the total membership constituting the governing board.

SEC. 3. Section 72253.3 of the Education Code is repealed.

SEC. 4. Section 72253.3 is added to the Education Code, to read: 72253.3. If a student body association has been established at a community college as authorized by Section 76060, any student representation fee shall be established and managed pursuant to Section 76060.5.

SEC. 5. Section 72411 of the Education Code is amended to read: 72411. (a) Every educational administrator shall be employed, and all other administrators may be employed, by the governing board of the district by an appointment or contract of up to four years in duration. The governing board of a community college district, with the consent of the administrator concerned, may at any time terminate, effective on the next succeeding first day of July, the term of employment of, and any contract of employment with, the administrator of the district, and reemploy the administrator, on any terms and conditions as may be mutually agreed upon by the board and the administrator, for a new term to commence on the effective date of the termination of the existing term of employment.

(b) If the governing board of a district determines that an administrator is not to be reemployed by appointment or contract in his or her administrative position upon the expiration of his or her appointment or contract, the administrator shall be given written notice of this determination by the governing board. For an administrator employed by appointment or contract, the term of which is longer than one year, the notice shall be given at least six months in advance of the expiration of the appointment or contract unless the contract or appointment provides otherwise. For every other administrator, notice that the administrator may not be reemployed by appointment or contract in his or her administrative position for the following college year shall be given on or before March 15.

(c) If the governing board fails to reemploy an administrator by appointment or contract in his or her administrative position and the written notice provided for in this section has not been given, the administrator shall, unless the existing appointment or contract provides otherwise, be deemed to be reemployed for a term of the same duration as the one completed with all other terms and

conditions remaining unchanged.

(d) Subdivisions (b) and (c) do not apply to any administrator who holds a position that is funded for less than a college year, is assigned to an acting position whose continuing right to hold the position depends on being selected for the position on a regular basis, is terminated pursuant to Section 87743, 88017, or 88127, or is dismissed for cause.

SEC. 5.5. Section 78100 of the Education Code is amended to read:

78100. The governing board of each community college district shall provide library services for the students and faculty of the district by establishing and maintaining community college libraries or by contractual arrangements with another public agency.

SEC. 6. Section 78103 of the Education Code is amended to read:

78103. The libraries shall be open for the use of the faculty and the students of the community college district during the day. In addition, the libraries may be open at other hours, including evenings and Saturdays, as the governing board may determine. Libraries open to serve students during evening and Saturday hours shall be under the supervision of certificated personnel or those employed pursuant to minimum standards adopted by the board of governors.

SEC. 7. Section 78300 of the Education Code is amended to read:

78300. (a) The governing board of any community college district may, without the approval of the Board of Governors of the California Community Colleges, establish and maintain community service classes in civic, vocational, literacy, health, homemaking, technical and general education, including, but not limited to, classes in the fields of music, drama, art, handicraft, science, literature, nature study, nature contacting, aquatic sports and athletics. These classes shall be designed to provide instruction and to contribute to the physical, mental, moral, economic, or civic development of the individuals or groups enrolled therein.

(b) Community service classes shall be open for the admission of adults and of those minors as in the judgment of the governing board may profit therefrom.

(c) Governing boards shall not expend General Fund moneys to establish and maintain community service classes. Governing boards may charge students enrolled in community service classes a fee not to exceed the cost of maintaining community service classes, or may provide instruction in community service classes for remuneration by contract, or with contributions or donations of individuals or groups. The board of governors shall adopt guidelines defining the acceptable reimbursable costs for which a fee may be charged and shall collect data and maintain uniform accounting procedures to ensure that General Fund moneys are not used for community services classes.

SEC. 8. Section 81663 is added to the Education Code, to read:

81663. (a) The governing board of any community college

district may borrow funds from federal or state regulated financial institutions for design and construction costs associated with retrofitting buildings to become more energy efficient. The amount borrowed shall not exceed the amount that can be repaid from energy cost avoidance savings accumulated from the improvement of facilities.

(b) Any savings association may make loans or advances of credit pursuant to subdivision (a) in an amount not in excess of 5 percent of its total assets. This investment may be in addition to any other investment savings associations are permitted to undertake.

SEC. 9. Section 84001 of the Education Code is amended to read: 84001. It is the intent of the Legislature that the administration of the laws governing the financial support for the California Community Colleges be conducted within the purview of the following principles and policies:

The system of public support for the California Community Colleges should be designed to strengthen and encourage local responsibility for control of community college education. Community college districts should be so organized that they can facilitate the provision of full educational opportunities for all who attend. Local control is best accomplished by the development of strong, vigorous, and properly organized local administrative units. It is the state's responsibility to create or facilitate the creation of local districts of sufficient size to properly discharge local responsibilities and to spend the tax dollar effectively.

The system of public support for the California Community Colleges should assure that state, local, and other funds are adequate for the support of a realistic funding level. It is unrealistic and unfair to the less wealthy districts to provide for only a part of the financing necessary for an adequate educational program.

The system of public support should permit and encourage community college districts to provide and support improved district organization and educational programs. The system of public support should prohibit the introduction of undesirable organization and educational practices, and should discourage any such practices now in effect. Improvement of programs in particular districts is in the interests of the state as a whole as well as of the people in individual districts, since the excellence of the programs in some districts will tend to bring about program improvement in other districts.

The system of public support should make provision for the apportionment of state funds to local districts on a strictly objective basis that can be computed as well by the local districts as by the state. The principle of local responsibility requires that the granting of discretionary powers to state officials over the distribution of state aid and the granting to these officials of the power to impose undue restriction on the use of funds and the conduct of educational programs at the local level be avoided.

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Colleges should effect a partnership between the state and community college districts, with both participating equitably in accordance with their relative ability. The respective abilities should be combined to provide a financial plan between the state and the districts for public support.

The system of public support for the California Community Colleges should provide for essential educational opportunities for all who attend. Provision should be made in the financial plan for adequate financing of all educational services.

The broader based taxing power of the state should be utilized to raise the level of financial support in the properly organized but financially weak districts of the state, thus contributing greatly to the equalization of educational opportunity for the students residing therein. It should also be used to provide a minimum amount of guaranteed support to all districts, for this state assistance serves to develop among all districts a sense of responsibility to the entire system of public education in the state.

SEC. 10. Section 84501 is added to the Education Code, to read:  
84501. Notwithstanding any other provision of law, commencing with the 1991-92 fiscal year, the term "community college average daily attendance" (ADA) means full-time equivalent student (FTES) as that term is defined by regulations adopted by the Board of Governors of the California Community Colleges.

SEC. 10.5. Section 84713 of the Education Code is amended to read:

84713. This article shall remain operative until July 1, 1995, only for the purposes of determining the minimum amount of revenue to which community college districts are entitled pursuant to subdivision (h) of Section 84750 and for auditing calculations for prior years. This article shall become inoperative on July 1, 1995, and, as of January 1, 1996, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1996, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 11. The heading of Article 2.5 (commencing with Section 84750) of Chapter 5 of Part 50 of the Education Code is amended and renumbered to read:

#### Article 2. Program-Based Funding

SEC. 11.5. Section 84810.5 is added to the Education Code, to read:

84810.5. (a) The Chancellor of the California Community Colleges shall compute each district's base inmate education allowance based on the prior year's level of funding, adjusted for such factors as the change in the adult population or other information that the chancellor may receive from the district. No allowances to increase their average daily attendance in those classes over the prior year's base shall be provided unless all districts are fully funded, in accordance with regulations of the Board of Governors of the

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California Community Colleges, or the Legislature appropriates funds specifically for Section 84810 and this section.

(b) Notwithstanding any other provision of law, no funds for inmate education programs provided pursuant to Section 84810 shall be considered as part of the base revenues for community college districts in computing apportionments as prescribed in regulations of the Board of Governors of the California Community Colleges.

SEC. 12. Section 87003 of the Education Code is amended to read:

87003. (a) "Faculty" or "faculty member" means those employees of a community college district who are employed in academic positions that are not designated as supervisory or management for the purposes of Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code and for which minimum qualifications for service have been established by the board of governors adopted pursuant to subparagraph (B) of paragraph (1) of subdivision (b) of Section 70901 or subdivision (a) of Section 87356. Faculty include, but are not limited to, instructors, librarians, counselors, community college health services professionals, handicapped student programs and services professionals, extended opportunity programs and services professionals, and individuals employed to perform a service that, before July 1, 1990, required nonsupervisory, nonmanagement community college certification qualifications.

(b) Any employees who are employed in faculty positions but who perform supervisory, management, or other duties related to college governance shall not, because of the performance of those incidental duties, be deemed supervisors or managers, as those terms are defined in Section 3540.1 of the Government Code. The incidental "supervisory" or "management" duties referred to in this subdivision include, but are not limited to, serving as a faculty member on hiring, selection, promotion, evaluation, budget development, or affirmative action committees, or making effective recommendations in connection with those activities.

SEC. 12.3. Section 87482.7 is added to the Education Code, to read:

87482.7. (a) The board of governors shall, pursuant to paragraph (6) of subdivision (b) of Section 70901, adopt regulations that establish minimum standards regarding the percentage of hours of credit instruction that shall be taught by full-time instructors.

(b) Upon notice by the board of governors, the Department of Finance shall transfer any money deducted from district apportionments pursuant to the regulations adopted under this section. This money shall be transferred to the Faculty and Staff Diversity Fund pursuant to Section 87107.

SEC. 12.5. Section 87487 of the Education Code is repealed.

SEC. 12.7. Section 87487 is added to the Education Code, to read:

87487. (a) The governing board of any community college district may establish a faculty internship program pursuant to regulations adopted by the Board of Governors of the California



Community Colleges and may employ, as faculty interns within the program, graduate students enrolled in the California State University, the University of California, or any other accredited institution of higher education subject to Chapter 3 (commencing with Section 94300) of Part 59.

(b) A student employed as a faculty intern shall be employed as a temporary faculty member under Section 87482.5 and shall meet the minimum qualifications set forth in paragraphs (1) to (3), inclusive. Unless and until the Board of Governors of the California Community Colleges adopts regulations pursuant to paragraph (1) of subdivision (a) of Section 87357, the board of governors shall adopt regulations that include all of the following:

(1) Faculty interns shall be enrolled in a master's or doctoral program at the University of California, the California State University, or any other accredited institution of higher education subject to Chapter 3 (commencing with Section 94300) of Part 59 and shall have completed at least one-half of the coursework for the master's or doctorate degree, or the equivalent, in that graduate program.

(2) Faculty interns may only be assigned to teach or to serve in a discipline in which they would be legally qualified to teach or render service upon completion of their graduate studies. A faculty intern shall be limited to two years of participation in the program.

(3) Each faculty intern shall serve under the direct supervision of a mentor who is legally qualified to teach the course or render the service that the faculty intern is providing. The district governing boards shall ensure that faculty mentors provide substantial direct in-class supervision and evaluation of interns' teaching capabilities. The mentor shall have no other regularly assigned duties during the time that the faculty intern is teaching or rendering service. The mentor is responsible for providing direct monitoring and systematic contact with the faculty intern.

SEC. 13. Section 15814.21 is added to the Government Code, to read:

15814.21. (a) In addition to revenues calculated for apportionment to community college districts pursuant to Section 84700 of the Education Code, if a community college capital outlay project has been approved by the Board of Governors of the California Community Colleges, the Chancellor of the California Community Colleges shall apportion state aid equal to the amount necessary for each district to meet its energy service contract obligation determined pursuant to this chapter. It is the intent of the Legislature that these funds be appropriated annually as a part of the state's general apportionment funds for the community colleges.

(b) If a community college district enters into an energy service contract with the Public Works Board pursuant to this chapter, the district shall, as a part of that energy service contract, authorize the chancellor and Controller to withhold from its annual apportionment the amount of funds necessary to satisfy its annual

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energy service contract obligation to the Public Works Board. The agreement shall include authorization to withhold the additional apportionment amount and the amount determined to be the district's proportional share of the energy service contract obligation as determined pursuant to subdivision (a). The authorization shall have precedence over other expenditure obligations of the district. The chancellor shall certify the amounts, by district, to the Controller. The Controller shall withhold the amount so reported for each district and shall, acting on behalf of each district, transfer the appropriate amount from Section B of the State School Fund to the Public Works Board for the purpose of payment of the debt service obligation for the bonds sold to finance the projects.

SEC. 14. Section 6 of Chapter 565 of the Statutes of 1983 is repealed.

SEC. 15. Section 7 of Chapter 565 of the Statutes of 1983 is repealed.

SEC. 16. (a) Notwithstanding any provision of the Education Code, the Government Code, or the Public Contract Code, the Kern Community College District may, by direct negotiations or through a brokered agreement, dispose of the Weill Center site in Bakersfield, California, in accordance with the following conditions:

(1) The amount of the contract for sale shall equal or exceed a current appraisal of the value of the property.

(2) Escrow shall close no later than January 1, 1996.

(b) The use of the net proceeds of the sale shall be restricted to capital projects or deferred maintenance projects.

SEC. 17. Due to the unique circumstances concerning the Kern Community College District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 18. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 19. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for timely funding of community colleges during the first year of implementation of program-based funding, it is necessary that this act take effect immediately.

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## CHAPTER 1039

An act to amend Sections 18802.9, 18805, 18806.1, 18815, and 26131 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

*The people of the State of California do enact as follows:*

SECTION 1. Section 18802.9 of the Revenue and Taxation Code is amended to read:

18802.9. (a) The head of every state agency (as defined by Section 11000 of the Government Code) entering into any contract shall make a return (at the time and in the form the Franchise Tax Board may by regulation prescribe) setting forth all of the following:

(1) The name, address, type of business entity, and taxpayer identification number of each person with which that agency entered into a contract during the calendar year.

(2) Any other information the Franchise Tax Board may require.

(b) As required by the Franchise Tax Board, this section also shall apply to any of the following:

(1) Licenses granted by state agencies.

(2) Subcontracts under contracts to which subdivision (a) applies.

(c) This section shall not apply to contracts or licenses in any class which are below a minimum amount or value which may be determined by the Franchise Tax Board for that class.

SEC. 2. Section 18805 of the Revenue and Taxation Code is amended to read:

18805. (a) The Franchise Tax Board may, by regulation require any person, in whatever capacity acting (including lessees or mortgagors of real or personal property, fiduciaries, employers, and any officer or department of the state or any political subdivision or agency of the state, or any city organized under a freeholder's charter, or any political body not a subdivision or agency of the state) having the control, receipt, custody, disposal, or payment of items of income specified in subdivision (b), to withhold an amount, determined by the Franchise Tax Board to reasonably represent the amount of tax due when such items of income are included with other income of the taxpayer, and to transmit the amount withheld to the Franchise Tax Board at such time as it may designate.

(b) The items of income referred to in subdivision (a) are interest, dividends, rent, prizes and winnings, premiums, annuities, emoluments, compensation for services, partnership income or gains, and other fixed or determinable annual or periodical gains, profits and income.

(c) The Franchise Tax Board may authorize the tax under subdivision (a) to be deducted and withheld from the interest upon any securities the owners of which are not known to the withholding

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## CHAPTER 1372

An act to amend Sections 40, 41, 52, 92, 262.3, 1043, 1240, 1245, 1246, 1250, 1252, 1253, 1260, 1262, 1271, 1294, 1297, 1298, 1330, 1340, 1400, 1500, 1510, 1602, 1606, 1700, 1721, 1831, 1946, 4002, 4003, 7000, 8006, 8008, 8070, 8080, 8081, 8084, 8092, 8207, 8225, 8285.5, 8320, 8322, 8328, 8329, 8362, 8394, 8510, 8534, 8760, 8761, 8762, 8763, 8764, 8765, 8771, 10407, 10504, 10900, 10901, 10907, 10910, 10912, 10913, 10914, 11001, 12020, 12220, 12302, 12400, 12401, 12402, 12405, 14000, 15100, 15106, 15140, 15141, 15142, 15147, 15252, 15254, 15502, 15520, 15527, 15528, 15541, 15551, 15570, 15574, 15701, 15718, 15735, 15745, 15752, 15794, 16042, 16045, 16080, 16100, 16105, 16165, 16195, 16197, 16200, 16214, 17302, 17313, 17900, 17901, 17902, 17903, 18100, 18101, 18102, 18103, 18110, 18111, 18120, 18121, 18122, 18131, 18132, 18134, 18137, 18138, 18139, 18170, 18171, 18172, 19901, 22200, 22504, 24806, 24923, 24924, 32033, 32300, 32371, 32372, 33031, 33113, 33117, 33117.5, 35501, 39214.5, 39308, 39383, 39830, 41303, 41332, 44849, 44850, 44854, 51875.7, 52152, 52154, 52302.3, 52342, 52512, 62001, 66010, 66011, 66017, 66021, 66700, 68011, 68012, 68016, 68022, 68023, 68040, 68041, 68051, 68070, 68071, 68072, 68073, 68100, 69510, 69511.5, 69537, 69640, 69641, 69641.5, 69642, 69643, 69648, 69648.5, 69649, 69653, 69655, 71004, 71020, 71040, 71046, 71050, 71090, 71092, 71093, 72000, 72023.5, 72027, 72031, 72102, 72122, 72241, 72247, 72423, 72500, 72506, 72530, 74000, 74001, 74104, 74105, 74106, 74107, 74109, 74110, 74132, 74134, 74135, 74136, 74139, 74140, 74153, 74154, 74155, 74158, 74159, 74202, 74270, 74290, 76000, 76001, 76020, 76403, 76407, 78031, 78032, 78211.5, 78213, 78216, 78217, 78230, 78249, 78300, 78401, 78900, 78907, 79020, 79021, 79154, 79155, 81033, 81130, 81130.5, 81133, 81160, 81177, 81179, 81805, 81807, 81820, 81822, 81836, 81837, 81901, 81908, 81947, 82321, 82537, 82542, 84030, 84040.6, 84207, 84320, 84328, 84362, 84381, 84382, 84383, 84384, 84660, 84890, and 85230 of, to amend and repeal Section 32033 of, to add Sections 8323, 71025, 71028, 72013, 72014, 72015, 72243, 72249, 72253.3, 72253.5, 72253.7, 78034, 84001, 84700.3, 85266.5, 87448, and 88020.5 to, to add Chapter 1.5 (commencing with Section 78100) to Part 48 of, to repeal Sections 91, 265, 1255, 7001, 7002, 8085, 8329.5, 8511, 8513, 8514, 8515, 8516, 12210, 12404, 14020, 14021, 15000, 32200, 44971, 66101, 66102, 66200, 66700.5, 66902.5, 67007, 68010, 68013, 68019, 68020, 68021, 68090, 69644, 69645, 69646, 69647, 69648.7, 69657, 71005, 71027.5, 71033, 71034, 71038, 71039, 71041, 71042, 71047, 71048, 71095, 71096, 71097, 72001, 72002, 72020, 72021, 72023.7, 72024, 72025, 72028, 72029, 72030, 72032, 72033, 72035, 72120, 72125, 72126, 72132, 72200, 72202, 72203, 72204, 72208, 72231, 72237, 72241.5, 72244, 72247.1, 72248, 72255, 72256, 72408, 72409, 72412, 72413, 72419, 72419.5, 72420, 72421, 72422, 72531, 72532, 74010, 74011, 74271, 74282, 74283, 74291, 74292, 74293, 74294, 74295, 76001.5, 76002, 76006, 76021, 76142, 76160, 76400, 76405, 76408, 76409, 76470, 78001, 78002, 78003, 78004, 78005, 78006, 78007, 78010, 78011, 78012, 78220, 78221, 78222, 78240, 78241, 78242, 78243, 78244, 78245, 78246, 78247, 78248, 78250, 78270, 78272, 78301, 78302, 78303, 78304, 78305, 78402, 78403, 78405, 78407, 78409, 78412, 78440, 78440.5, 78441,

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78442, 78902, 78903, 78904, 78905, 78906, 79022, 79023, 79024, 79025, 79026, 79027, 79027.5, 79028, 79029, 79031, 79032, 79121, 79122, 79123, 79124, 79153, 81000, 81005, 81006, 81008, 81009, 81033.5, 81035, 81036, 81038, 81039, 81131, 81131.5, 81131.6, 81132, 81134, 81135, 81136, 81137, 81140, 81164, 81165, 81176, 81801, 81802, 81803, 81804, 81806, 81809, 81810, 81821.5, 81830, 81831, 81833, 81838, 81900, 81903, 81906, 81910, 81911, 81912, 81913, 81914, 81915, 81916, 81917, 81918, 81919, 81920, 81921, 81922, 81923, 81924, 81931, 81948, 81953, 81954, 81957, 81958, 81959, 81967, 82305, 82305.5, 82321.1, 82360, 82362, 82363, 82364, 82365, 82530, 82531, 82532, 82533, 82535, 82536, 82538, 82539, 82540, 82541, 82543, 84004, 84005, 84031, 84035, 84040.3, 84040.7, 84041, 84043, 84044, 84045, 84046, 84200, 84201, 84206, 84300, 84322, 84324, 84325, 84327, 84329, 84330, 84331, 84332, 84360, 84363, 84380, 84384.1, 84385, 84386, 84387, 84661, 84662, 84735, 84850.5, 84891, 84892, 84893, 84894, 84895, 85210, and 85430 of, to repeal Article 2 (commencing with Section 8020) of Chapter 1 of Part 6 of, Article 2 (commencing with Section 10550) of Chapter 6 of Part 7 of, Article 3 (commencing with Section 71060) of Chapter 1 of Part 44 of, Article 3 (commencing with Section 72280) of, and Article 5 (commencing with Section 72320) of Chapter 3 of, Article 1 (commencing with Section 72600) of, Article 4 (commencing with Section 72640) of, and Article 5 (commencing with Section 72650) of, Chapter 6 of Part 45 of, Article 8 (commencing with Section 76130) of Chapter 1 of, Chapter 2 (commencing with Section 76300) of, Article 2 (commencing with Section 76420) of, and Article 4 (commencing with Section 76450) of Chapter 3 of Part 47 of, Article 2.5 (commencing with Section 78040) of, and Article 3 (commencing with Section 78050) of Chapter 1 of, Article 1 (commencing with Section 78200.5) of, and Article 6 (commencing with Section 78280) of Chapter 2 of, Article 2 (commencing with Section 78430) of, and Article 5 (commencing with Section 78460) of Chapter 3 of, Article 2 (commencing with Section 78920) of, and Article 3 (commencing with Section 78930) of Chapter 7 of, Article 1 (commencing with Section 79000) of, and Article 2 (commencing with Section 79010) of Chapter 8 of Part 48 of, Article 1 (commencing with Section 82500) of Chapter 8 of Part 49 of, Article 3 (commencing with Section 84050) of Chapter 1 of, Article 6 (commencing with Section 84370) of, and Article 8 (commencing with Section 84390) of Chapter 3 of, Article 5 (commencing with Section 84801) of Chapter 5 of, Article 1 (commencing with Section 85200) of Chapter 8 of, Article 1 (commencing with Section 85400) of Chapter 9 of, and Article 3 (commencing with Section 85420) of Chapter 9 of Part 50, to repeal Chapter 5.5 (commencing with Section 84900) of, Chapter 6 (commencing with Section 85000) of, and, Chapter 7 (commencing with Section 85100) of Part 50, to repeal and add Section 84040 of, and to repeal and add Chapter 4 (commencing with Section 84500) of Part 50 of, the Education Code, to amend Section 16417 of the Government Code, and to add Section 20660 to the Public Contract Code, relating to community colleges.

[Approved by Governor September 26, 1990. Filed with  
Secretary of State September 28, 1990.]

*The people of the State of California do enact as follows:*

SECTION 1. (a) The Legislature hereby finds and declares that numerous provisions of the Education Code, including those provisions listed in subdivision (b), authorizing community colleges to conduct various activities are unnecessary in light of Section 14 of Article IX of the California Constitution. Section 14 of Article IX of the California Constitution authorizes community college districts to initiate and carry out any activity which is not in conflict with, or inconsistent with, or preempted by any law, and which is not in conflict with the purposes for which community college districts are established.

(b) The Legislature finds and declares that the purpose of this act is to repeal or make inapplicable to the community colleges numerous Education Code provisions which are no longer necessary in light of the authority of Section 14 of Article IX of the Constitution. In repealing or making inapplicable these provisions, the Legislature finds and declares that under the general authority of Section 14 of Article IX, community college districts shall continue to have the authority provided in the provisions that are repealed. The Legislature specifically declares this finding with regard to, but not limited to, the following Education Code sections which are repealed or amended by this act:

Sections 8080, 8081, 8084, 8085, 8091, 8322, 8329, 8760, 8761, 8762, 8763, 8764, 10504, 12400, 12401, 12402, 12404, 12405, 18110, 18111, 18120, 18131, 18134, 32371, 32372, 72241.5, 72244, 72320, 72321, 72412, 72419, 72419.5, 72420, 72421, 72422, 76400, 76470, 78001, 78010, 78011, 78050, 78051, 78208, 78230, 78240, 78270, 78280, 78281, 78286, 78302, 78303, 78409, 78440, 79022, 79028, 79032, 79121, 81009, 81839, 81931, 81953, 81954, 81957, 82305, 82305.5, 82500, 82501, 82535, 82541, 84035, 84050, 85201, 85260.5, 85266, 85267, 85410, 85420, and 85430, the second sentence of Section 32033, the second and third sentences of Section 76403, the first sentence of Section 78442, and the second and third sentences of Section 84041.

SEC. 3. Section 40 of the Education Code is amended to read:

40. (a) It is the policy of the state that elementary and secondary school classes and courses, including nonacademic and elective classes and courses be conducted, without regard to the sex of the student enrolled in such classes and courses.

(b) No school district shall prohibit any student from enrolling in any class or course on the basis of the sex of the student, except a class subject to Section 51550.

(c) No school district shall require students of one sex to enroll in a particular class or course, unless the same class or course is also required of students of the opposite sex.

(d) No school counselor, teacher, instructor, administrator, or

not repaired, reconstructed, or replaced in accordance with this article, there shall be posted in a conspicuous place on the building a public notice stating that the building does not meet the structural standards imposed by law for earthquake safety.

SEC. 557. Section 81164 of the Education Code is repealed.

SEC. 558. Section 81165 of the Education Code is repealed.

SEC. 559. Section 81176 of the Education Code is repealed.

SEC. 560. Section 81177 of the Education Code is amended to read:

81177. (a) No member of the governing board of a community college district shall be held personally liable for injury to persons or damage to property resulting from the fact that a school building was not constructed under the requirements of Article 7 (commencing with Section 81130), if the governing board complies with this article. The limit on liability shall commence when the governing board initiates action to comply with Section 81162.

A licensed structural engineer or licensed architect employed by a governing board to examine any school building under this article shall not be held personally liable for injury to persons or damage to property as a result of the structural inadequacy and failure of a building, provided he or she has exercised normal professional diligence in carrying out his or her functions under Article 7 (commencing with Section 81130) and this article.

(b) Except as provided in subdivision (a), nothing in this article shall be construed as relieving any member of the governing board of a community college district of any liability for injury to persons or damage to property imposed by law.

SEC. 561. Section 81179 of the Education Code is amended to read:

81179. Notwithstanding any other provision of this article or Chapter 4 (commencing with Section 81800), whenever a community college district does not have funds available to repair, reconstruct, or replace the school buildings referred to in this article or Section 16320, the community college district shall apply for the funds as may be necessary to accomplish the repair, reconstruction, or replacement pursuant to Chapter 4. The community college district shall also accept the funds as are disbursed to the district pursuant to Chapter 4, whether or not the funds constitute the maximum amount applied for, and shall repay the funds in accordance with Chapter 4.

SEC. 562. Section 81801 of the Education Code is repealed.

SEC. 563. Section 81802 of the Education Code is repealed.

SEC. 564. Section 81803 of the Education Code is repealed.

SEC. 565. Section 81804 of the Education Code is repealed.

SEC. 566. Section 81805 of the Education Code is amended to read:

81805. This chapter shall be administered by the Board of Governors of the California Community Colleges, and for purposes of the administration the board of governors shall adopt all necessary

rules and regulations.

For purposes of this chapter, the board of governors shall assemble statewide data on facility and construction costs, and on the basis thereof formulate cost standards and construction standards. The formulation of standards shall include also the formulation of average ratios of equipment cost to total project costs, unit equipment costs per faculty or other staff measure, and unit costs related to floor areas.

SEC. 567. Section 81806 of the Education Code is repealed.

SEC. 568. Section 81807 of the Education Code is amended to read:

81807. Funds appropriated for a project of a community college district for purposes of this chapter shall be allocated and disbursed upon order of the Board of Governors of the California Community Colleges, and by warrants of the Controller issued pursuant thereto.

SEC. 569. Section 81809 of the Education Code is repealed.

SEC. 570. Section 81810 of the Education Code is repealed.

SEC. 571. Section 81820 of the Education Code is amended to read:

81820. The governing board of each community college district shall prepare and submit to the Board of Governors of the California Community Colleges a plan for capital construction for community college purposes of the district. The plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The five-year plan shall be subject to continuing review by the governing board and annually shall be extended one year, and there shall be submitted to the board of governors, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the five-year plan.

SEC. 572. Section 81821.5 of the Education Code is repealed.

SEC. 573. Section 81822 of the Education Code is amended to read:

81822. The board of governors shall review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of the review and evaluation, make the revision and changes therein as are appropriate, and notify the district. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each community college district shall be made. The board of governors shall, promptly after review, notify the governing board of each community college district of the content of the district's revised plan for capital construction.

SEC. 574. Section 81830 of the Education Code is repealed.

SEC. 575. Section 81831 of the Education Code is repealed.

SEC. 576. Section 81833 of the Education Code is repealed.

SEC. 577. Section 81836 of the Education Code is amended to

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read:

81836. The Board of Governors of the California Community Colleges shall:

(a) Advise the governing board of each community college district on the acquisition of new college sites, and after a review of available plots, give the governing board of the district in writing a list of the approved locations in the order of their merit, considering especially the matters of educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction, and charge the governing board of the community college district a reasonable fee as determined by the board of governors for each 10 acres or fraction thereof of schoolsite reviewed.

(b) Establish standards for community college facilities.

(c) Review plans and specifications for all construction in those community college districts that have submitted plans and specifications therefor to the board of governors for approval.

(d) For services rendered for the review of plans and specifications of a proposed project, the board of governors shall charge a reasonable fee as established by it.

(e) Approve plans and specifications submitted by governing boards of community college districts, and return without approval and with recommendation for changes, any plans not conforming to established standards.

SEC. 578. Section 81837 of the Education Code is amended to read:

81837. The governing board of each community college district, before letting any contract or contracts totaling one hundred fifty thousand dollars (\$150,000), or more, in the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the Board of Governors of the California Community Colleges, and obtain the written approval of the plans by the board of governors. No contract for construction made by any governing board of a community college district contrary to this section is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section.

SEC. 579. Section 81838 of the Education Code is repealed.

SEC. 581. Section 81900 of the Education Code is repealed.

SEC. 582. Section 81901 of the Education Code is amended to read:

81901. (a) The governing board of any community college district may issue revenue bonds pursuant to this chapter.

(b) The board, for the purpose of this chapter, has power and is hereby authorized, in addition to and amplification of all other powers conferred upon the board by the Constitution of the State of California or by any statute of the State of California:

(1) To acquire subject to the state law, by grant, purchase, gift, devise, or lease, or by the exercise of the right of eminent domain,

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pursuant to this article shall immediately apportion the money by placing 50 percent to the credit of the road fund. The remaining 50 percent shall be divided between school and community college districts where the lands are located, with the division based on attendance. The portion attributable to school districts shall be placed to the credit of the county school service fund of the county. The portion attributable to community college districts shall be paid directly to the district.

SEC. 707. Section 20660 is added to the Public Contract Code, to read:

20660. Perishable food stuffs and seasonal commodities needed in the operation of cafeterias and food services may be purchased by a community college district in accordance with rules and regulations for the purchase adopted by the governing board of that district, notwithstanding any provisions of this code in conflict with the rules and regulations.

SEC. 708. (a) Prior to January 1, 1991, the Board of Governors of the California Community Colleges shall initially adopt and put into effect regulations which incorporate the text of the following Education Code provisions that have been repealed or amended by this act. The text of these sections, as they relate to community colleges, may be changed when initially adopted as regulations in accordance with the character of the California Community Colleges as a postsecondary education system, as specified in Section 70900 of the Education Code, and the responsibilities assigned to the Board of Governors of the California Community Colleges, as specified in the Education Code, including Sections 66700 and 70901. The changes shall not alter the requirements, rights, responsibilities, conditions or prescriptions contained in these statutes. Permitted initial changes include grammatical or technical changes, renumbering or reordering sections, removal of outdated terms or references to inapplicable or repealed statutory authorities, and the correction of gender references of the following sections of the Education Code:

Sections 8070, 8092, 17900, 17901, 17902, 17903, 18120, 18122, 71005, 71034, 72208, 72237, 72601, 72602, 72640, 72641, 72650, 74282, 74283, 76160, 76408, 78002, 78004, 78005, 78006, 78007, 78012, 78200.5, 78202, 78203, 78206, 78222, 78243, 78244, 78245, 78246, 78247, 78248, 78272, 78430, 78431, 78441, 78460, 78920, 79000, 79001, 81000, 81005, 81006, 81008, 81802, 81803, 81806, 81809, 81810, 81821.5, 81830, 81831, 81833, 81838, 82364, 84040.3, 84040.7, 84043, 84044, 84045, 84046, 84051, 84052, 84057, 84324, 84325, 84330, 84331, 84332, 84360, 84370, 84371, 84372, 84387, 84500, 84500.1, 84500.5, 84500.6, 84502, 84520, 84521, 84521.5, 84522, 84524.5, 84526, 84527, 84530, 84570, 84571, 84572, 84801, 84810, 84891, 84892, 84893, 84894, 84895, 85000, 85003, 85020, 85021, 85022, 85023, 85024, 85200, and 85210, and the second paragraph of Section 68090 of, the second sentence of Section 78205 of, the first sentence of Section 84041 of, and subdivision (b) of Section 84890. After initial adoption of the Board of Governors regulations specified by this

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section, all subsequent changes to those regulations shall be made in accordance with Section 70901.5 of the Education Code.

(b) It is the intent of the Legislature that there be no lapse in the requirements, rights, responsibilities, conditions, or prescriptions contained in the statutes. Should the board of governors fail to adopt and put into effect regulations in accordance with subdivision (a), the listed statutes shall remain operative until the effective date of the corresponding board of governors regulations.

(c) After the text of Sections 78460, 84500, 84500.1, 84500.5, 84500.6, 84502, 84520, 84521, 84521.5, 84524.5, 84526, 84527, 84530, 84570, 84571, 84801, and 84895 of the Education Code have been initially adopted as regulations, any changes to these regulations, other than purely technical changes approved by the Department of Finance, shall not become effective until the implementation of Section 84750 of the Education Code in accordance with the provisions of subdivision (e) of Section 70 of Chapter 973 of the Statutes of 1988.

(d) The Legislature hereby finds and declares that all statutes which it has directed the Board of Governors of the California Community Colleges to adopt as regulations meet the standards of necessity, authority, clarity, consistency, reference, and nonduplication as provided in Section 70901.5 of the Education Code.

SEC. 709. Sections 13, 14, 18, 21, 27, 31, 50, 119, 120, 260, and 433 of this act shall become effective January 1, 1992.

SEC. 710. If the provisions of this bill amending Section 22200 of the Education Code and the provisions of AB 2642 amending Section 22200 of the Education Code are both chaptered on or before January 1, 1991, the provisions of AB 2642 amending Section 22200 shall prevail over the provisions of this bill amending that section.

SEC. 711. If the provisions of this bill amending Section 69511.5 of the Education Code and the provisions of AB 3397 amending Section 69511.5 of the Education Code are both chaptered on or before January 1, 1991, the provisions of AB 3397 amending Section 69511.5 of the Education Code shall prevail over the provisions of this bill amending that section.

SEC. 712. If the provisions of this bill amending Section 78213 of the Education Code and the provisions of AB 3707 amending Section 78213 of the Education Code are both chaptered on or before January 1, 1991, the provisions of AB 3707 amending Section 78213 of the Education Code shall prevail over the provisions of this bill amending that section.

SEC. 713. The Legislature recognizes that the review of the necessity of amending or repealing appropriate sections of the Education Code, as embodied in this act, reflects the best efforts of the board of governors to implement Section 57 of Chapter 973 of the Statutes of 1988 within the time constraints afforded. The Legislature also recognizes that additional review will permit greater input of interested parties, securing of appropriate expertise in those technical areas which were not addressed in this act, and further refinement of the governance structure identified in Chapter 973.

Accordingly, the Board of Governors of the California Community Colleges shall continue its review of the Education Code related to the administration and operation of the California Community Colleges and shall recommend to the Legislature the amendment or repeal of those provisions affected by Chapter 973 of the Statutes of 1988 which have not been accomplished in this act.

SEC. 714. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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CHAPTER 891

An act to amend Sections 81809, 81821, 81822, 81831, 81833, and 81837 of, and to repeal Section 81840 of, the Education Code, relating to community colleges.

[Approved by Governor September 27, 1981. Filed with Secretary of State September 28, 1981.]

*The people of the State of California do enact as follows:*

SECTION 1. Section 81809 of the Education Code is amended to read:

81809. Upon completion of a project the governing board of the community college district shall submit to the chancellor, within 30 days after the closure of the current fiscal year, a final report on all expenditures in connection with the project and the sources of the funds expended. The district shall be subject to a state post-audit review of fund claims for all such projects.

SEC. 2. Section 81821 of the Education Code is amended to read:

81821. The five-year plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction

needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(d) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to Section 81838.

SEC. 3. Section 81822 of the Education Code is amended to read:

81822. The chancellor shall review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and notify the district. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each community college district shall be made on or before each succeeding first day of April. The chancellor shall, promptly after review, notify the governing board of each community college district of the content of the district's revised plan for capital construction.

SEC. 4. Section 81831 of the Education Code is amended to read:

81831. The chancellor shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Section 81821. Such review shall include the following elements:

(a) An architectural analysis to determine costs of the various phases of the project, with particular attention to be directed to the type of construction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area.

(b) Determining the amount of federal funds available for the project, and taking appropriate measures to ensure that the project will qualify for the maximum amounts of federal funds practicable under the circumstances.

"Federal funds" means any construction and equipment moneys provided by the federal government to a community college district for the project or any part of the project, which are or will be available to the district for the project.

(c) Determining the total cost of the project, reducing the total cost by the amount of federal funds available therefor, and determining the remainder thereof to be borne by the state, or, if the district has matching funds, by the state and by the district.

The determination as to whether the district has funds to provide all or part of its matching share of the project shall be made on the basis of district ability. If the district ability, as determined by Section 81838, is sufficient to meet the matching costs of the project or its individual phases of planning, working drawings, construction, equipment, or land acquisition, the district shall bear its matching share of the cost of the project or one or more of its phases. If the district funds available are insufficient to provide the district's matching share for the cost of the project or one or more of its phases, computed pursuant to Section 81838, the district shall provide the moneys available, as defined by the board of governors, and state funds may be requested to provide the balance of funds required.

(d) Determining the total of funds required for the first phase of the project to be provided on a matching basis by the state and the district, and the total state appropriation required to be provided for the project or one or more of its phases.

SEC. 5. Section 81833 of the Education Code is amended to read: 81833. A proposed project submitted by the governing board of a community college district to the chancellor pursuant to Section 81830 prior to February 1st of each year shall be finally acted upon by the chancellor pursuant to Section 81831 on or before the next succeeding May 1st of each year.

SEC. 6. Section 81837 of the Education Code is amended to read: 81837. The governing board of each community college district, except districts governed by a city board of education, before letting any contract or contracts totaling one hundred fifty thousand dollars (\$150,000), or more, in the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the chancellor's office, and obtain the written approval of the plans by that office. No contract for construction made by any governing board of a community college district contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section.

SEC. 7. Section 81840 of the Education Code is repealed.

CHAPTER 892

An act to amend Sections 19826, 19831, and 19832 of the Health and Safety Code, relating to building permits.

[Approved by Governor September 27, 1981. Filed with Secretary of State September 28, 1981.]

*The people of the State of California do enact as follows:*

SECTION 1. Section 19826 of the Health and Safety Code is amended to read:

19826. No city or county, whether general law or chartered, shall issue a building permit which does not contain all applicable declarations required by Section 19825 properly executed by the owner, applicant, contractor, or agent of the owner, contractor, or applicant. The properly executed declarations shall be a condition for issuance of the building permit. However, no city or county or its employees shall be responsible for determining the truth or accuracy of the declarations, and no monetary liability on the part of, and no cause of action for damages against them, shall arise from their failure to verify the truth or accuracy of the declarations.

SEC. 2. Section 19831 of the Health and Safety Code is amended to read:

19831. A city or county, which is required to give notice pursuant to Section 19830, shall attach to such notice, and, as a condition precedent to issuing a building permit, require the completion and require the return of, an owner-builder verification in substantially the following form:

“OWNER-BUILDER VERIFICATION

“Attention Property Owner:

“An ‘owner-builder’ building permit has been applied for in your name and bearing your signature.

“Please complete and return this information in the envelope provided at your earliest opportunity to avoid unnecessary delay in processing and issuing your building permit. No building permit will be issued until this verification is received.

1. I personally plan to provide the major labor and materials for construction of the proposed property improvement (yes or no)

2. I (have/have not) \_\_\_\_\_ signed an application for a building permit for the proposed work.

3. I have contracted with the following person (firm) to provide the proposed construction:

Name \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_

Phone \_\_\_\_\_ Contractors License No. \_\_\_\_\_



## CHAPTER 470

An act to amend Sections 1256, 1257, 1264, 1265, 1330, 2400, 2509, 10401, 10407, 32020, 32030, 32040, 32044, 32211, 66803, 71060, 72002, 72020, 72030, 72122, 72126, 72129, 72237, 72280, 72300, 72330, 72331, 72332, 72400, 72401, 72408, 72533, 72601, 72602, 72670, 72673, 72682, 76000, 76001, 76002, 76130, 76160, 78005, 78008, 78030, 78031, 78032, 78033, 78204, 78409, 78907, 79000, 79020, 79021, 79022, 79023, 79024, 79025, 79026, 79027.5, 79028, 79030, 79031, 81000, 81006, 81031, 81033, 81033.5, 81035, 81036, 81038, 81144, 81179, 81452, 81457, 81640, 81648, 81657, 81658, 81821, 82530, 82531, 82535, 82536, 82537, 82538, 82541, 82542, 82543, 82544, 84300, 84362, 84370, 84373, 84500, 84520, 84528, 85000, 85003, 85022, 85200, 85201, 85266, 85442, 87032, 87036, 87039, 87212, 87274, 87408.5, 87409, 87422, 87423, 87424, 87428, 87454, 87455, 87456, 87457, 87458, 87484, 87708, 87732, 87733, 87735, 87744, 87745, 87801, 87808, 87828, 88000, 88240, and 88242 of, to amend the heading of Chapter 8 (commencing with Section 79000) of Part 48 of, to add Sections 8085, 71029, 78002, 78200.5, 78270, 78460, 81130.5, 87406.5, 87408.6, 88008, and 88010.5 to, to add Article 2 (commencing with

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Section 78220) and Article 8 (commencing with Section 78310) to Chapter 2 of, and Chapter 4 (commencing with Section 78600) to, Part 48 of, to add an article heading to Chapter 3 of Part 51 of, to repeal Sections 2501, 10402, 10404, 10406, 66905, 66920, 68081, 68083, 68132, 71094, 71095, 72034, 72100, 72101.5, 72105, 72124, 72130, 72131, 72205, 72209, 72210, 72234, 72236, 72240, 72240.5, 72252, 72300.5, 72301, 72303, 72333, 72334, 72402, 72403, 72414, 72416, 72417, 72418, 72504, 72507, 72509, 72511, 72539, 72604, 72642, 74011.5, 74032, 74103, 76003, 76004, 76005, 76006, 76131, 76141, 76406, 76423, 76424, 76425, 76456, 76482, 78009, 78013, 78014, 78034, 78209, 78273, 78404, 78410, 78411, 78464, 78465, 78931, 78932, 78933, 79002, 79003, 79011, 81003, 81007, 81032, 81034, 81037, 81043, 81131.4, 81178, 81180.5, 81182, 81184, 81333, 81337, 81338, 81339, 81340, 81341, 81342, 81342.5, 81343, 81352, 81353, 81354, 81360.5, 81383, 81610, 81612, 81614, 81615, 81616, 81650, 81652, 81654, 82302, 82303, 82306, 82307, 82502, 82503, 82504, 82505, 82506, 82507, 82545, 82546, 82547, 84006, 84007, 84009, 84070, 84071, 84202, 84203, 84204, 84205, 84301, 84302, 84303, 84374, 84501, 84529, 85001, 85002, 87030, 87045, 87065, 87210, 87211, 87212.5, 87213, 87215, 87337, 87338, 87343, 87344, 87345, 87346, 87347, 87403, 87404, 87407, 87426, 87427, 87429, 87430, 87431, 87435, 87437, 87439, 87450, 87452, 87465, 87703, 87704, 87705, 87707, 87709, 87711, 87712, 87738, 87800, 87805, 87811, 87826, 87827, and 87830 of, to repeal Chapter 8 (commencing with Section 2100) of Part 2 of, Article 1 (commencing with Section 7000) of Chapter 1 of Part 5 of, Article 1 (commencing with Section 14200) of Chapter 2 of Part 9 of, Article 5 (commencing with Section 76100) of Chapter 1, Article 3 (commencing with Section 76440) of Chapter 3, and Article 7 (commencing with Section 76490) of Chapter 6, of Part 47 of, Article 4 (commencing with Section 78451) of Chapter 3, Article 2 (commencing with Section 79130), and Article 5 (commencing with Section 79160), of Chapter 9, of Part 48 of, Article 4 (commencing with Section 81060), Article 5 (commencing with Section 81080), and Article 6 (commencing with Section 81100), of Chapter 1 of, Article 2 (commencing with Section 81630) of Chapter 3 of, Chapter 5 (commencing with Section 81900) of, Article 2 (commencing with Section 82320) of Chapter 7 of, Part 49 of, and Article 4 (commencing with Section 84340) of Chapter 3 of, and Chapter 7 (commencing with Section 85100) of, Part 50 of, to repeal the article heading of Article 2 of Chapter 2 of Part 48 of, to amend and repeal Section 72035 of, to repeal and add Sections 72422, 72506, 76400, 76401, 78930, 79001, 81160, 87401, and 87714 of, and to repeal and add Article 2 (commencing with Section 72010) of Chapter 1 of Part 45 of, Article 3 (commencing with Section 76030) of Chapter 1 of, Chapter 2 (commencing with Section 76300) of, and Article 4 (commencing with Section 76450) of Chapter 3 of, Part 47 of, the Education Code, relating to education.

[Approved by Governor September 14, 1981. Filed with Secretary of State September 14, 1981.]

*The people of the State of California do enact as follows:*

SECTION 1. It is the intent of the Legislature in enacting this act to update and streamline the Education Code as it pertains to community colleges.

The Legislature finds and declares that government rulemaking which is unnecessary, overburdensome or confusing wastes resources which the state cannot afford to waste. The Legislature further finds that the Education Code, as it pertains to community colleges, continues to regulate closely community college districts in a manner similar to school districts, rather than as higher education entities.

This act repeals or amends provisions which are unnecessarily burdensome, repeals outdated provisions, repeals redundant provisions, and harmonizes conflicting provisions so as to make the Education Code more realistic, clear, up-to-date, and concise as it relates to community colleges. By making these changes, the Legislature intends to promote a more efficient utilization of resources within the community colleges. In addition, the Legislature also intends to increase local control and flexibility in the administration and governance of community colleges by reducing the number of statutes which unnecessarily dictate the specifics of college operations.

It is not the intent of the Legislature in enacting this act to divest any community college employee of any previously accrued rights which may have been obtained pursuant to any statutes which have been amended or repealed by this act.

SEC. 2. Section 1256 of the Education Code is amended to read:  
1256. The county superintendent of schools shall, when there is sufficient money in the fund of any school district to maintain a free school in the district for 175 days of actual teaching, if the trustees neglect or refuse to employ a teacher, appoint a teacher, and open and keep the school. The county superintendent of schools may draw a requisition upon the county auditor, who shall draw a warrant upon the fund of the district for the expense incurred.

SEC. 3. Section 1257 of the Education Code is amended to read:  
1257. In case of the failure of the governing board of any school district to employ a janitor as provided elsewhere in this code, the county superintendent shall appoint a janitor who shall be paid out of the school fund of the district.

If the governing board of any school district fails or refuses to issue an order for the compensation for services provided for in this section, the county superintendent shall issue a requisition upon the county fund apportioned to the district.

SEC. 4. Section 1264 of the Education Code is amended to read:  
1264. The superintendent of schools of each county may require the governing board of any school district, except a district governed by a city or city and county board of education, to repair the school buildings or property or to abate any nuisance in or about the

dollars (\$250) per transaction for work done, compensation for employees or consultants, and purchases of equipment, supplies, or materials. Ratification by the governing board shall not be required with respect to transactions entered into pursuant to this section. In the event of malfeasance in office, the district official invested by the governing board with authority to act under this section shall be personally liable for any and all moneys of the district paid out as a result of such malfeasance.

SEC. 255. Section 81658 of the Education Code is amended to read:

81658. If any change or alteration of a contract governed by the provisions of this article is ordered by the governing board of the community college district, such change or alteration shall be specified in writing and the cost agreed upon between the governing board and the contractor. The board may authorize the contractor to proceed with performance of the change or alteration without the formality of securing bids, if the cost so agreed upon does not exceed the greater of:

(a) The amount specified in Section 81640 or 81649, whichever is applicable to the original contract; or

(b) Ten percent of the original contract price.

SEC. 256. Section 81821 of the Education Code is amended to read:

81821. The five-year plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(d) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to Section 81838.

SEC. 257. Chapter 5 (commencing with Section 81900) of Part 49 of the Education Code is repealed.

SEC. 258. Section 82302 of the Education Code is repealed.

SEC. 259. Section 82303 of the Education Code is repealed.

SEC. 260. Section 82306 of the Education Code is repealed.

SEC. 261. Section 82307 of the Education Code is repealed.

SEC. 262. Article 2 (commencing with Section 82320) of Chapter 7 of Part 49 of the Education Code is repealed.

SEC. 263. Section 82502 of the Education Code is repealed.

SEC. 264. Section 82503 of the Education Code is repealed.

SEC. 265. Section 82504 of the Education Code is repealed.

SEC. 266. Section 82505 of the Education Code is repealed.

SEC. 267. Section 82506 of the Education Code is repealed.

SEC. 268. Section 82507 of the Education Code is repealed.

SEC. 269. Section 82530 of the Education Code is amended to read:

82530. The governing board of any community college district may grant the use of college facilities or grounds for public, literary, scientific, recreational, educational, or public agency meetings, or for the discussion of matters of general or public interest upon such terms and conditions as the board deems proper, and subject to the limitations, requirements, and restrictions set forth in this article.

The governing board of any community college district may grant the use of college facilities or grounds to any church or religious organization for the conduct of religious services for temporary periods where such church or organization has no suitable meeting place for the conduct of such services upon such terms and conditions as the board deems proper, and subject to the limitations, requirements, and restrictions set forth in this article. Notwithstanding the provisions of Section 82542, the governing board shall charge the church or religious organization using such property for the conduct of religious services an amount at least sufficient to pay the cost to the district of supplies, utilities and salaries paid college district employees necessitated by such use of such property.

SEC. 270. Section 82531 of the Education Code is amended to read:

82531. No use shall be inconsistent with the use of the buildings or grounds for college purposes, or interfere with the regular conduct of instruction.

SEC. 271. Section 82535 of the Education Code is amended to read:

82535. The governing board of a community college district may grant the use of college facilities, grounds, and equipment without charge to public agencies for the purpose of holding examinations for the selection of personnel, and for the instruction of precinct board members.

required to change his or her workweek to include Saturday or Sunday, or both. No classified employee shall be assigned to perform services on a Saturday or Sunday if the classified employee objects in writing that the assignment would conflict with his or her religious beliefs or practices. Enactment of this section shall cause no change or disruption in existing work schedules which may already include Saturday or Sunday as regular workdays.

This section shall not be construed as limiting the power of any governing board of a community college district to govern the schools of the district, including the assignment of classified employees employed by the district.

This section shall not be construed as modifying or otherwise affecting in any way the provisions of Sections 88026, 88027, or 88030, or any other provisions of this code relating to employment of classified employees.

SEC. 406. Section 88240 of the Education Code is amended to read:

88240. This article may be cited as the Instructional Aide Act of 1968. The provisions of this article shall apply to personnel referred to in Section 72401 or any other section enacted before or after November 13, 1968, who perform the duties of instructional aides.

SEC. 407. Section 88242 of the Education Code is amended to read:

88242. Instructional aides shall not be utilized to increase the number of students in relation to the number of classroom instructors in any community college district.

All instructional aide positions in a community college district shall be assigned the basic title of "instructional aide" or other appropriate title designated by the governing board. To provide for differences in responsibilities and duties, additions to the basic title may be assigned such as "instructional aide I or II" or "instructional aide—volunteer," or other appropriate title.

SEC. 408. On January 1, 1982, any revenues remaining in a community college tuition fund established pursuant to Section 2104 of the Education Code shall revert to the general fund of the county from which they originated.

SEC. 409. Sections 257 and 310 of this act shall become operative July 1, 1982.

SEC. 410. Except for any act relating to the maintenance of the codes, any section of any act enacted by the Legislature during the 1981 portion of the 1981-82 Regular Session, which takes effect on or before January 1, 1982, and which amends, amends and renumbers, adds, or repeals a section amended, amended and renumbered, or repealed by this act, shall prevail over this act, whether that act is enacted prior or subsequent to this act.

SEC. 411. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature finds and declares that there

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are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

## CHAPTER 910.

An act to repeal, add, and repeal Chapter 4 (commencing with Section 81800) of Part 49 of the Education Code, relating to community colleges, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1980. Filed with Secretary of State September 17, 1980.]

*The people of the State of California do enact as follows:*

SECTION 1. Chapter 4 (commencing with Section 81800) of Part 49 of the Education Code is repealed.

SEC. 2. Chapter 4 (commencing with Section 81800) is added to Part 49 of the Education Code, to read:

CHAPTER 4. COMMUNITY COLLEGE CONSTRUCTION ACT OF 1980

Article 1. Definitions and General Provisions

81800. (a) This chapter shall be known and may be cited as the Community College Construction Act of 1980.

(b) The Legislature hereby declares that it is in the interest of the state and of the people thereof for the state to provide assistance to community college districts for the construction of community college facilities. The community college system is of general concern and interest to all the people of the state, and the education of community college students is a joint obligation and function of both the state and community college districts.

In enacting this chapter, the Legislature considers that there is a need to provide adequate community college facilities that will be



required to accommodate community college students resulting from growth in population and from legislative policies expressed through implementation of the Master Plan for Higher Education.

81801. As used in this chapter, "community college" means grades 13 and 14 of a community college; and "community college district" means any community college district.

81802. (a) As used in this chapter, the term "project" means the purpose for which a community college district has applied for assistance under this chapter for one or more institutions under its authority or for districtwide facilities. A project may include the planning, acquisition, and improvement of community college sites; the planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, laboratory, library, a performing arts facility, a gymnasium, the basic outdoor physical education facilities, and basic food service facilities; related facilities necessary for the instruction of students or for administration of the educational program; maintenance or utility facilities essential to the operation of the foregoing facilities; and the initial acquisition of equipment.

(b) A project may also include the reconstruction or remodeling of any facility leased or lease-purchased for educational purposes. The chancellor's office shall require transfer to the community college district of title or any other interest considered sufficient by the district, in and to facilities presently leased or to be leased in the future by the district, to the extent of the funds appropriated for reconstruction or remodeling of leased facilities. When sufficient title or interest has not been transferred, the term of the lease shall be of sufficient duration to completely amortize the reconstruction or remodeling cost. Such amortization shall be determined by utilizing current interest rates and normal accounting practices. If the lease is terminated prior to amortizing the reconstruction or remodeling costs the district shall repay the state for any unamortized state costs.

(c) The projects defined by subdivisions (a) and (b) of this section shall not be construed as a commitment by the Legislature as to the type or possible number of projects that may be considered during any fiscal year.

(d) A project shall not include the planning or construction of dormitories, student centers other than cafeterias, stadia, the improvement of sites for student or staff parking, or single-purpose auditoriums.

81803. As used in this chapter, "weekly student contact hours" means the product of the number of students and the scheduled class periods in which they are enrolled, in graded and ungraded community college classes convened prior to 10 o'clock p.m. during a census week. A class period is not less than 50 minutes and not more than 60 minutes.

81804. As used in this chapter, "chancellor" means the Chancellor of the California Community Colleges.

81805. This chapter shall be administered by the chancellor, and for purposes of such administration the board of governors may adopt all necessary rules and regulations.

For purposes of this chapter, the chancellor shall assemble statewide data on facility and construction costs, and on the basis thereof formulate cost standards and construction standards. The formulation of standards shall include also the formulation of average ratios of equipment cost to total project costs, unit equipment costs per faculty or other staff measure, and unit costs related to floor areas.

81806. Any action of the chancellor in administering this chapter may be appealed to the board of governors by the governing board of an affected community college district. The appeal shall be placed on the agenda of the board in accordance with the general agenda practices of the board. The decision of the board on such appeals shall be final.

81807. Funds appropriated for a project of a community college district for purposes of this chapter shall be allocated and disbursed upon order of the chancellor, and by warrants of the State Controller issued pursuant thereto.

81808. In the event an existing community college district is included in a newly formed community college district, any unused funds appropriated or authorized to be appropriated for a finally approved project of the included district pursuant to this chapter shall be transferred to the newly formed or including community college district on the date that such district is effective for all purposes, or prior to such effective date where the governing boards of the districts agree to such earlier transfer.

81809. Upon completion of a project the governing board of the community college district shall submit to the chancellor, within 30 days after the closure of the current fiscal year, a final report on all expenditures in connection with the project and the sources of the funds expended.

81810. As used in this chapter, "educational center" means an off campus location established and administered by an existing college or district which:

- (a) Is scheduled to operate for three or more years;
- (b) Is estimated to have enrolled an average daily attendance of 500 or more students by the third year of operations;
- (c) Has onsite administrative personnel; and
- (d) Offers courses in programs leading to certificates or degrees to be conferred by the parent institution.

## Article 2. Plans for Capital Construction

81820. On or before February 1, 1981, the governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district. The plan shall reflect capital construction for

community college purposes of the district for the five-year period commencing with the next proposed year of funding. The five-year plan shall be subject to continuing review by the governing board and annually shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the five-year plan.

81821. The five-year plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors.

(d) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to Section 81838.

81821.5. The governing board of any community college district shall meet with appropriate local government recreation and park authorities to review all possible methods of coordinating planning, design, and construction of new facilities and sites or major additions to existing facilities and recreation and park facilities in the community. Any community college district planning, designing, or constructing new facilities and sites or major additions to existing facilities shall report to the chancellor's office on plans to achieve:

(a) a greater use of any joint or contiguous recreation and park facilities by the district; and (b) possible use by the total community of such facilities and sites and recreation and park facilities.

81822. The chancellor shall review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of such review and evaluation, make such revision and changes

therein as are appropriate, and approve or disapprove the plan. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each community college district shall be made on or before each succeeding first day of April. The chancellor shall, promptly after such approval or disapproval, notify the governing board of each community college district of the content of the district's plan for capital construction.

81823. (a) If a community college district maintains colleges, or one college and one or more educational centers, it may additionally submit the plan required by Section 81820 on the basis of each college or educational center maintained by the district, if either of the following circumstances is present such that students will be better served by evaluating the capital outlay program for the district on that basis: (1) the isolation of students within a district in terms of the distance of students from the location of an educational program, or inadequacy of transportation, and student financial inability to meet costs of transportation to an educational program; or (2) the inability of existing colleges and educational centers in the district to meet the unique educational and cultural needs of a significant number of ethnic students.

(b) If a district elects to submit such a plan, it shall include therewith justification and documentation for so doing.

(c) When a district so elects, the evaluation of the plan pursuant to Section 81822 shall include an evaluation of both of the following:

- (1) The justification and documentation for so doing, including enrollment projections for individual campuses and centers.
- (2) The plan as thus submitted.

### Article 3. Project Proposals

81830. Any community college district may submit a proposed project to the chancellor for review and approval or disapproval. The proposed project shall be an element of the district's plan for capital construction. It shall be in such form and contain such detail, pursuant to rules and regulations of the board of governors, as will permit its evaluation and approval with reference to the elements of the capital construction program specified in Section 81821.

81831. The chancellor shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Section 81821. Such review shall include the following elements:

(a) An architectural analysis to determine costs of the various phases of the project, with particular attention to be directed to the type of construction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area.

(b) Determining the amount of federal funds available for the project, and taking appropriate measures to ensure that the project will qualify for the maximum amounts of federal funds practicable

under the circumstances.

"Federal funds" means any construction and equipment moneys provided by the federal government to a community college district for the project or any part of the project, which are or will be available to the district for the project.

(c) Determining the total cost of the project, reducing the total cost by the amount of federal funds available therefor, and determining the remainder thereof to be borne by the state, or, if the district has matching funds, by the state and by the district.

The determination as to whether the district has funds to provide all or part of its matching share of the project shall be made on the basis of district ability. If the district ability, as determined by Section 81838, is sufficient to meet the matching costs of the project or its individual phases of planning, working drawings, construction, equipment, or land acquisition, the district shall bear its matching share of the cost of the project or one or more of its phases. If the district funds available are insufficient to provide the district matching share for the cost of the project or one or more of its phases, computed pursuant to Section 81838, the district shall provide the moneys available, as defined by the board of governors, and state funds may be requested to provide the balance of funds required.

(d) Determining the total of funds required for the first phase of the project to be provided on a matching basis, if the district has funds pursuant to Section 81838, by the state and the district, the total state funds required by appropriation, and the state funds required to be provided for the project or one or more of its phases.

81833. A proposed project submitted by the governing board of a community college district to the chancellor pursuant to Section 81830 prior to February 1st of each year shall be finally acted upon by the chancellor pursuant to Section 81831 on or before the next succeeding April 1st of each year.

81836. The chancellor shall:

(a) Advise the governing board of each community college district on the acquisition of new college sites, and after a review of available plots, give the governing board of the district in writing a list of the approved locations in the order of their merit, considering especially the matters of educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction, and charge the governing board of the community college district a reasonable fee as determined by the chancellor's office for each 10 acres or fraction thereof of school site reviewed.

(b) Establish standards for community college facilities.

(c) Review plans and specifications for all construction in those community college districts that have submitted plans and specifications therefor to the chancellor for approval.

(d) For services rendered for the review of plans and specifications of a proposed project pursuant to Section 81831, the chancellor's office shall charge a reasonable fee as established by the

board of governors.

(e) Approve plans and specifications submitted by governing boards of community college districts, and return without approval and with recommendation for changes, any plans not conforming to established standards.

81837. The governing board of each community college district, except districts governed by a city board of education, before letting any contract or contracts totaling one hundred thousand dollars (\$100,000), or more, in the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the chancellor's office, and obtain the written approval of the plans by that office. No contract for construction made by any governing board of a community college district contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section.

81838. In determining a community college district's matching share, the chancellor's office shall do the following:

(a) Determine the average statewide ending balance per weekly student contact hour according to the following procedure:

(1) For each district divide the total prior year's net ending balance of all budget funds established and maintained, minus excluded funds as defined by subdivision (c), by that district's annual weekly student contact hours for the same fiscal year.

(2) Compute the mean average district ending balance per weekly student contact hour for the prior fiscal year by dividing the total of ending balances statewide by the total statewide weekly student contact hours for the same fiscal year.

(b) Determine the state-local matching shares for each community college district according to the following procedure:

(1) For each district compute a factor by dividing the amount calculated in paragraph (1) of subdivision (a) by the statewide average district ending balance per weekly student contact hour computed pursuant to paragraph (2) of subdivision (a).

(2) The district local matching share shall be equal to 50 percent of the project cost multiplied by the factor.

(c) As used in this chapter, "excluded funds" means any of the following:

(1) Moneys designated for specific projects included in the district's five-year plan, which were included in the Budget Act of 1980 or a prior Budget Act.

(2) Moneys designated for 100 percent locally funded projects which were approved by the chancellor's office prior to July 1, 1981.

(3) Restricted and committed revenues such as those moneys collected for community service programs, student health activities, food services, book stores, parking, district self-insurance, California State Teachers' Retirement System, Public Employees' Retirement System, and others as certified to by the district governing board and approved by the chancellor's office.

81839. The governing board of a community college district may include a proposed site in its plans for a project and may enter into an agreement with the owner of property constituting such proposed site whereby the district, for an annual consideration to be borne by the district, is given an option to purchase, or lease with an option to purchase such property at an unspecified future date, as a building site.

The existence of such an agreement shall in no way affect the determination of the share of the cost of the project to be borne by the state under this chapter, and the consideration paid by the district for such option or lease shall not be considered part of the cost of the project in determining the state's share of the funding thereof.

Such option or lease agreement shall constitute an obligation of the district and shall not be construed as in any way creating an obligation on the part of the state.

81840. This chapter shall remain in effect only until July 1, 1982, and as of such date is repealed unless a statute which is chaptered before July 1, 1982, deletes or extends such date.

SEC. 3. (a) There is hereby appropriated from the Capital Outlay Fund for Public Higher Education to the Board of Governors of the California Community Colleges the sum of four million four hundred seventy-three thousand two hundred fifty dollars (\$4,473,250) to be allocated, subject to the prior approval of the State Public Works Board, by the Board of Governors of the California Community Colleges to community college districts for expenditure by such districts as set forth in the schedule below:

Imperial Community College District,		
Imperial Valley College:		
(1) Working drawings and construct removal of architectural barriers .....		135,700
Los Angeles Community College District,		
East Los Angeles College:		
(2) Working drawings and construct removal of architectural barriers .....		55,300
(2.5) Replacement of air conditioning system in the existing library provided that the district provides equivalent matching funds prior to the State Public Works Board allocation .....		80,500
Los Angeles Harbor College:		
(3) Working drawings and construct removal of architectural barriers .....		62,500

Los Angeles Southwest College:	
(4) Working drawings and construct removal of architectural barriers .....	38,700
Los Angeles Valley College:	
(5) Working drawings and construct removal of architectural barriers .....	46,200
Los Angeles City College:	
(6) Working drawings and construct removal of architectural barriers .....	83,800
West Los Angeles College:	
(7) Working drawings and construct removal of architectural barriers .....	18,500
San Mateo Community College Dis- trict,	
Skyline College:	
(8) Working drawings and construct removal of architectural barriers .....	33,500
Los Angeles Community College Dis- trict,	
Los Angeles Trade-Tech College:	
(9) Working drawings and construct removal of architectural barriers .....	56,500
San Mateo Community College Dis- trict,	
Canada College:	
(10) Working drawings and con- struct removal of architectural barriers .....	19,100
College of San Mateo:	
(11) Working drawings and con- struct removal of architectural barriers .....	18,400
Los Angeles Community College Dis- trict,	
East Los Angeles College:	
(12) Working drawings and con- struct remodel existing library	128,800
Saddleback Community College Dis- trict,	
Saddleback College:	
(13) Working drawings for general classroom building .....	208,400
Kern Community College District,	



Cerro Cosa College:	
(14) Working drawings for occupational laboratory building .....	74,800
Peralta Community College District, Feather River College:	
(15) Working drawings and construct vocational building .....	650,800
Foothill-De Anza Community College District, Foothill College:	
(16) Working drawings for library addition .....	42,200
Los Angeles Community College District, Los Angeles Pierce College:	
(17) Working drawings and construct removal of architectural barriers.....	62,600
West Los Angeles-Airport Center:	
(18) Working drawings and construct removal of architectural barriers.....	5,900
Los Rios Community College District, Sacramento City College:	
(19) Construct removal of architectural barriers.....	207,100
Compton Community College District, Compton College:	
(20) Construct and improve outdoor lighting system.....	108,100
Systemwide:	
(21) For purposes of providing the additional funds necessary to fully fund projects (1) through (20) of this subdivision in accordance with subdivision (c) of Section 81831 of the Education Code, as added by this act, provided that prior to requesting the State Public Works Board allocation, the need for such funds shall, on a project by project basis, be certified by the Chancellor's office and approved by the Department of Finance .....	2,186,300
(22) Project programming and preliminary plans.....	150,000

provided, that funds appropriated in this paragraph shall be released only for those major capital outlay projects for working drawings and construction, in those districts that do not have district matching funds in accordance with Section 81838 of the Education Code and which are anticipated to be included in the 1981-82 fiscal year Governor's Budget.

(b) The funds appropriated by this section are appropriated for expenditure during the 1980-81, 1981-82, and 1982-83 fiscal years, except that appropriations for studies, planning, and working drawings shall be available for expenditure only during the 1980-81 fiscal year. In addition, every appropriation made by this section for construction, or working drawings and construction, that has not been approved by the State Public Works Board on or before June 30, 1981, shall revert as of that date to the Capital Outlay Fund for Public Higher Education.

SEC. 4. (a) There is hereby appropriated from the Energy and Resources Fund to the Board of Governors of the California Community Colleges the sum of fifty thousand dollars (\$50,000) to be allocated to the Chancellor's Office of the California Community Colleges in accordance with the following schedule:

Schedule:

Systemwide, Energy Conservation Projects:

- (1) Project programming and preliminary plans..... 50,000

(b) The funds appropriated by this section shall not be allocated prior to the approval by the Department of Finance of a statewide priority listing of the projects proposed to be funded in the 1981-82 Governor's Budget.

(c) Any funds appropriated by this section which are unallocated on June 30, 1981, shall revert as of that date to the Energy and Resources Fund.

SEC. 5. Section 4 of this act shall not take effect unless legislation is chaptered during the 1979-80 Regular Session establishing an Energy and Resources Fund.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that the state share needed for community college construction projects not be underestimated in the 1980-81 fiscal year, it is necessary that this act take effect immediately.

## CHAPTER 911

An act to amend Section 15432 of the Government Code, and Section 436.2 of the Health and Safety Code, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 17, 1980. Filed with Secretary of State September 17, 1980.]

*The people of the State of California do enact as follows:*

SECTION 1. Section 15432 of the Government Code is amended to read:

15432. As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means this California Health Facilities Authority Act.  
 (b) "Authority" means the California Health Facilities Authority created by this part or any board, body, commission, department or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.

(c) "Cost," as applied to a project or portion thereof financed under the provisions of this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during and for a period not to exceed one year following completion of such construction as determined by the authority, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, reasonable financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction or acquisition or financing thereof.

(d) "Health facility" means any facility, place or building which is organized, maintained and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24-hour stay or longer (except in the case of community clinics, as defined in paragraph (6)), and includes the following types:

(1) A general acute care hospital is a health facility having a duly

EXHIBIT 3  
COPIES OF CODE SECTIONS CITED

**§ 81663. Borrowing funds for design and construction costs to retrofit buildings to be energy efficient; limitations**

(a) The governing board of any community college district may borrow funds from federal or state regulated financial institutions for design and construction costs associated with retrofitting buildings to become more energy efficient. The amount borrowed shall not exceed the amount that can be repaid from energy cost avoidance savings accumulated from the improvement of facilities.

(b) Any savings association may make loans or advances of credit pursuant to subdivision (a) in an amount not in excess of 5 percent of its total assets. This investment may be in addition to any other investment savings associations are permitted to undertake.

(Added by Stats.1991, c. 1038 (S.B.9), § 8, eff. Oct. 14, 1991.)

**§ 81800. Short title; legislative declaration**

(a) This chapter shall be known and may be cited as the Community College Construction Act of 1980.

(b) The Legislature hereby declares that it is in the interest of the state and of the people thereof for the state to provide assistance to community college districts for the construction of community college facilities. The community college system is of general concern and interest to all the people of the state, and the education of community college students is a joint obligation and function of both the state and community college districts.

In enacting this chapter, the Legislature considers that there is a need to provide adequate community college facilities that will be required to accommodate community college students resulting from growth in population and from legislative policies expressed through implementation of the Master Plan for Higher Education.

(Added by Stats.1980, c. 910, p. 2871, § 2, eff. Sept. 17, 1980.)

## § 81805. Administration

This chapter shall be administered by the \* \* \* Board of Governors of the California Community Colleges, and for purposes of the administration the board of governors shall adopt all necessary rules and regulations.

For purposes of this chapter, the \* \* \* board of governors shall assemble statewide data on facility and construction costs, and on the basis thereof formulate cost standards and construction standards. The formulation of standards shall include also the formulation of average ratios of equipment cost to total project costs, unit equipment costs per faculty or other staff measure, and unit costs related to floor areas.

(Amended by Stats.1990, c. 1372 (S.B.1854), § 566.)

EDUCATION CODE

§ 81807. Allocation and disbursement of funds

Funds appropriated for a project of a community college district for purposes of this chapter shall be allocated and disbursed upon order of the \* \* \* Board of Governors of the California Community Colleges, and by warrants of the \* \* \* Controller issued pursuant thereto.

(Amended by Stats.1990, c. 1372 (S.B.1854), § 568.)



**§ 81808. Transfer of unused funds of district included in newly formed district**

In the event an existing community college district is included in a newly formed community college district, any unused funds appropriated or authorized to be appropriated for a finally approved project of the included district pursuant to this chapter shall be transferred to the newly formed or including community college district on the date that such district is effective for all purposes, or prior to such effective date where the governing boards of the districts agree to such earlier transfer.

(Added by Stats.1980, c. 910, p. 2873, § 2, eff. Sept. 17, 1980.)

## EDUCATION CODE

### § 81820. Preparation and submission; continuing review

\* \* \* The governing board of each community college district shall prepare and submit to the \* \* \* Board of Governors of the California Community Colleges a plan for capital construction for community college purposes of the district. The plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The five-year plan shall be subject to continuing review by the governing board and annually shall be extended one year, and there shall be submitted to the \* \* \* board of governors, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the five-year plan.

(Amended by Stats.1990, c. 1372 (S.B.1854), § 571.)

## EDUCATION CODE

### § 81821. Contents of plan

The five-year plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(d) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to \* \* \* regulations adopted by the board of governors.  
(Amended by Stats.1995, c. 758 (A.B.446), § 121.)

## § 81822. Review, evaluation, and revision

The \* \* \* board of governors shall review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of the review and evaluation, make the revision and changes therein as are appropriate, and notify the district. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each community college district shall be made \* \* \*. The \* \* \* board of governors shall, promptly after review, notify the governing board of each community college district of the content of the district's revised plan for capital construction.

(Amended by Stats.1990, c. 1372 (S.B.1854), § 573.)

**§ 81823. Submission of plan based on each college of district**

(a) If a community college district maintains colleges, or one college and one or more educational centers, it may additionally submit the plan required by Section 81820 on the basis of each college or educational center maintained by the district, if either of the following circumstances is present such

**§ 81823.**

that students will be better served by evaluating the capital outlay program for the district on that basis: (1) the isolation of students within a district in terms of the distance of students from the location of an educational program, or inadequacy of transportation, and student financial inability to meet costs of transportation to an educational program; or (2) the inability of existing colleges and educational centers in the district to meet the unique educational and cultural needs of a significant number of ethnic students.

(b) If a district elects to submit such a plan, it shall include therewith justification and documentation for so doing.

(c) When a district so elects, the evaluation of the plan pursuant to Section 81822 shall include an evaluation of both of the following:

(1) The justification and documentation for so doing, including enrollment projections for individual campuses and centers.

(2) The plan as thus submitted.

(Added by Stats.1980, c. 910, p. 2875, § 2, eff. Sept. 17, 1980.)

§ 81836. Duties of board of governors

The \* \* \* Board of Governors of the California Community Colleges shall:

(a) Advise the governing board of each community college district on the acquisition of new college sites, and after a review of available plots, give the governing board of the district in writing a list of the approved locations in the order of their merit, considering especially the matters of educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction, and charge the governing board of the community college district a reasonable fee as determined by the \* \* \* board of governors for each 10 acres or fraction thereof of schoolsite reviewed.

(b) Establish standards for community college facilities.

(c) Review plans and specifications for all construction in those community college districts that have submitted plans and specifications therefor to the \* \* \* board of governors for approval.

(d) For services rendered for the review of plans and specifications of a proposed project \* \* \*, the \* \* \* board of governors shall charge a reasonable fee as established by \* \* \* it.

(e) Approve plans and specifications submitted by governing boards of community college districts, and return without approval and with recommendation for changes, any plans not conforming to established standards.

(Amended by Stats.1990, c. 1372 (S.B.1854), § 577.)

## EDUCATION CODE

### § 81837. Approval by board of governors

The governing board of each community college district, \* \* \* before letting any contract or contracts totaling one hundred fifty thousand dollars (\$150,000), or more, in the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the \* \* \* Board of Governors of the California Community Colleges; and obtain the written approval of the plans by \* \* \* the board of governors. No contract for construction made by any governing board of a community college district contrary to \* \* \* this section is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section.

(Amended by Stats.1990, c. 1372 (S.B.1854), § 578.)



**§ 81839. Proposed site; option or lease**

The governing board of a community college district may include a proposed site in its plans for a project and may enter into an agreement with the owner of property constituting such proposed site whereby the district, for an annual consideration to be borne by the district, is given an option to purchase, or lease with an option to purchase such property at an unspecified future date, as a building site.

The existence of such an agreement shall in no way affect the determination of the share of the cost of the project to be borne by the state under this chapter, and the consideration paid by the district for such option or lease shall not be considered part of the cost of the project in determining the state's share of the funding thereof.

Such option or lease agreement shall constitute an obligation of the district and shall not be construed as in any way creating an obligation on the part of the state.

(Added by Stats.1980, c. 910, p. 2878, § 2, eff. Sept. 17, 1980.)

**Exhibit 4**  
**Copies of Regulations Cited**

which the loan is made under this section, the State Controller shall deduct from the second principal apportionment made from Section B of the State School Fund to the community college district an amount equal to one-third of the amount loaned to the district, and transfer the amount into the Community College Fund for Instructional Improvement.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

#### HISTORY

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

## Subchapter 6. Underrepresented Students Special Project Fund

### § 56700. Underrepresented Students Special Project Fund.

(a) The purpose of the Underrepresented Students Special Project Fund is to develop and disseminate alternative learning and teaching strategies designed to:

- (1) prepare underrepresented students for college level work;
- (2) increase the enrollment, retention and transfer of underrepresented students; and
- (3) reduce underrepresentation of certain groups, particularly those with limited English proficiency and students with disabilities in vocational fields which prepare these students for employment.

(b) Projects funded under this section shall address one or more of the priorities established by the Board of Governors which include, but are not limited to:

- (1) enrollment, retention and transfer of underrepresented students in both vocational education and transfer education;
- (2) classroom-based research with an emphasis on collaborative learning methods and other teacher effectiveness strategies in working with underrepresented students;
- (3) dropout prevention for at-risk youth;
- (4) retention practices for students with disabilities; and
- (5) assessment of the impact of campus climate on the academic performance of underrepresented students.

(c) As used in this section:

(1) "underrepresented students" means students from groups which the Chancellor finds have been historically underrepresented or are currently underrepresented in the student bodies of community colleges with respect to their numbers in the general adult population. Such groups include, but are not limited to, African-Americans, Chicano/Latinos, American Indians, Alaskan Natives, Asian-Americans, students with disabilities, students receiving services through Extended Opportunity Programs and Services (EOPS), and students receiving instruction or support services for Limited-English Proficiency (LEP) or English as a Second Language (ESL).

(2) "classroom-based research" means the process of researching and evaluating various techniques which will enhance the learning of underrepresented, high risk students or improve the teaching effectiveness of faculty through the application of various activities and strategies in the classroom, such as curriculum course design, course content, process and resources intended to improve educational outcomes.

(3) "campus climate" means the environment on a college campus which affects the teaching, working and learning conditions of the community of students, faculty, administrators, and staff.

(4) "dropout prevention" means the strategies and activities which allow high school and college students to persist in a multicultural and gender equitable learning environment and succeed by completing a terminal degree (i.e., high school diploma or a GED).

(5) "retention" means assessing, changing, or adapting mainstream education for the purpose of preventing underrepresented or high risk students from dropping out.

(6) "transfer" means the outcome of students who engage in a prescribed course of study which leads to the students' eligibility for admissions to a four-year public or independent college or university.

NOTE: Authority cited: Section 70901, Education Code. Reference: Section 70901, Education Code.

#### HISTORY

1. New section filed 4-3-92; operative 5-4-92 (Register 92, No. 15).
2. New subchapter 6 heading filed 5-15-93; operative 6-14-93 (Register 93, No. 25).

## Chapter 8. Construction

### Subchapter 1. Community College Construction Act

#### § 57000. General Provisions.

NOTE: Authority cited for Chapter 1: Sections 71020, 71024 and 81805, Education Code. Reference: Chapter 4 (commencing with Section 81800), Part 49, Division 7, Education Code.

#### HISTORY

1. Repealer of Chapters 1 and 2 (§ § 57000 through 57121, not consecutive) and new Chapter 1 (§ § 57000 through 57032, not consecutive) filed 11-2-73; effective thirtieth day thereafter (Register 73, No. 44).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of Subchapter 1 heading and Section 57000 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

#### § 57001. Definitions.

For the purposes of this chapter:

(a) "A small community college" means a college with 35,000 or fewer weekly student contact hours (WSCH) in credit and noncredit courses and programs.

(b) "Leased or rented" means a building for which rental costs are paid, and the use of which will be discontinued upon the completion of the project for which application has been submitted.

(c) "Permanent building" means a building for which there is no plan for removal or demolition.

(d) "Temporary building" means a building of limited worth which, according to the capital construction master plan, is anticipated to be demolished or replaced within five years. All other buildings are to be considered permanent.

(e) As used in this chapter, "weekly student contact hours" means the product of the number of students and the scheduled class periods in which they are enrolled, in graded and ungraded community college classes convened prior to 10 o'clock p.m. during a census week. A class period is not less than 50 minutes and not more than 60 minutes.

NOTE: Authority cited: Sections 66700, 70901, and 81805 Education Code. Reference: Chapter 4 (commencing with Section 81800) of Part 49, Division 7, Education Code.

#### HISTORY

1. Repealer of subsections (i) and (j) filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).
4. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
5. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
6. Editorial correction of printing error in subsection (e) (Register 91, No. 43).
7. Editorial correction of HISTORY 5 (Register 95, No. 23).

#### § 57001.5. Project.

(a) As used in this chapter "project" means the purpose for which a community college district has applied for assistance under chapter 4 of

part 49 of the Education Code for one or more institutions under its authority or for district wide facilities. A project may include the planning, acquisition, and improvement of community college sites; the planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, a laboratory, a library, a performing arts facility, a gymnasium, the basic outdoor physical education facilities, the basic food service facilities, or child development centers, pursuant to section 79120 of the Education Code; related facilities necessary for the instruction of students or for administration of the educational program; maintenance or utility facilities essential to the operation of the foregoing facilities and the initial acquisition of equipment. A project may also include the initial furnishing of, and initial acquisition of equipment for, any facility leased or lease-purchased by a community college district as of August 1, 1987, for educational purpose or purposes.

(b) A project may also include the reconstruction or remodeling of any facility leased or lease-purchased for educational purposes. The Chancellor's Office shall require transfer to the community college district of title or any other interest considered sufficient by the district, in and to facilities presently leased or to be leased in the future by the district, to the extent of the funds appropriated for reconstruction or remodeling of leased facilities. When sufficient title or interest has not been transferred, the term of the lease shall be of sufficient duration to completely amortize reconstruction or remodeling cost. Such amortization shall be determined by utilizing current interest rates and normal accounting practices. If the lease is terminated prior to amortizing the reconstruction or remodeling costs the district shall repay the state for any unamortized state costs.

A project consisting of the construction of any facilities listed in subdivision (a) on property that conforms to subdivision (b) of section 81530 of the Education Code shall be eligible for state funding. For any project that is constructed under this paragraph, the term of the lease shall be of sufficient duration to completely amortize the cost of the project and the governing board of the community college district shall provide in the lease agreement a hold harmless clause satisfactory to the lessor. The amortization shall be determined by utilizing current interest rates and normal accounting practices. If the lease is terminated prior to amortizing the project, the district shall pay the state for any unamortized state costs.

(c) The projects defined by subdivisions (a) and (b) of this section shall not be construed as a commitment by the Board of Governors as to the type or possible number of projects that may be considered during any fiscal year.

(d) A project shall not include the planning or construction of dormitories, student centers other than cafeterias, stadia, the improvement of sites for student or staff parking, or single-purpose auditoriums.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

#### HISTORY

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error in subsection (a) (Register 91, No. 43).
3. Editorial correction of HISTORY 1 (Register 95, No. 23).

### § 57001.7. Educational Center.

As used in this Chapter, "educational center" is defined as provided in Section 55827(b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

#### HISTORY

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 23).

### § 57002. Federal Fund Proration.

When the physical detail and intent of a project subject to a federal grant differs materially from the physical detail and intent for which state funds are appropriated, the federal funds shall be prorated on the scope of the project subject to the federal grant and that prorated share be made applicable to the project subject to state matching funds.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Section 81805, Education Code.

#### HISTORY

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 23).

### § 57003. Projecting Graded and Ungraded Enrollments.

#### HISTORY

1. Repealer filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

### § 57010. Appeals from Administrative Actions.

Any action of the Chancellor in administering this chapter may be appealed to the Board of Governors by the governing board of an affected community college district. The appeal shall be placed on the agenda of the Board in accordance with the general agenda practices of the Board. The decision of the Board on such appeals shall be final.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

#### HISTORY

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

### § 57011. Expenditures; Final Report.

Upon completion of a project the governing board shall submit to the Chancellor, within 30 days after the closure of the current fiscal year, a final report on all expenditures in connection with the sources of the funds expended. The district shall be subject to a state post-audit review of fund claims for all such projects.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

#### HISTORY

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

### § 57013. Coordination of Planning with Recreation and Park Authorities.

The governing board of any community college district shall meet with appropriate local government recreation and park authorities to review all possible methods of coordinating planning, design, and construction of new facilities and sites or major additions to existing facilities and recreation and park facilities in the community. Any community college district planning, designing, or constructing new facilities shall report to the Chancellor's Office on plans to achieve:

- (a) a greater use of any joint or contiguous recreation and park facilities by the district; and
- (b) possible use by the total community of such facilities and sites and recreation and park facilities.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

#### HISTORY

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57014. Submission.**

Any community college district may submit a proposed project to the Chancellor for review and approval or disapproval. The proposed project shall be an element of the district's plan for capital construction. It shall be in such form and contain such detail as will permit its evaluation and approval with reference to the elements of the capital construction program specified in section 81821 of the Education Code.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error (Register 91, No. 43).
3. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57015. Chancellor's Review and Evaluation: Elements of Review.**

The Chancellor shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Education Code, section 81821. The review shall include the following elements:

(a) An architectural analysis to determine costs of the various phases of the project, with particular attention to be directed to the type of construction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area.

(b) Determining the amount of federal funds available for the project, and taking appropriate measures to ensure that the project will qualify for the maximum amounts of federal funds practicable under the circumstances.

"Federal funds" means any construction and equipment moneys provided by the federal government to a community college district for the project or any part of the project, which are or will be available to the district for the project.

(c) Determining the total cost of the project, reducing the total cost by the amount of federal funds available thereof, and determining the remainder thereof to be borne by the state, or, if the district has matching funds, by the state and by the district.

The determination as to whether the district has funds to provide all or part of its matching share of the project shall be made on the basis of district ability. If the district ability, as determined by section 57033.1, is sufficient to meet the matching costs of the project or its individual phases of planning, working drawings, construction, equipment, or land acquisition, the district shall bear its matching share of the cost of the project or one or more of its phases. If the district funds available are insufficient to provide the district's matching share for the cost of the project or one or more of its phases, computed pursuant to section 57033.1, the district shall provide the moneys available, as defined by the Board of Governors, and state funds may be requested to provide the balance of funds required.

Private funds available for specific projects may be used as a credit toward the district match.

(d) Determining the total of funds required for the first phase of the project to be provided on a matching basis by the state and the district, and the total state appropriation required to be provided for the project or one or more of its phases.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57016. Final Action; Time Limit.**

A proposed project submitted by the governing board of a community college district to the Chancellor pursuant to section 57014 prior to February 1st of each year shall be finally acted upon by the Chancellor pursuant to section 57014 on or before the next succeeding May 1st of each year.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57020. Standards.**

The computed existing and projected capacity and utilization standards listed in this article shall apply unless it is determined by the Chancellor in consultation with the Department of Finance that extraordinary conditions exist.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Section 81805, Education Code.

**HISTORY**

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 23).

**§ 57021. Classroom Use.**

Classrooms and seminar room use shall be not less than 48 hours per 70-hour week for a campus of less than 140,000 weekly student contact hours per week, and not less than 53 hours per 70-hour week for a campus with 140,000, or more, weekly student contact hours.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Repealer and new section filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).
2. Repealer and new section filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).
3. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
5. Editorial correction of HISTORY 4 (Register 95, No. 23).

**§ 57022. Laboratory Use.**

Laboratory room use shall be not less than 27.5 hours per 70-hour week.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 23).

**§ 57023. Classroom Occupancy.**

Classroom and seminar room station occupancy shall be not less than 66 percent of capacity.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

- 2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
- 3. Editorial correction of HISTORY 2 (Register 95, No. 23).

**§ 57024. Laboratory Occupancy.**

Laboratory room station occupancy shall be not less than 85 percent of capacity.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

- 1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
- 2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
- 3. Editorial correction of HISTORY 2 (Register 95, No. 23).

**§ 57025. Classroom Space Per Station.**

The computed average space per station in both existing and future classroom, seminar room, and service areas shall be 15 square feet per student station.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

- 1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
- 2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
- 3. Editorial correction of HISTORY 2 (Register 95, No. 23).

**§ 57026. Small College, Sliding Scale Allowance.**

**HISTORY**

- 1. Repealer filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).
- 2. Repealer filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).

**§ 57027. Capacity of Future Assignable Space.**

The formula for determining the assignable space for future classrooms and seminar rooms per projected 100 weekly student contact hours is as follows:

$$\frac{\text{Assignable square feet per station}}{\text{Room use standard} \times \text{station occupancy standard}} \times 100$$

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

- 1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
- 2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
- 3. Editorial correction of HISTORY 2 (Register 95, No. 23).

**§ 57028. Capacity of Future Laboratory and Service Areas.**

In determining the computed capacity of future laboratory and service area facilities, the following space allocations by standard classification of subject matter shall be applied on a campus-wide basis:

ASSIGNABLE SQUARE FEET PER STATION AND PER 100 WEEKLY STUDENT CONTACT HOURS, CALIFORNIA COMMUNITY COLLEGES.

- 1. Classroom and Seminars  
(Including Classroom Service) 8 a.m. to 10 p.m.

Campus Weekly Student Contact Hours	ASF/STN.	ASF/100 WSCH*
Less than 140,000	15	47.3
140,000 or more	15	42.9

- 2. Teaching Laboratories  
(Including Teaching Laboratory Service) 8 a.m. to 10 p.m.

Classification of Instructional Disciplines	ASF/100 Subject Grouping	ASF/STN.	WSCH*
0100	Agriculture	115	492
0200	Architecture	60	257
0400	Biological Sciences	55	233
0500	Business and Mgmt.	30	128
0600	Communications	50	214
0700	Computer & Info. Sci.	40	171
0800	Education	75	321
0930	Diesel	200	856
0944	Air Conditioning	130	556
0945	Refrigeration	130	556
0946	Auto-Body & Fender	200	856
0947	Auto-Mechanic	200	856
0948	Auto-Technology	75	321
0949	Small Engine Repair	100	428
0950	Aviation Maint.	175	749
0954	Plastics	130	556
0955	Stationary Eng. (Engineering)	200	856
All other 0900's		75	321
1000	Fine & Applied Arts	60	257
1100	Foreign Language	35	150
1200	Health Services	50	214
1300	Home Economics	60	257
1500	Letters	35	150
1600	Library Science	35	150
1700	Mathematics	35	150
1900	Physical Sciences	60	257
2000	Psychology	35	150
2100	Pub. Affairs & Serv.	50	214
2200	Social Sciences	35	150
3000	Commercial Serv.	50	214
4900	Interdisciplinary	60	257
5330	Carpentry	175	749
5331	Electricity	175	749
5332	Plumbing	175	749
5333	Glazing	175	749
5334	Roofing	175	749
5335	Masonry	175	749
5336	Dry-Wall	175	749
5337	Plastering	175	749
5338	Painting	175	749
5339	Millwork	90	385
5340	Metal Trades	90	385
5341	Welding	90	385
5342	Machine Tools	90	385
5343, 5344	Heavy Equipment	200	856
5345	Auto-Mechanics	200	856
5346	Auto-Body & Fender	200	856
5347	Graphic Arts	80	342
5348	Stationary Eng.	200	856

\*Based on following utilization components for space standards computation:

Classrooms and Seminars	Campus WSCH	Hrs./wks.	Stn. Occ. %	Stn. Use
	Less than 140,000	48	X .66	- 31.68
	140,000 or more	53	X .66	- 34.98
Laboratories:				
	LD	27.5	X .85	- 23.375

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

- 1. Amendment filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).
- 2. Amendment filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).
- 3. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
- 4. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
- 5. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
- 6. Editorial correction of printing error in heading (Register 91, No. 43).
- 7. Editorial correction of HISTORY 5 (Register 95, No. 23).

**§ 57029. Office Space.**

All office space (academic offices, administrative and clerical office service rooms, and conference rooms) shall be computed at 140 assign-

able square feet for each full-time equivalent instructional staff member. Office space for a small Community College district shall be computed at 160 assignable square feet for each full-time equivalent instructional staff member.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 23).

§ 57030. Library Space.

All library space shall be computed by assignable square feet for library functions as specified in the subdivisions of this section. Square feet are "assignable" only if they are usable for the function described. Areas such as the main lobby (excluding card catalogue area), elevators, stairs, walled corridors, rest rooms, and areas accommodating building maintenance services are not deemed usable for any of the described functions.

- Stack Space = .1 ASF x Number of Bound Volumes  
 Number of Volumes  
 Initial Increment = 16,000 volumes  
 Additional Increments  
 (a) Under 3,000 DGE\* = +8 volumes per DGS\*\*  
 (b) 3,000-9,000 DGE = +7 volumes per DGS  
 (c) Above 9,000 DGE = +6 volumes per DGS
- Staff Space = (140 ASF x Number of FTE Staff) + 400 ASF  
 Number of FTE Staff  
 Initial Increment = 3.0 FTE  
 Additional Increments  
 (a) Under 3,000 DGE = +.0020 FTE Staff per DGS  
 (b) 3,000-9,000 DGE = +.0015 FTE Staff per DGS  
 (c) Above 9,000 DGE = +.0010 FTE Staff per DGS
- Reader Station Space = 27.5 ASF x Number of Reader Stations  
 Number of Reader Stations  
 Initial Increment = 50 Stations  
 Additional Increments  
 (a) Under 3,000 DGE = +.10 Stations per DGS  
 (b) 3,000-9,000 DGE = +.09 Stations per DGS  
 (c) Above 9,000 DGE = +.08 Stations per DGS
- Total Space = Initial Increment = 3,795 ASF  
 Additional Increments  
 (a) Under 3,000 DGE = +3.83 ASF per DGS  
 (b) 3,000-9,000 DGE = +3.39 ASF per DGS  
 (c) Above 9,000 DGE = +2.94 ASF per DGS

For audio-visual and programmed instruction activities associated with library learning resource functions, additional areas sized for individual needs but not exceeding the following totals for the district as a whole.

- Total Space = Initial Increment = 3,500 ASF  
 Additional Increments  
 (a) Under 3,000 DGE\* = 1.50 ASF per DGS\*\*  
 (b) 3,000-9,000 DGE = 0.75 ASF per DGS  
 (c) Above 9,000 DGE = 0.25 ASF per DGS

\* Day-Graded Enrollment  
 \*\* Day-Graded Student

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

HISTORY

1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23).

Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

4. Editorial correction of HISTORY 3 (Register 95, No. 23).

§ 57031. Abbreviations.

- ASF/STN = Assignable square feet per student station
- Classrooms:  
 Hrs./Wk. = Number of hours out of a 70-hour week, 8 a.m. to 10 p.m., a classroom, on the average, should be used
- Class Laboratories:  
 Hrs./Wk. = Number of hours out of a 70-hour week, 8 a.m. to 10 p.m., a class laboratory, on the average, should be used
- STN, Occ. = The percentage of expected student station occupancy when rooms are in use
- STN, Use = The number of hours per week (out of the 70-hour week for classrooms and class laboratories) which a student station, on the average, should be used
- WSCH = Weekly Student Contact Hours-8 a.m. to 10 p.m. WSCH for nonlaboratory (lecture) and laboratory hours.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

HISTORY

1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 23).

§ 57032. Formula for Deriving the Standards.

$$\frac{\text{ASF/STN}}{\text{Hrs./Wk.} \times \text{STN, Occ.}} \times 100 = \text{ASF/100 WSCH}$$

Example A. For determining ASF/WSCH in Classrooms and Seminars on an 8 a.m. to 10 p.m. basis:

ASF/STN. = 15  
 Hrs./Wk. = 53      15  
 STN./Occ. = .66      53.0 x .66

Example B. For determining ASF/WSCH in Biological Science Laboratory on an 8 a.m. to 10 p.m. basis:

ASF/STN = 55  
 Hrs./Wk. = 27.5      55  
 STN./Occ. = .85      27.5 x .85

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

HISTORY

1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 23).

§ 57033. District Matching Share.

NOTE: Authority cited: Sections 71020, 81805 and 81838, Education Code. Reference: Sections 81802, 81806, 81807, 81830, 81831 and 81838, Education Code.

HISTORY

1. New section filed 2-6-86; effective thirtieth day thereafter (Register 86, No. 6). For history of former section, see Registers 83, No. 18 and 78, No. 3.
2. Repealer filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 23).

**§ 57033.1. Determination of District's Matching Share; Adoption of Criteria; Chancellor's Recommendation; Review by Board in Forwarding Budget Request to Department of Finance.**

The Chancellor shall adopt criteria for determining districts' matching shares of the cost of capital outlay projects. Pursuant to that criteria, the Chancellor shall recommend each district's match, which shall be reviewed by the Board in forwarding its annual budget request to the Department of Finance for determination by the Legislature.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57034. Waiver of District Matching Share.**

NOTE: Authority cited: Sections 71020, 81805 and 81838, Education Code. Reference: Sections 81802, 81806, 81807, 81830, 81831 and 81838, Education Code.

**HISTORY**

1. New section filed 2-6-86; effective thirtieth day thereafter (Register 86, No. 6).  
Repealer filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 23).

**Subchapter 1.5. Energy and Resource Conservation**

**§ 57050. General Provisions.**

For the purposes of administration and implementation of Board of Governors Energy and Resources Policy under the Community College Construction Act, the provisions of this subchapter apply.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901 and 81800-81839, Education Code.

**HISTORY**

1. New subchapter 2 (sections 57050-57055) filed 9-25-80; effective thirtieth day thereafter (Register 80, No. 39).
2. Redesignation of subchapter 2 as chapter 1.5 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 23).

**§ 57051. Definitions.**

For the purposes of this subchapter:

(a) "Energy Conservation Project" means the acquisition, development, or modification of facilities and equipment which result in the conservation of energy; energy audits; energy conservation and operating procedures; energy conservation measures; water conservation measures; and redraft consisting of modifications made to existing equipment or structures.

(b) "Energy Conservation Program," means an organized activity approved and adopted by a community college district governing board in the form of a written summary of the activities by the district toward the conserving of energy sources.

(c) "Energy Audit (EA)," means the nontechnical review of a facility to ascertain the existing level of energy use efficiency.

(d) "Technical Audit" (TA), means a specialized study designed to identify and specify energy resource savings and related cost savings which may be realized as a result of modification of maintenance and operating procedures, acquisition and installation of one or more specified

energy conservation measures, or planning of specific remodeling, renovation, repair and replacement of facilities.

(e) "Technical Auditor" means a California registered engineer with energy conservation experience authorized by the California Energy Commission to conduct technical audits for all public building in the State of California.

(f) "Pay-back Period" is the length of time required for the flow of net cash proceeds or cash saving produced by an investment to equal the original cash outlay required by the investment.

(g) "Energy Conservation Measure" means an installation or modification of a system in a building or facility which is primarily intended to reduce energy consumption or allow the use of a more desirable energy source.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Sections 70901, and 81800-81839, Education Code.

**HISTORY**

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57052. Need for Energy Conservation Projects.**

(a) For those districts requesting a state supported energy conservation project, a summary of the local district Energy Conservation program as adopted by the governing board shall be a part of the annual district Five-Year Construction Plan.

(b) A community college district submitting an energy conservation project for state aid under the capital outlay program of the Community College Construction Act of 1980 shall indicate the need for such assistance in the annual district Five-Year Construction Plan. Such need is to appear as a component part of the Statement of Educational Plans for the district.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Sections 70901, and 81800-81839, Education Code.

**HISTORY**

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57053. Identification of Energy Conservation Projects.**

(a) When the need for state financial assistance for an energy conservation project (as defined in subsection (a) of section 57051) has been adequately established, it shall be submitted as a project planning guide in accordance with established format to the Chancellor's Office.

(b) The project planning guide shall contain evidence of an approved Energy Audit (EA) on file with the California Energy Commission.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Sections 70901, and 81800-81839, Education Code.

**HISTORY**

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57054. Evaluation of Energy Conservation Projects.**

All projects submitted as energy conservation related shall be ranked on the basis of criteria developed by the Chancellor's Office and shall include but not be limited to:

(a) Level of energy use—those projects identified to correct conditions of higher energy use application shall receive higher priority evaluation.

(b) Pay-back period—those projects which by their design or proposed application demonstrate the shortest possible pay-back period shall receive higher priority evaluation.

(c) The extent to which the district has implemented an energy conservation program which meets the objectives specified in Board of Governors Policy Statement on Energy and Resource Conservation.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Sections 70901, and 81800-81839, Education Code.



## HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57055. Developmental Progression of Energy Conservation Related Capital Outlay Projects.**

(a) Energy conservation related projects shall be evaluated and ranked for approval by the Chancellor following the existing procedures for the statewide capital outlay program.

(b) Upon securing approval of a proposed energy conservation project by all appropriate review agencies, the governing board of a community college may submit to the Chancellor for approval, or disapproval, preliminary plans for the project.

(c) Preliminary plans for energy-related projects shall include:

(1) The results of a technical audit (TA) performed by an authorized Technical Auditor which describes in detail the energy conservation measures the project is to institute.

(2) The status of the project as related to the various federal and state aided programs for energy conservation.

(3) An architectural and/or engineering analysis setting forth the detailed costs of the various elements of the project.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Sections 70901, and 81800-81839, Education Code.

## HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57060. Legislative Findings, Declarations and Intent; Energy Conservation.**

The Board of Governors finds and declares that it is in the interest of the state and of the people thereof for the state to aid community college districts in finding cost-effective methods of conserving energy in buildings maintained by the districts. The Board of Governors also finds that while many districts may desire to participate in energy conservation programs designed to reduce the steadily rising costs of meeting the energy needs of district buildings, that the costs involved in improving existing facilities to become more energy efficient are often prohibitive.

It is the intent of the Board of Governors in adopting this regulation to encourage community college districts to retrofit buildings so as to conserve energy and reduce the costs of supplying energy.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

## HISTORY

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57061. Community College Districts, Borrowing; Retrofitting Buildings for Energy Conservation; Savings and Loan Investment.**

(a) Community college districts may borrow funds from federal or state regulated financial institutions for the purposes of design and construction costs associated with retrofitting buildings to become more energy efficient. Community college districts shall only be authorized to borrow an amount which does not exceed that which can be repaid from energy cost avoidance savings accumulated from the improvement of school facilities.

(b) Any savings and loan association may make loans or advances of credit pursuant to the provisions of subdivision (a) in an amount not in excess of 5 percent of its total assets. This investment may be in addition to any other investment savings and loan associations are permitted to undertake under the provisions of section 6705.7 of the Financial Code.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

## HISTORY

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57062. Pre-Audits and Post-Audits for Buildings.**

To the extent that these services are available, community college districts shall arrange for the pre-audit and post-audit of buildings by investor-owned or municipal utility companies or by independent energy audit companies or organizations which are recognized by federal or state regulated financial institutions. The pre-audit shall identify the type and amount of work necessary to retrofit the buildings and shall include an estimate of projected energy savings. The post-audit shall be conducted upon completion of the retrofitting of the buildings to insure that the project satisfies the recommendations of the pre-audit.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

## HISTORY

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57063. Contracts.**

Community college districts taking action under this article shall contract with qualified businesses capable of retrofitting school buildings. To the extent that lists of qualified businesses are made available to community college districts by investor-owned or municipal utility companies or federal or state regulated financial institutions, community college districts may utilize the services of these businesses.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

## HISTORY

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

## Subchapter 2. Environmental Quality

**§ 57100. General.**

(a) The regulations adopted under this Chapter are pursuant to the California Environmental Quality Act of 1970 (division 13 commencing with section 21000 of the Public Resources Code) and Guidelines adopted by Secretary for Resources in Division 6, Title 14, California Administrative Code.

(b) The purpose of these regulations is to provide basic principles, objectives, criteria and definitions for use by the Chancellor of the California Community Colleges in reviews required by the Education Code of community college construction projects.

(c) It is the intent of the Board of Governors to adopt in substance the Guidelines adopted by the Secretary for Resources in division 6, title 14, California Administrative Code, section 15000 et seq.

NOTE: Authority cited: Sections 66700 and 70901, Education Code, and Section 21082, Public Resources Code. Reference: Division 13 (commencing with Section 21000), Public Resources Code.

## HISTORY

1. New chapter 2 (sections 57100 through 57140, not consecutive) filed 4-26-74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of article 1 heading and amendment of section filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

5. Editorial correction of HISTORY 4 (Register 95, No. 23).

### § 57101. Purpose.

#### HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

### § 57120. Basic Guidelines.

#### HISTORY

1. Repealer of Article 2 heading and Section 57120 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

### § 57121. Application.

(a) When reviewing proposals from Community College districts for acquisition of land to be used as a site for college facilities, the Chancellor shall also review the Community College district's Initial Study (section 15080, title 14, California Administrative Code) of the development intended on the land and include the result of this review in a site review report.

(b) The Chancellor shall require that proposals for initial construction of facilities for a new campus be accompanied by a long-range plan for physical development approved by the district governing board which shows the intended use of all portions of the land and approximate location of buildings and facilities.

(c) The Chancellor shall require that an Initial Study, pursuant to section 15080, title 14, California Administrative Code, be submitted to the Chancellor's office concurrent with other required information.

(d) The Chancellor shall require that a copy of the (1) finding of Categorical Exemption (section 15023, title 14, California Administrative Code); Negative Declaration (section 15083, Title 14, California Administrative Code); or Notice of Completion (section 15085(c), title 14, California Administrative Code), whichever is appropriate, be submitted to his office concurrently with preliminary plans.

(e) The Chancellor shall require a copy of the findings of Categorical Exemption or Notice of Determination (section 15085(g), Title 14, California Administrative Code), whichever is appropriate, be submitted to the Chancellor's office concurrently with plans submitted for approval in accordance with section 81837 of the Education Code.

(f) The Chancellor shall withhold authorization of the use of state funds for construction until requirements of the California Environmental Quality Act of 1970 have been met.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Division 13 (commencing with Section 21000), Public Resources Code.

#### HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 23).

### § 57140. Procedures.

NOTE: Authority cited: Sections 71020 and 71062, Education Code. Reference: Section 71091, Education Code; Division 13 (commencing with Section 21000), Public Resources Code.

#### HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer of article 3 heading and new NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Repealer filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 23).

## Subchapter 3. District Funded Construction Projects

### § 57150. Purpose.

The purpose of these regulations is to provide basic definitions, principles, and standards for use by the Chancellor of the California Community Colleges in considering any district-funded construction project subject to the requirements of section 81837 of the Education Code.

NOTE: Authority cited: Sections 66700, 70901, and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

#### HISTORY

1. New chapter 3 (sections 57150-57158, not consecutive) filed 10-30-80; effective thirtieth day thereafter (Register 80, No. 44).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 23).

### § 57152. Definitions.

(a) "Capital Outlay Project" includes purchase of land and costs related thereto, including court costs, condemnation costs, legal fees, title fees, etc.; construction projects, including working drawings; and equipment related to a construction project regardless of cost or timing.

(b) "Construction Project" includes new construction, alteration, and extension or betterment of existing structures.

(c) "State-Funded Project" means a capital outlay project qualifying as a project pursuant to section 81805 of the Education Code, and for which a district requests or receives State funding assistance.

(d) "District-Funded Project" means a capital outlay project subject to the provisions of section 81837 of the Education Code for which any funds, other than state funds, are paid or to be paid for erecting, adding to, or altering any community college facility.

(e) "Five-Year Construction Plans" means a plan for capital construction for community college purposes of a community college district for the five-year period commencing with the next proposed year of funding.

NOTE: Authority cited: Sections 66700, 70901 and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

#### HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

### § 57154. Application.

In each case, the application for approval of plans for a district-funded project shall be accompanied by the plans and full, complete and accurate take-off of assignable and gross square feet of space, which shall comply with any and all requirements prescribed by the Chancellor.

NOTE: Authority cited: Sections 66700, 70901, and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

#### HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

### § 57156. Review.

The review and evaluation of plans for a district-funded project by the Chancellor, shall include the following elements:

(a) Review and evaluate each district-funded project with reference to the elements of the capital construction program specified in Education Code section 81821.

(b) The review and evaluation shall be directed particularly to ascertain whether the locally funded project is of appropriate size, is appropriately timed and is justified in terms of the elements of the capital construction plans and where applicable, the standards as adopted by the Board of Governors.

NOTE: Authority cited: Sections 66700, 70901, and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

**HISTORY**

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57158. Chancellor's Response to Request for Approval of Plans.**

(a) When analysis by the Chancellor shows that approval of the plans for a proposed locally-funded construction of a community college facility would not result in facilities which would be substantially at variance with space and utilization standards adopted by the Board of Governors, the Chancellor shall approve the plans.

(b) When analysis by the Chancellor shows that approval of the plans would result in facilities which would be substantially at variance with space and utilization standards adopted by the Board of Governors, the Chancellor shall respond by:

(1) Imposing conditions for the approval of the plans; or

(2) Finding that despite the substantial variance with space standards, the plans, as submitted, are acceptable, and responding to the district with:

(A) Cautions, and/or

(B) Appraisal of the potential consequences of this variance.

NOTE: Authority cited: Sections 66700, 70901 and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

**HISTORY**

1. Amendment of subsection (b) filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 23).

**Subchapter 4. Deferred Maintenance**

**§ 57200. Purpose.**

For the purposes of administration and implementation of the Community Colleges Facility Deferred Maintenance and Special Repair Program as required by Education Code section 84660, the provisions of this chapter shall apply.

NOTE: Authority cited: Sections 66700, 70901 and 84660, Education Code. Reference: Section 84660, Education Code.

**HISTORY**

1. New chapter 4 (sections 57200-57205) filed 7-8-82; effective thirtieth day thereafter (Register 82, No. 28).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 23).

**§ 57201. General Requirements.**

Each community college district applying to receive funds pursuant to this chapter shall:

(a) Prepare and submit to the Chancellor a current five-year maintenance plan. The plan shall be consistent with the district's five-year capital outlay plan, but shall not duplicate that plan. The plan shall provide for ongoing as well as deferred maintenance.

(b) Maintain a level of ongoing maintenance during the year for which funds are requested commensurate with the level of activity in prior years.

NOTE: Authority cited: Sections 66700, 70901 and 84660, Education Code. Reference: Section 84660, Education Code.

**HISTORY**

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57202. Application for Funds.**

Districts shall apply to the Chancellor's Office for funding for deferred maintenance in the form and manner specified by the Chancellor.

NOTE: Authority cited: Sections 66700, 70901 and 84660, Education Code. Reference: Section 84660, Education Code.

**HISTORY**

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57203. Allocation of Funds.**

The Chancellor shall allocate the funds appropriated by the Legislature as soon as such funds are available, and in accordance with the project priorities established, provided that ten percent (10%) of the funds may be held for contingencies that may occur during the year. Any such funds initially held for contingencies shall be allocated prior to the end of the fiscal year.

NOTE: Authority cited: Sections 66700, 70901 and 84660, Education Code. Reference: Section 84660, Education Code.

**HISTORY**

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57204. Selection of Projects.**

The Chancellor shall evaluate district applications and rank projects for funding. Projects shall be ranked for funding using the following criteria, which shall be ranked equally:

(a) Health and Safety. Priority shall be given to projects necessary to meet safety requirements and to correct hazardous conditions which, if uncorrected, would result in facility closure or danger to staff and students utilizing the facility.

(b) Prevention of Further More Costly Repairs. Priority shall be given to deferred maintenance for instructional facilities necessary to prevent substantially increased maintenance or replacement costs in the future.

(c) Disruption of Programs. Priority shall be given to projects necessary to prevent disruption of instructional programs.

NOTE: Authority cited: Sections 66700, 70901 and 84660, Education Code. Reference: Section 84660, Education Code.

**HISTORY**

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57205. District Match.**

The Chancellor will allocate funds for only fifty percent of the costs for a deferred maintenance project. In accepting funds under this chapter, a district agrees to spend district funds necessary to complete the project.

The Chancellor may waive this requirement in whole or in part for projects for which the district demonstrates that it cannot make available fifty percent of the costs for the project from other sources.

The Chancellor shall waive this requirement only for projects with high priority for funding. Highest priority shall be given to those projects which the Chancellor determines are necessary to prevent a facility from being closed.

Where projects would otherwise be of equal rank, first priority shall be given to those projects for which the district provides matching funds.

NOTE: Authority cited: Sections 66700, 70901 and 84660, Education Code. Reference: Section 84660, Education Code.

**HISTORY**

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).



# SixTen and Associates Mandate Reimbursement Services

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January 8, 2007.

Paula Higashi, Executive Director  
Commission on State Mandates  
U.S. Bank Plaza Building  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

RE: No. CSM. 02-TC-47  
Community College Construction

Dear Ms. Higashi:

Please find enclosed a supplement to the test claim filing, specifically, a history of the Title 5, CCR, sections included in the test claim.

Sincerely,



Keith B. Petersen

C: Douglas Brinkley, Vice-Chancellor  
Finance and Administration  
State Center Community College District  
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8 BEFORE THE  
9 COMMISSION ON STATE MANDATES  
10 STATE OF CALIFORNIA

11	<b>Supplement to the:</b>	)	No. CSM. 02-TC-47
12		)	
13	Test Claim Filed June 27, 2003	)	<u>Community College Construction</u>
14		)	
15		)	History Index for
16		)	Title 5, California Code of Regulations
17	by Santa Monica	)	
18	Community College District	)	
19		)	Section 57001
20		)	Section 57001.5
21		)	Section 57001.7
22		)	Section 57002
23		)	Section 57010
24		)	Section 57011
25		)	Section 57013
26		)	Section 57014
27		)	Section 57015
28		)	Section 57016
29		)	Section 57033.1
30		)	Section 57050
31		)	Section 57051
32		)	Section 57052
33		)	Section 57053
34		)	Section 57054
35		)	Section 57055
36		)	Section 57060
37		)	Section 57061
38		)	Section 57062
39		)	Section 57063
40		)	Section 57150
41		)	Section 57152
42		)	Section 57154

1 ) Section 57156  
2 ) Section 57158  
3 \_\_\_\_\_)

4 SUPPLEMENTAL INFORMATION

5 This supplement to the test claim provides an index and copy of each change to  
6 the Title 5, CCR, sections included in the test claim. The Registers cited are attached  
7 as Exhibit A. Amended language is underlined (new language) or stricken out (deleted  
8 language).

9 HISTORY OF TITLE 5, CCR, SECTIONS INCLUDED IN THE TEST CLAIM

10 **Register 73-44** § 57000: Repealer and added new Chapter 1 (§§ 57000-57032,  
11 not consecutive).

12 **Register 74-26** § 57021: Repealer and added new section.

13 § 57026: Repealer filed as emergency.

14 § 57028: Amendment filed as emergency.

15 **Register 74-39** § 57021: Repealer and added new section with certificate of  
16 compliance.

17 § 57026: Repealer filed as emergency.

18 § 57028: Amendment filed as emergency.

19 **Register 75-40** § 57001: Repealer of subsections (i) and (j).

20 § 57022: Amendment to section.

21 § 57028: Amendment to section.

22 § 57030: Amendment to section.

23 § 57031: Amendment to section.

- 1     **Register 77-45**     § 57000: Amendment of NOTE.
- 2                         § 57001: Amendment to section.
- 3                         § 57003: Repealer.
- 4                         § 57029: Amendment to section.
- 5     **Register 80-39**     § 57050: New subchapter 2 (§§ 57050-57055).
- 6     **Register 80-44**     § 57150: New chapter 3 (§§ 57150-57158, not consecutive).
- 7     **Register 81-03**     § 57001: Amendment to section.
- 8                         § 57158: Amendment of subsection (b).
- 9     **Register 83-18**     § 57000: Repealer of subchapter 1 heading and section.
- 10                        § 57001: Amendment to section.
- 11                        § 57002: New NOTE added.
- 12                        § 57020: New NOTE added.
- 13                        § 57021: New NOTE added.
- 14                        § 57022: New NOTE added.
- 15                        § 57023: New NOTE added.
- 16                        § 57024: New NOTE added.
- 17                        § 57025: New NOTE added.
- 18                        § 57027: New NOTE added.
- 19                        § 57028: New NOTE added.
- 20                        § 57029: New NOTE added.
- 21                        § 57030: New NOTE added.
- 22                        § 57031: New NOTE added.



- 1 § 57032: New NOTE added.
- 2 § 57033: Section repealed.
- 3 § 57050: Redesignation of subchapter 2 as subchapter 1.5.
- 4 **Register 91-23** § 57001: New section added.
- 5 § 57001.5: New section added.
- 6 § 57001.7: New section added.
- 7 § 57002: Amendment to section.
- 8 § 57010: New section added.
- 9 § 57011: New section added.
- 10 § 57013: New section added.
- 11 § 57014: New section added.
- 12 § 57015: New section added.
- 13 § 57016: New section added.
- 14 § 57020: Amendment of section.
- 15 § 57021: Amendment of section.
- 16 § 57022: Amendment of section.
- 17 § 57023: Amendment of section.
- 18 § 57024: Amendment of section.
- 19 § 57025: Amendment of section.
- 20 § 57027: Amendment of section.
- 21 § 57028: Amendment of section.
- 22 § 57029: Amendment of section.

- 1 § 57031: Amendment of section.
- 2 § 57032: Amendment of section.
- 3 § 57033: Section repealed.
- 4 § 57033.1: New section added.
- 5 § 57034: Section repealed.
- 6 § 57050: Amendment to section..
- 7 § 57051: Amendment to section.
- 8 § 57052: Amendment to section.
- 9 § 57053: Amendment to section.
- 10 § 57054: Amendment to section.
- 11 § 57055: Amendment to section.
- 12 § 57060: Amendment to section.
- 13 § 57061: Amendment to section.
- 14 § 57062: Amendment to section.
- 15 § 57063: Amendment to section.
- 16 § 57150: Amendment to section.
- 17 § 57152: Amendment to section.
- 18 § 57154: Amendment to section.
- 19 § 57156: Amendment to section.
- 20 § 57158: Amendment to section.
- 21 **Register 91-43** § 57001: Editorial correction of printing error in subsection (e).
- 22 § 57001.5: Editorial correction of printing error in subsection (a).

- 1 § 57014: Editorial correction of printing error.
- 2 § 57028: Editorial correction of printing error in heading.
- 3 **Register 94-38** § 57001.7: Amendment to section.
- 4 **Register 95-23** § 57001: Editorial correction of History 5.
- 5 § 57001.5: Editorial correction of History 1.
- 6 § 57001.7: Editorial correction of History 1.
- 7 § 57002: Editorial correction of History 1.
- 8 § 57010: Editorial correction of History 1.
- 9 § 57011: Editorial correction of History 1.
- 10 § 57013: Editorial correction of History 1.
- 11 § 57014: Editorial correction of History 1.
- 12 § 57015: Editorial correction of History 1.
- 13 § 57016: Editorial correction of History 1.
- 14 § 57020: Editorial correction of History 2.
- 15 § 57021: Editorial correction of History 4.
- 16 § 57022: Editorial correction of History 3.
- 17 § 57023: Editorial correction of History 2.
- 18 § 57024: Editorial correction of History 2.
- 19 § 57025: Editorial correction of History 2.
- 20 § 57027: Editorial correction of History 2.
- 21 § 57028: Editorial correction of History 5.
- 22 § 57029: Editorial correction of History 3.

- 1 § 57030: Editorial correction of History 3.
- 2 § 57031: Editorial correction of History 3.
- 3 § 57032: Editorial correction of History 3.
- 4 § 57033: Editorial correction of History 2.
- 5 § 57033.1: Editorial correction of History 1.
- 6 § 57034: Editorial correction of History 2.
- 7 § 57050: Editorial correction of History 3.
- 8 § 57051: Editorial correction of History 1.
- 9 § 57052: Editorial correction of History 1.
- 10 § 57053: Editorial correction of History 1.
- 11 § 57054: Editorial correction of History 1.
- 12 § 57055: Editorial correction of History 1.
- 13 § 57060: Editorial correction of History 1.
- 14 § 57061: Editorial correction of History 1.
- 15 § 57062: Editorial correction of History 1.
- 16 § 57063: Editorial correction of History 1.
- 17 § 57150: Editorial correction of History 2.
- 18 § 57152: Editorial correction of History 1.
- 19 § 57154: Editorial correction of History 1.
- 20 § 57156: Editorial correction of History 1.
- 21 § 57158: Editorial correction of History 2.

1 **Subsequent Registers:** There may be changes to the regulations after the date the  
2 test claim was filed, which are not included.

3 CERTIFICATION

4 By my signature below, I hereby declare, under penalty of perjury under the laws  
5 of the State of California, that the information in this document is true and complete to  
6 the best of my own knowledge or information or belief, and that the attached regulations  
7 are true and correct copies of documents from archives of a recognized law library.

8 EXECUTED this 8<sup>th</sup> day of January 2008, at Sacramento, California

9 

10 FOR THE TEST CLAIMANT  
11 Keith Petersen, President  
12 SixTen and Associates

13 ATTACHMENT  
14 Exhibit A Title 5, CCR Registers

Title 5, CCR, Register 73-44

§ 57000

**DIVISION 8. CONSTRUCTION**

**Detailed Analysis**

**CHAPTER 1. COMMUNITY COLLEGE CONSTRUCTION ACT**

**SUBCHAPTER 1. GENERAL PROVISIONS**

Section	Section
57000. General Provisions	57026. Small College, Sliding Scale Allowance
57001. Definitions	57027. Future Assignable Space
57002. Federal Fund Proration	57028. Capacity of Future Laboratory and Service Areas
57003. Projecting Graded and Ungraded Enrollments	57029. Office Space
57020. Standards	57030. Library Space
57021. Classroom Use	57031. Abbreviations
57022. Laboratory Use	57032. Formula for Deriving the Standards
57023. Classroom Occupancy	
57024. Laboratory Occupancy	
57025. Classroom Space per Station	

**CHAPTER 1. COMMUNITY COLLEGE CONSTRUCTION ACT**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**57000. General Provisions.** For the purposes of the administration of the Community College Construction Act, the provisions of this chapter apply.

*Note:* Authority cited for Chapter 1: Sections 193, 197 and 20054, Education Code. Reference: Ch. 19 (commencing with Sec. 20050), Div. 13, Education Code.

*History:* 1. Repealer of Chapters 1 and 2 (§§ 57000 through 57121, not consecutive) and new Chapter 1 (§§ 57000 through 57032, not consecutive) filed 11-2-73; effective thirtieth day thereafter (Register 73, No. 44).

**57001. Definitions.** For the purposes of this chapter:

(a) "Student contact hour" means the actual or estimated total number of programmed class periods per week for a student.

(b) "A small Community College" means a college with 35,000 or fewer weekly student contact hours (WSCH) in graded and ungraded day and evening programs.

(c) "Handbook of Definitions" refers to the publication of that name issued by the Chancellor.

(d) "Leased or rented" means a building for which lease or rental costs are paid, and the use of which will be discontinued upon the completion of the project for which application has been submitted.

(e) "Permanent building" means a building for which there is no plan for removal or demolition and, so far as is known, will remain as a facility on the campus.

(f) "Temporary building" means an on-campus building of limited worth which, according to the capital construction master plan, is anticipated to be demolished or replaced within a decade. All other buildings should be considered permanent.

(g) "Federal funds" means money provided by the federal government to the district operating a Community College for the project or any part of the project which will be available to the district under the following acts: Higher Education Facilities Act of 1963, Higher Education Act of 1965, National Defense Education Administration, Public Law 815, and the Vocational Education Act of 1968 (Public Law 90-576), including subsequent amendments to it.

(h) "Assessed valuation of the district" means the total assessed valuation of all the property within the district, modified by provisions of Education Code Section 17262 (Collier Factor).

(i) Types of rooms and their codes, standard abbreviations, and definitions are the same as those used in the Instructions for Forms P-1 and P-2 (California Public Higher Education Cost and Statistical Analysis), issued by the Coordinating Council for Higher Education.

(j) Standard classifications of subject matter and their codes, standards abbreviations, and definitions are the same as those used in the Standard Classification of Subject Fields and Services (California Public Higher Education Cost and Statistical Analysis) issued by the Coordinating Council for Higher Education.

**57002. Federal Fund Proration.** When the physical detail and intent of a project subject to a federal grant differs materially from the physical detail and intent for which state funds are appropriated, the federal funds shall be prorated on the scope of the project subject to the federal grant and that prorata share be made applicable to the project subject to state matching funds.

**57003. Projecting Graded and Ungraded Enrollments.** The projected growth in graded and ungraded enrollment determined for each district by the State Department of Finance shall be developed by using the procedure specified in the Handbook of Definitions. Exceptions to the procedure may be made by the State Department of Finance for newly formed Community College districts or for the other districts where unusual circumstances justify them. Each exception shall be noted and reported to the Chancellor.



**57020. Standards.** The computed existing and projected capacity and utilization standards listed in this article shall apply unless it is determined by the Chancellor in consultation with the Department of Finance that extraordinary conditions exist.

**57021. Classroom Use.** Classroom and seminar room use shall be not less than 43 hours per 57-hour week. A small Community College shall modify the standard pursuant to Section 57026.

**57022. Laboratory Use.** Laboratory room use shall be not less than 27.5 hours per 57-hour week. A small Community College shall modify the standard pursuant to Section 57026.

**57023. Classroom Occupancy.** Classroom and seminar room station occupancy shall be not less than 66 percent of capacity.

**57024. Laboratory Occupancy.** Laboratory room station occupancy shall be not less than 85 percent of capacity.

**57025. Classroom Space Per Station.** The computed average space per station in both existing and future classroom, seminar room, and service areas shall be 15 square feet per student station.

**57026. Small College, Sliding Scale Allowance.** In recognition of the different situation of the small Community College, the utilization standards shall be modified on a sliding scale as follows:

<i>Weekly Student Contact Hours</i>	<i>Additional Allowance</i>
Less than 20,000	20 percent
20,001-25,000	15 percent
25,001-30,000	10 percent
30,001-35,000	5 percent
over 35,000	0 percent

**57027. Future Assignable Space.** The formula for determining the assignable space for future classrooms and seminar rooms per projected 100 weekly student contact hours is as follows:

$$\frac{\text{Assignable square feet per station}}{\text{Room use standard} \times \text{station occupancy standard}} \times 100$$

**57028. Capacity of Future Laboratory and Service Areas.** In determining the computed capacity of future laboratory and service area facilities, the following space allocations by standard classification of subject matter shall be applied on a campuswide basis:

**Assignable Square Feet Per Station and Per 100 Weekly Student Contact Hours, California Public Community Colleges**

**1. Classroom and Seminars**

(Including Classroom Service) 8 a.m. to 10 p.m. ----- 15 52.9

**2. Teaching Laboratories**

(Including Teaching Laboratory Service) 8 a.m. to 10 p.m.

Standard Classification Code	Subject Grouping	ASF/STN.	ASF/100 WSOH*
1200	Biol. Sciences	55	285
2400	Mathematics	30	128
2800	Physical Sciences	60	257
3000	Social Sciences	30	128
4100	Art	65	278
4200	Drama	65	278
4800	English	40	171
4400	Foreign Languages	40	171
4500	Music	65	278
4800	Speech	40	171
4900	Other Humanities	40	171
6100	Agriculture	150	642
6200	Business	30	128
6400	Home Economics	60	257
6600	Applied Graphic Arts	80	342
6800	Health Services	50	214
6700	Pub./Pers. Serv.	50	214
6801	Aero. Tech.	175	749
6802	Air Conditioning	130	558
6803	Building Trades	175	748
6804	Ceramic Technology	40	171
6805	Chem. Technology	70	289
6807	Drafting Tech.	60	257
6808	Electrical Tech.	70	289
6809	Electro-Mechanical	100	428
6810	Electronic Technology	60	257
6811	Engin. Gen.	90	385
6812	Engin. Tech.	70	289
6814	Industrial Tech.	75	321
6815	Mechanical—Auto.	200	858
6816	Metallurgical Tech.	65	278
6817	Metal Trades	130	558
6818	Textile Mech.	120	513
6819	Welding	90	385
6890	Other Trade Tech.	75	321

\* Based on following utilization components for space standards computation:

	Hrs./Wk.	×	STN. Occ. %	=	STN. Use
Classrooms and Seminars:	43	×	.66	=	28.38
Laboratories:	27.5	×	.85	=	23.375
LD					

**57029. Office Space.** All office space (academic offices, administrative and clerical offices, office service rooms, and conference rooms) shall be computed at 140 assignable square feet for each full-time equivalent instructional staff member. Office space for a small Community College district shall be computed at 160 assignable square feet for each full-time equivalent instructional staff member.

**57030. Library Space:** All library space shall be computed by assignable square feet for library functions as specified in the subdivisions of this section. Square feet are "assignable" only if they are usable for the function described. Areas such as the main lobby (excluding card catalogue area), elevators, stairs, walled corridors, rest rooms, and areas accommodating building maintenance services are not deemed usable for any of the described functions.

(a) For housing the library collections—0.10 assignable square feet per volume.

(b) For reading stations—25 assignable square feet per station, the number of stations to be 15% to 20% of the number of students in full-time enrollment, depending upon the relative emphasis of the college in trade and technical instruction.

(c) For library service needs—a basic complement of 400 assignable square feet, plus 140 assignable square feet per full-time equivalent staff member.

(d) For audio-visual and programmed learning activities when housed in the library facility—additional areas sized for individual needs.

**57031. Abbreviations.**

ASF/STN = Assignable square feet per student station

**Classrooms:**

Hrs./Wk. = Number of hours out of a 57-hour week, 8 a.m. to 10 p.m., a classroom, on the average, should be used

**Class Laboratories:**

= Number of hours out of a 57-hour week, 8 a.m. to 10 p.m., a class laboratory, on the average, should be used

STN. Occ. = The percentage of expected student station occupancy when rooms are in use

STN. Use = The number of hours per week (out of the 57-hour week for classrooms and class laboratories) which a student station, on the average, should be used

WSCH = Weekly Student Contact Hours—8 a.m. to 10 p.m. WSCH for nonlaboratory (lecture) and laboratory hours.

## 57032. Formula for Deriving the Standards.

$$\frac{\text{ASF/STN.}}{\text{Hrs./Wk.} \times \text{STN./Occ.}} \times 100 = \text{ASF/100 WSCH}$$

Example A. For determining ASF/WSCH in Classrooms and Seminars on an 8 a.m. to 10 p.m. basis:

$$\begin{array}{l} \text{ASF/STN.} = 15 \\ \text{Hrs./Wk.} = 43 \\ \text{STN./Occ.} = .66 \end{array} \quad \frac{15}{43.0 \times .66} \times 100 = 52.9 \text{ ASF/100 WSCH}$$

Example B. For determining ASF/WSCH in Biological Science Laboratory on an 8 a.m. to 10 p.m. basis:

$$\begin{array}{l} \text{ASF/STN.} = 55 \\ \text{Hrs./Wk.} = 27.5 \\ \text{STN./Occ.} = .85 \end{array} \quad \frac{55}{27.5 \times .85} \times 100 = 235 \text{ ASF/100 WSCH}$$

Title 5, CCR, Register 74-26

§ 57021

**DIVISION 8. CONSTRUCTION**

**Division 8. Authority**

**CHAPTER 1. COMMUNITY COLLEGE CONSTRUCTION ACT**

**SUBCHAPTER 1. GENERAL PROVISIONS**

Section	General Provisions
57000	Definitions
57001	Federal Fund Proration
57002	Protecting Graded and Ungraded Enrollments
57003	Standards
57004	Classroom Use
57005	Laboratory Use
57006	Classroom Occupancy
57007	Laboratory Occupancy
57008	Classroom Space Per Station
57009	Future Assignable Space
57010	Capacity of Future Laboratory and Service Areas
57011	Office Space
57012	Library Space
57013	Abbreviations
57014	Formula for Deriving the Standards

**CHAPTER 2. ENVIRONMENTAL QUALITY**

**Article 1. General**

Section	Authority
57100	Purpose

**Article 2. Guidelines**

Section	Basic Guidelines
57120	Application

**Article 3. Procedures**

Section	Procedures
57140	

**CHAPTER 1. COMMUNITY COLLEGE CONSTRUCTION ACT**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**57000. General Provisions.** For the purposes of the administration of the Community College Construction Act, the provisions of this chapter apply.

**NOTE:** Authority cited for Chapter 1, Sections 193, 197 and 2064, Education Code Reference: Ch. 19 (commencing with Sec. 2060), Div. 14, Education Code.

**History:** 1. Repealer of Chapters 1 and 2 (§§ 57000 through 57121, not consecutive) and new Chapter 1 (§§ 57000 through 57034, not consecutive), filed 11/2/73, effective thirtieth day thereafter. (Register 73, No. 44)

**57001. Definitions.** For the purposes of this chapter:

- (a) "Student contact hours" means the actual or estimated total number of programmed class periods per week for a student.
- (b) "A small Community College" means a college with 35,000 or fewer weekly student contact hours (WSCH) in graded and ungraded day and evening programs.
- (c) "Handbook of Definitions" refers to the publication of that name issued by the Chancellor.
- (d) "Leased or rented" means a building for which lease or rental costs are paid, and the use of which will be discontinued upon the completion of the project for which application has been submitted.
- (e) "Permanent building" means a building for which there is no plan for removal or demolition and, so far as is known, will remain as a facility on the campus.
- (f) "Temporary building" means an on-campus building of limited worth which, according to the capital construction master plan, is anticipated to be demolished or replaced within a decade. All other buildings should be considered permanent.
- (g) "Federal funds" means money provided by the federal government to the district operating a Community College for the project or any part of the project which will be available to the district under the following acts: Higher Education Facilities Act of 1963, Higher Education Act of 1965, National Defense Education Administration, Public Law 815, and the Vocational Education Act of 1968 (Public Law 90-576), including subsequent amendments to it.
- (h) "Assessed valuation of the district" means the total assessed valuation of all the property within the district, modified by provisions of Education Code Section 17692 (Collier Factor).
- (i) Types of rooms and their codes, standard abbreviations, and definitions are the same as those used in the Instructions for Forms P-1 and P-2 (California Public Higher Education Cost and Statistical Analysis), issued by the Coordinating Council for Higher Education.
- (j) Standard classifications of subject matter and their codes, standards abbreviations, and definitions are the same as those used in the Standard Classification of Subject Fields and Services (California Public Higher Education Cost and Statistical Analysis) issued by the Coordinating Council for Higher Education.

**57002. Federal Fund Proration.** When the physical detail and intent of a project subject to a federal grant differs materially from the physical detail and intent for which state funds are appropriated, the federal funds shall be prorated on the scope of the project subject to the federal grant and that prorata share be made applicable to the project subject to state matching funds.

**57003. Projecting Graded and Ungraded Enrollments.** The projected growth in graded and ungraded enrollment determined for each district by the State Department of Finance shall be developed by using the procedure specified in the Handbook of Definitions. Exceptions to the procedure may be made by the State Department of Finance for newly formed Community College districts or for the other districts where unusual circumstances justify them. Each exception shall be noted and reported to the Chancellor.

(Register 74, No. 26-28-74)

**57020. Standards.** The computed existing and projected capacity and utilization standards listed in this article shall apply unless it is determined by the Chancellor in consultation with the Department of Finance that extraordinary conditions exist.

**57021. Classroom Use.** For purposes of support of facilities in the 1974-75 Capital Outlay Program:

Classroom and seminar room use shall be not less than 43 hours per 70-hour week for a campus of less than 60,000 weekly student contact hours, not less than 48 hours per 70-hour week for a campus of 60,001 through 140,000 weekly student contact hours, and not less than 53 hours per 70-hour week for a campus with over 140,000 weekly student contact hours.

For purposes of support of facilities in the 1975-76 Capital Outlay Program and subsequent years:

Classrooms and seminar room use shall be not less than 48 hours per 70-hour week for a campus of less than 140,000 weekly student contact hours per week, and not less than 53 hours per 70-hour week for a campus with over 140,000 weekly student contact hours.

*History:* 1. Repealer and new section filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).

**57022. Laboratory Use.** Laboratory room use shall be not less than 27.5 hours per 57-hour week. A small Community College shall modify the standard pursuant to Section 57026.

**57023. Classroom Occupancy.** Classroom and seminar room station occupancy shall be not less than 66 percent of capacity.

**57024. Laboratory Occupancy.** Laboratory room station occupancy shall be not less than 85 percent of capacity.

**57025. Classroom Space Per Station.** The computed average space per station in both existing and future classroom, seminar room, and service areas shall be 15 square feet per student station.

**57026. Small College, Sliding Scale Allowance.**

*History:* 1. Repealer filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).



57027. **Future Assignable Space.** The formula for determining the assignable space for future classrooms and seminar rooms per projected 100 weekly student contact hours is as follows:

$$\frac{\text{Assignable square feet per station}}{\text{Room use standard} \times \text{station occupancy standard}} \times 100$$

57028. **Capacity of Future Laboratory and Service Areas.** In determining the computer capacity of future laboratory and service area facilities, the following space allocations by standard classification of subject matter shall be applied on a campus-wide basis:

**Assignable Square Feet Per Station and Per 100 Weekly Student Contact Hours, California Public Community Colleges**

**1. Classroom and Seminars**

(Including Classroom Service) 8 a.m. to 10 p.m.

<i>Campus Weekly Student Contact Hours</i>	<i>ASF/STN.</i>	<i>ASF/100 WSCH<sup>a</sup></i>
Less than 60,000 .....	15	52.9
60,001-140,000 .....	15	47.3
over 140,000 .....	15	42.9

**2. Teaching Laboratories**

(Including Teaching Laboratory Service) 8 a.m. to 10 p.m.

Standard Classification Code	Subject Grouping	ASF/STN.	ASF/100 WSCH*
1900	Biol. Sciences	55	235
2400	Mathematics	30	128
2600	Physical Sciences	60	257
3000	Social Sciences	30	128
4100	Art	65	278
4200	Drama	65	278
4300	English	40	171
4400	Foreign Languages	40	171
4500	Music	65	278
4800	Speech	40	171
4900	Other Humanities	40	171
6100	Agriculture	150	642
6200	Business	30	128
6400	Home Economics	60	257
6500	Applied Graphic Arts	80	342
6600	Health Services	50	214
6700	Pub./Pers. Serv.	50	214
6801	Aero. Tech.	175	749
6802	Air Conditioning	130	556
6803	Building Trades	175	748
6804	Ceramic Technology	40	171
6805	Chem. Technology	70	299
6807	Drafting Tech.	60	257
6808	Electrical Tech.	70	299
6809	Electro-Mechanical	100	428
6810	Electronic Technology	60	257
6811	Engin. Gen.	90	385
6812	Engin. Tech.	70	299
6814	Industrial Tech.	75	321
6815	Mechanical—Auto	200	856
6816	Metallurgical Tech.	65	278
6817	Metal Trades	130	556
6818	Textile Mech.	120	513
6819	Welding	90	384
6890	Other Trade Tech.	75	321

\* Based on following utilization components for space standards computation:

Classrooms and Seminars:	Hrs./Wk.	Stn. Occ. %	Stn. Use
Campus WSCH			
Less than 60,000	43 x	.66 =	28.38
60,001-140,000	48 x	.66 =	31.68
Over 140,000	53 x	.66 =	34.98
Laboratories:			
LD	27.5 x	.85 =	23.375

History: 1. Amendment filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).

**57029. Office Space.** All office space (academic offices, administrative and clerical offices, office service rooms, and conference rooms) shall be computed at 140 assignable square feet for each full-time equivalent instructional staff member. Office space for a small Community College district shall be computed at 160 assignable square feet for each full-time equivalent instructional staff member.

Title 5, CCR, Register 74-39

§ 57021

**57020. Standards.** The computed existing and projected capacity and utilization standards listed in this article shall apply unless it is determined by the Chancellor in consultation with the Department of Finance that extraordinary conditions exist.

**57021. Classroom Use.** For purposes of support of Facilities in the 1975-76 Capital Outlay Program and subsequent years:

Classrooms and seminar room use shall be not less than 48 hours per 70-hour week for a campus of less than 140,000 weekly student contact hours per week, and not less than 53 hours per 70-hour week for a campus with 140,000, or more, weekly student contact hours.

*History:* 1. Repealer and new section filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).

2. Repealer and new section filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).

**57022. Laboratory Use.** Laboratory room use shall be not less than 27.5 hours per 57-hour week. A small Community College shall modify the standard pursuant to Section 57026.

**57023. Classroom Occupancy.** Classroom and seminar room station occupancy shall be not less than 66 percent of capacity.

**57024. Laboratory Occupancy.** Laboratory room station occupancy shall be not less than 85 percent of capacity.

**57025. Classroom Space Per Station.** The computed average space per station in both existing and future classroom, seminar room, and service areas shall be 15 square feet per student station.

**57026. Small College, Sliding Scale Allowance.**

*History:* 1. Repealer filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).

2. Repealer filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).

**57027. Future Assignable Space.** The formula for determining the assignable space for future classrooms and seminar rooms per projected 100 weekly student contact hours is as follows:

$$\frac{\text{Assignable square feet per station}}{\text{Room use standard} \times \text{station occupancy standard}} \times 100$$

**57028. Capacity of Future Laboratory and Service Areas.** In determining the computer capacity of future laboratory and service area facilities, the following space allocations by standard classification of subject matter shall be applied on a campus-wide basis:

**Assignable Square Feet Per Station and Per 100 Weekly Student Contact Hours, California Public Community Colleges**

**1. Classroom and Seminars**

(Including Classroom Service) 8 a.m. to 10 p.m.

*Campus Weekly Student Contact Hours*

Less than 140,000 .....  
140,000 or more .....

*ASF/STN.*

15  
15

*ASF/100 WSCH\**

47.3  
42.9

**2. Teaching Laboratories**

(Including Teaching Laboratory Service) 8 a.m. to 10 p.m.

<i>Standard Classification Code</i>	<i>Subject Grouping</i>	<i>ASF/STN.</i>	<i>ASF/100 WSCH<sup>a</sup></i>
1900	Biol. Sciences	55	235
2400	Mathematics	30	128
2600	Physical Sciences	60	257
3000	Social Sciences	30	128
4100	Art	65	278
4200	Drama	65	278
4300	English	40	171
4400	Foreign Languages	40	171
4500	Music	65	278
4800	Speech	40	171
4900	Other Humanities	40	171
6100	Agriculture	150	642
6200	Business	30	128
6400	Home Economics	60	257
6500	Applied Graphic Arts	80	342
6600	Health Services	50	214
6700	Pub./Pers. Serv.	50	214
6801	Aero. Tech.	175	749
6802	Air Conditioning	130	556
6803	Building Trades	175	749
6804	Ceramic Technology	40	171
6805	Chem. Technology	70	299
6807	Drafting Tech.	60	257
6808	Electrical Tech.	70	299
6809	Electro-Mechanical	100	428
6810	Electronic Technology	60	257
6811	Engin. Gen.	90	385
6812	Engin. Tech.	70	299
6814	Industrial Tech.	75	321
6815	Mechanical—Auto	200	856
6816	Metallurgical Tech.	65	278
6817	Metal Trades	130	556
6818	Textile Mech.	120	513
6819	Welding	90	385
6890	Other Trade Tech.	75	321

<sup>a</sup> Based on following utilization components for space standards computation:

Classrooms and Seminars:	Hrs./Wk.	Stn. Occ. %	Stn. Use
Campus WSCH	48	× .66	= 31.68
Less than 140,000	53	× .66	= 34.98
140,000 or more			
Laboratories:			
LD	27.5	× .85	= 23.375

- History:** 1. Amendment filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).  
 2. Amendment filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).

57099. Office Space. All office space (academic offices, administrative and clerical offices, office service rooms, and conference rooms) shall be computed at 140 assignable square feet for each full-time equivalent instructional staff member. Office space for a small Community College district shall be computed at 160 assignable square feet for each full-time equivalent instructional staff member.

Title 5, CCR, Register 75-40

§ 57001

§ 57022



CHAPTER 1. COMMUNITY COLLEGE CONSTRUCTION ACT

SUBCHAPTER 1. GENERAL PROVISIONS

**57000. General Provisions.** For the purposes of the administration of the Community College Construction Act, the provisions of this chapter apply.

NOTE: Authority cited for Chapter 1: Sections 193, 197 and 20054, Education Code. Reference: Ch. 19 (commencing with Sec. 20050), Div. 14, Education Code.

*History:* 1. Repealer of Chapters 1 and 2 (§§ 57000 through 57121, not consecutive) and new Chapter 1 (§§ 57000 through 57032, not consecutive) filed 11-2-73; effective thirtieth day thereafter (Register 73, No. 44).

**57001. Definitions.** For the purposes of this chapter:

(a) "Student contract hours" means the actual or estimated total number of programmed class periods per week for a student.

(b) "A small Community College" means a college with 35,000 or fewer weekly student contact hours (WSCH) in graded and ungraded day and evening programs.

(c) "Handbook of Definitions" refers to the publication of that name issued by the Chancellor.

(d) "Leased or rented" means a building for which lease or rental costs are paid, and the use of which will be discontinued upon the completion of the project for which application has been submitted.

(e) "Permanent building" means a building for which there is no plan for removal or demolition and, so far as is known, will remain as a facility on the campus.

(f) "Temporary building" means an on-campus building of limited worth which, according to the capital construction master plan, is anticipated to be demolished or replaced within a decade. All other buildings should be considered permanent.

(g) "Federal funds" means money provided by the federal government to the district operating a Community College for the project or any part of the project which will be available to the district under the following acts: Higher Education Facilities Act of 1963, Higher Education Act of 1965, National Defense Education Administration, Public Law 815, and the Vocational Education Act of 1968 (Public Law 90-576), including subsequent amendments to it.

(h) "Assessed valuation of the district" means the total assessed valuation of all the property within the district, modified by provisions of Education Code Section 17262 (Collier Factor).

*History:* 1. Repealer of subsections (i) and (j) filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).

**57002. Federal Fund Proration.** When the physical detail and intent of a project subject to a federal grant differs materially from the physical detail and intent for which state funds are appropriated, the federal funds shall be prorated on the scope of the project subject to the federal grant and that prorata share be made applicable to the project subject to state matching funds.

**57003. Projecting Graded and Ungraded Enrollments.** The projected growth in graded and ungraded enrollment determined for each district by the State Department of Finance shall be developed by using the procedure specified in the Handbook of Definitions. Exceptions to the procedure may be made by the State Department of Finance for newly formed Community College districts or for the other districts where unusual circumstances justify them. Each exception shall be noted and reported to the Chancellor.

**57020. Standards.** The computed existing and projected capacity and utilization standards listed in this article shall apply unless it is determined by the Chancellor in consultation with the Department of Finance that extraordinary conditions exist.

**57021. Classroom Use.** For purposes of support of Facilities in the 1975-76 Capital Outlay Program and subsequent years:

Classrooms and seminar room use shall be not less than 48 hours per 70-hour week for a campus of less than 140,000 weekly student contact hours per week, and not less than 53 hours per 70-hour week for a campus with 140,000, or more, weekly student contact hours.

- History:* 1. Repealer and new section filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).  
2. Repealer and new section filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).

**57022. Laboratory Use.** Laboratory room use shall be not less than 27.5 hours per 70-hour week.

- History:* 1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).

**57023. Classroom Occupancy.** Classroom and seminar room station occupancy shall be not less than 66 percent of capacity.

**57024. Laboratory Occupancy.** Laboratory room station occupancy shall be not less than 85 percent of capacity.

**57025. Classroom Space Per Station.** The computed average space per station in both existing and future classroom, seminar room, and service areas shall be 15 square feet per student station.

**57026. Small College, Sliding Scale Allowance.**

- History:* 1. Repealer filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).  
2. Repealer filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).

**57027. Future Assignable Space.** The formula for determining the assignable space for future classrooms and seminar rooms per projected 100 weekly student contact hours is as follows:

$$\frac{\text{Assignable square feet per station}}{\text{Room use standard} \times \text{station occupancy standard}} \times 100$$

**57028. Capacity of Future Laboratory and Service Areas.** In determining the computed capacity of future laboratory and service area facilities, the following space allocations by standard classification of subject matter shall be applied on a campus-wide basis:

**Assignable Square Feet Per Station and Per 100 Weekly Student Contact Hours, California Community Colleges**

**1. Classroom and Seminars**

(Including Classroom Service) 8 a.m. to 10 p.m.

<i>Campus Weekly Student Contact Hours</i>	<i>ASF/STN.</i>	<i>ASF/100 WSCH*</i>
Less than 140,000 .....	15	47.3
140,000 or more .....	15	42.9

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EDUCATION

**TITLE 5**  
(Register 75, No. 49-164-75)

**2. Teaching Laboratories**

(Including Teaching Laboratory Service) 8 a.m. to 10 p.m.

<i>Classification of Instructional Disciplines</i>	<i>Subject Grouping</i>	<i>ASF/STN.</i>	<i>ASF/100 WSCII*</i>
0100 .....	Agriculture	115	492
0200 .....	Architecture	60	257
0400 .....	Biological Sciences	55	235
0500 .....	Business and Mgmt.	30	128
0600 .....	Communications	50	214
0700 .....	Computer & Info. Sci.	40	171
0800 .....	Education	75	321
0900 .....	Diesel	200	856
0944 .....	Air Conditioning	130	556
0945 .....	Refrigeration	130	556
0946 .....	Auto-Body & Fender	200	856
0947 .....	Auto-Mechanic	200	856
0948 .....	Auto-Technology	75	321
0949 .....	Small Engine Repair	100	459
0950 .....	Aviation Maint.	175	749
0954 .....	Plastics	130	556
0955 .....	Stationary Eng. (Engineering)	200	856
All other 0900's .....		75	321
1000 .....	Fine & Applied Arts	60	257
1100 .....	Foreign Language	35	150
1200 .....	Health Services	50	214
1300 .....	Home Economics	60	257
1500 .....	Letters	35	150
1600 .....	Library Science	35	150
1700 .....	Mathematics	35	150
1900 .....	Physical Sciences	60	257
2000 .....	Psychology	35	150
2100 .....	Pub. Affairs & Serv.	50	214
2200 .....	Social Sciences	35	150
3000 .....	Commercial Serv.	50	214
4900 .....	Interdisciplinary	60	257
5330 .....	Carpentry	175	749
5331 .....	Electricity	175	749
5332 .....	Plumbing	175	749
5333 .....	Glazing	175	749
5334 .....	Roofing	175	749
5335 .....	Masonry	175	749
5336 .....	Dry-Wall	175	749
5337 .....	Plastering	175	749
5338 .....	Painting	175	749
5339 .....	Millwork	90	385
5340 .....	Metal Trades	90	385

EDUCATION

TITLE 5

(Register 74, No. 40-10-75)

5341 .....	Welding	90	385
5342 .....	Machine Tools	90	385
5343, 5344 .....	Heavy Equipment	200	856
5345 .....	Auto-Mechanics	200	856
5346 .....	Auto-Body & Fender	200	856
5347 .....	Graphic Arts	80	342
5348 .....	Stationary Eng.	200	856

\* Based on following utilization components for space standards computation:

Classrooms and Seminars:

Classrooms WSCF	Hrs./Wk.	Sta.	Occ. %	Sta. Use
Less than 149,000	48	x	.85	= 31.68
149,000 or more	53	x	.85	= 34.98

Laboratories:

LD	37.5	x	.85	= 31.875
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- History:*
1. Amendment filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).
  2. Amendment filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).
  3. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).

**57029. Office Space.** All office space (academic offices, administrative and clerical offices, office service rooms, and conference rooms) shall be computed at 140 assignable square feet for each full-time equivalent instructional staff member. Office space for a small Community College district shall be computed at 160 assignable square feet for each full-time equivalent instructional staff member.

**57030. Library Space.** All library space shall be computed by assignable square feet for library functions as specified in the subdivisions of this section. Square feet are "assignable" only if they are usable for the function described. Areas such as the main lobby (excluding card catalogue area), elevators, stairs, walled corridors, rest rooms, and areas accommodating building maintenance services are not deemed usable for any of the described functions.

Stack Space = .1 ASF × Number of Bound Volumes

Number of Volumes  
Initial Increment = 16,000 volumes

Additional Increments

- (a) Under 3,000 DGE \* = +8 volumes per DGS \*\*
- (b) 3,000-9,000 DGE = +7 volumes per DGS
- (c) Above 9,000 DGE = +6 volumes per DGS

Staff Space = (140 ASF × Number of FTE Staff) + 400 ASF

Number of FTE Staff  
Initial Increment = 3.0 FTE

Additional Increments

- (a) Under 3,000 DGE = +.0020 FTE Staff per DGS
- (b) 3,000-9,000 DGE = +.0015 FTE Staff per DGS
- (c) Above 9,000 DGE = +.0010 FTE Staff per DGS

**Reader**

Station Space = 27.5 ASF × Number of Reader Stations

Number of Reader Stations  
Initial Increment = 50 Stations

Additional Increments

- (a) Under 3,000 DGE = +.10 Stations per DGS
- (b) 3,000-9,000 DGE = +.09 Stations per DGS
- (c) Above 9,000 DGE = +.08 Stations per DGS

Total Space = Initial Increment = 3,795 ASF

Additional Increments

- (a) Under 3,000 DGE = +3.83 ASF per DGS
- (b) 3,000-9,000 DGE = +3.39 ASF per DGS
- (c) Above 9,000 DGE = +2.94 ASF per DGS

For audio-visual and programmed instruction activities associated with library/learning resource functions, additional areas sized for individual needs but not exceeding the following totals for the district as a whole

Total Space = Initial Increment = 3,500 ASF

Additional Increments

- (a) Under 3,000 DGE \* = 1.50 ASF per DGS \*\*
- (b) 3,000-9,000 DGE = 0.75 ASF per DGS
- (c) Above 9,000 DGE = 0.25 ASF per DGS

\* Day-Graded Enrollment

\*\* Day-Graded Student

History: 1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).

**57031. Abbreviations.**

ASF/STN = Assignable square feet per student station

**Classrooms:**

Hrs./Wk. = Number of hours out of a 70-hour week, 8 a.m. to 10 p.m., a classroom, on the average, should be used

**Class Laboratories:**

Hrs./Wk. = Number of hours out of a 70-hour week, 8 a.m. to 10 p.m., a class laboratory, on the average, should be used

STN. Occ. = The percentage of expected student station occupancy when rooms are in use

STN. Use = The number of hours per week (out of the 70-hour week for classrooms and class laboratories) which a student station, on the average, should be used

WSCH = Weekly Student Contact Hours—8 a.m. to 10 p.m. WSCH for nonlaboratory (lecture) and laboratory hours.

*History:* 1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).

**57032. Formula for Deriving the Standards.**

$$\frac{\text{ASF/STN.}}{\text{Hrs./Wk.} \times \text{STN. Occ.}} \times 100 = \text{ASF/100 WSCH}$$

**Example A.** For determining ASF/WSCH in Classrooms and Seminars on an 8 a.m. to 10 p.m. basis:

$$\begin{array}{l} \text{ASF/STN.} = 15 \\ \text{Hrs./Wk.} = 53 \\ \text{STN./Occ.} = .66 \end{array} \quad \frac{15}{53.0 \times .66} \times 100 = 42.9 \text{ ASF/100 WSCH}$$

**Example B.** For determining ASF/WSCH in Biological Science Laboratory on an 8 a.m. to 10 p.m. basis:

$$\begin{array}{l} \text{ASF/STN.} = 55 \\ \text{Hrs./Wk.} = 27.5 \\ \text{STN./Occ.} = .85 \end{array} \quad \frac{55}{27.5 \times .85} \times 100 = 235 \text{ ASF/100 WSCH}$$

*History:* 1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).



Title 5, CCR, Register 77-45

§ 57000

§ 57001

§ 57003

**CHAPTER 1. COMMUNITY COLLEGE CONSTRUCTION ACT**

**SUBCHAPTER 1. GENERAL PROVISIONS**

**57000. General Provisions.** For the purposes of the administration of the Community College Construction Act, the provisions of this chapter apply.

NOTE: Authority cited for Chapter 1: Sections 71020, 71024 and 61805, Education Code. Reference: Chapter 4 (commencing with Section 81800), Part 49, Division 7, Education Code.

- History:* 1. Repealer of Chapters 1 and 2 (§§ 57000 through 57121, not consecutive) and new Chapter 1 (§§ 57000 through 57032, not consecutive) filed 11-2-73; effective thirtieth day thereafter (Register 73, No. 44).  
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

**57001. Definitions.** For the purposes of this chapter:

- (a) "Student contract hours" means the actual or estimated total number of programmed class periods per week for a student.  
(b) "A small Community College" means a college with 35,000 or fewer weekly student contact hours (WSCH) in graded and ungraded day and evening programs.  
(c) "Leased or rented" means a building for which lease or rental costs are paid, and the use of which will be discontinued upon the completion of the project for which application has been submitted.  
(d) "Permanent building" means a building for which there is no plan for removal or demolition and, so far as is known, will remain as a facility on the campus.  
(e) "Temporary building" means an on-campus building of limited worth which, according to the capital construction master plan, is anticipated to be demolished or replaced within a decade. All other buildings should be considered permanent.  
(f) "Federal funds" means money provided by the federal government to the district operating a Community College for the project or any part of the project which will be available to the district under the following acts: Higher Education Facilities Act of 1963, Higher Education Act of 1965, National Defense Education Administration, Public Law 815, and the Vocational Education Act of 1968 (Public Law 90-576), including subsequent amendments to it.  
(g) "Assessed valuation of the district" means the total assessed valuation of all the property within the district, modified by provisions of Education Code Section 41201 (Collier Factor).

- History:* 1. Repealer of subsections (i) and (j) filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).  
2. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

**57002. Federal Fund Proration.** When the physical detail and intent of a project subject to a federal grant differs materially from the physical detail and intent for which state funds are appropriated, the federal funds shall be prorated on the scope of the project subject to the federal grant and that prorata share be made applicable to the project subject to state matching funds.

**57003. Projecting Graded and Ungraded Enrollments.**

*History:* 1. Repealer filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

**57020. Standards.** The computed existing and projected capacity and utilization standards listed in this article shall apply unless it is determined by the Chancellor in consultation with the Department of Finance that extraordinary conditions exist.

**57021. Classroom Use.** For purposes of support of Facilities in the 1975-76 Capital Outlay Program and subsequent years:

Classrooms and seminar room use shall be not less than 48 hours per 70-hour week for a campus of less than 140,000 weekly student contact hours per week, and not less than 53 hours per 70-hour week for a campus with 140,000, or more, weekly student contact hours.

*History:* 1. Repealer and new section filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).  
2. Repealer and new section filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).

**57022. Laboratory Use.** Laboratory room use shall be not less than 27.5 hours per 70-hour week.

*History:* 1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).

**57023. Classroom Occupancy.** Classroom and seminar room station occupancy shall be not less than 66 percent of capacity.

**57024. Laboratory Occupancy.** Laboratory room station occupancy shall be not less than 85 percent of capacity.

**57025. Classroom Space Per Station.** The computed average space per station in both existing and future classroom, seminar room, and service areas shall be 15 square feet per student station.

**57026. Small College, Sliding Scale Allowance.**

*History:* 1. Repealer filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).  
2. Repealer filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).

**57027. Future Assignable Space.** The formula for determining the assignable space for future classrooms and seminar rooms per projected 100 weekly student contact hours is as follows:

$$\frac{\text{Assignable square feet per station}}{\text{Room use standard} \times \text{station occupancy standard}} \times 100$$

**57028. Capacity of Future Laboratory and Service Areas.** In determining the computed capacity of future laboratory and service area facilities, the following space allocations by standard classification of subject matter shall be applied on a campus-wide basis:

**Assignable Square Feet Per Station and Per 100 Weekly Student Contact Hours, California Community Colleges**

**1. Classroom and Seminars**

(Including Classroom Service) 8 a.m. to 10 p.m.

<i>Campus Weekly Student Contact Hours</i>	<i>ASF/STN.</i>	<i>ASF/100 WSCH<sup>1</sup></i>
Less than 140,000.....	15	47.3
140,000 or more .....	18	49.9

## 2. Teaching Laboratories

(Including Teaching Laboratory Service) 8 a.m. to 10 p.m.

<i>Classification of Instructional Disciplines</i>	<i>Subject Grouping</i>	<i>ASF/STN.</i>	<i>ASF/100 WSCH</i>
0100 .....	Agriculture	115	400
0200 .....	Architecture	60	257
0400 .....	Biological Sciences	55	225
0400 .....	Business and Mgmt.	39	188
0500 .....	Communications	60	214
0600 .....	Computer & Info. Sci.	40	171
0700 .....	Education	75	321
0800 .....	Diesel	300	856
0930 .....	Air Conditioning	120	556
0944 .....	Refrigeration	130	556
0945 .....	Auto-Body & Fender	200	856
0946 .....	Auto-Mechanic	200	856
0947 .....	Auto-Technology	75	321
0948 .....	Small Engine Repair	100	428
0949 .....	Aviation Maint.	175	749
0950 .....	Plastics	130	556
0954 .....	Stationary Eng.	200	856
0955 .....	(Engineering)	75	321
All other 0900's.....	Fine & Applied Arts	60	257
1000 .....	Foreign Language	35	150
1100 .....	Health Services	50	214
1200 .....	Home Economics	60	257
1300 .....	Letters	35	150
1500 .....	Library Science	35	150
1600 .....	Mathematics	35	150
1700 .....	Physical Sciences	60	257
1900 .....	Psychology	35	150
2000 .....	Pub. Affairs & Serv.	50	214
2100 .....	Social Sciences	35	150
2200 .....	Commercial Serv.	50	214
3000 .....	Interdisciplinary	60	257
4900 .....	Carpentry	175	749
5330 .....	Electricity	175	749
5331 .....	Plumbing	175	749
5332 .....	Glazing	175	749
5333 .....	Roofing	175	749
5334 .....	Masonry	175	749
5335 .....	Dry-Wall	175	749
5336 .....	Plastering	175	749
5337 .....	Painting	175	749
5338 .....	Millwork	90	385
5339 .....	Metal Trades	90	385
5340 .....			

5341 .....	Welding	90	385
5342 .....	Machine Tools	90	385
5343, 5344 .....	Heavy Equipment	200	856
5345 .....	Auto-Mechanics	200	856
5346 .....	Auto-Body & Fender	200	856
5347 .....	Graphic Arts	80	342
5348 .....	Stationary Eng.	200	856

<sup>a</sup> Based on following utilization components for space standards computation:

Classrooms and Seminars:  
 Campus WSCH

	Hrs./Wk.	Stn.	Occ. %	Stn. Use
Less than 140,000	48	x	.66	= 31.68
140,000 or more	53	x	.66	= 34.98

Laboratories:

LD	27.5	x	.66	= 18.15
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- History:* 1. Amendment filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).  
 2. Amendment filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).  
 3. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).

**57029. Office Space.** All office space (academic offices, administrative and clerical office service rooms, and conference rooms) shall be computed at 140 assignable square feet for each full-time equivalent instructional staff member. Office space for a small Community College district shall be computed at 160 assignable square feet for each full-time equivalent instructional staff member.

*History:* 1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

**57030. Library Space.** All library space shall be computed by assignable square feet for library functions as specified in the subdivisions of this section. Square feet are "assignable" only if they are usable for the function described. Areas such as the main lobby (excluding card catalogue area), elevators, stairs, walled corridors, rest rooms, and areas accommodating building maintenance services are not deemed usable for any of the described functions.

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EDUCATION

**TITLE 5**  
(Register 77, No. 45-11-5-77)

Stack Space = .1 ASF × Number of Bound Volumes

Number of Volumes  
Initial Increment = 16,000 volumes

Additional Increments

- (a) Under 3,000 DGE \* = +8 volumes per DGS \*\*
- (b) 3,000-9,000 DGE = +7 volumes per DGS
- (c) Above 9,000 DGE = +6 volumes per DGS

Staff Space = (140 ASF × Number of FTE Staff) + 400 ASF

Number of FTE Staff  
Initial Increment = 3.0 FTE

Additional Increments

- (a) Under 3,000 DGE = +.0020 FTE Staff per DGS
- (b) 3,000-9,000 DGE = +.0015 FTE Staff per DGS
- (c) Above 9,000 DGE = +.0010 FTE Staff per DGS

*Reader*

Station Space = 27.5 ASF × Number of Reader Stations

Number of Reader Stations  
Initial Increment = 50 Stations

Additional Increments

- (a) Under 3,000 DGE = +.10 Stations per DGS
- (b) 3,000-9,000 DGE = +.09 Stations per DGS
- (c) Above 9,000 DGE = +.08 Stations per DGS

Total Space = Initial Increment = 3,795 ASF

Additional Increments

- (a) Under 3,000 DGE = +3.83 ASF per DGS
- (b) 3,000-9,000 DGE = +3.39 ASF per DGS
- (c) Above 9,000 DGE = +2.94 ASF per DGS

For audio-visual and programmed instruction activities associated with library/learning resource functions, additional areas sized for individual needs but not exceeding the following totals for the district as a whole

Total Space = Initial Increment = 3,500 ASF

Additional Increments

- (a) Under 3,000 DGE \* = 1.50 ASF per DGS \*\*
- (b) 3,000-9,000 DGE = 0.75 ASF per DGS
- (c) Above 9,000 DGE = 0.25 ASF per DGS

\* Day-Graded Enrollment

\*\* Day-Graded Student

History: 1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).



**57031. Abbreviations.**

ASF/STN = Assignable square feet per student station

**Classrooms:**

Hrs./Wk. = Number of hours out of a 70-hour week, 8 a.m. to 10 p.m., a classroom, on the average, should be used

**Class Laboratories:**

Hrs./Wk. = Number of hours out of a 70-hour week, 8 a.m. to 10 p.m., a class laboratory, on the average, should be used

STN. Occ. = The percentage of expected student station occupancy when rooms are in use

STN. Use = The number of hours per week (out of the 70-hour week for classrooms and class laboratories) which a student station, on the average, should be used

WSCH = Weekly Student Contact Hours—8 a.m. to 10 p.m. WSCH for nonlaboratory (lecture) and laboratory hours.

*History:* 1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).

**57032. Formula for Deriving the Standards.**

$$\frac{\text{ASF/STN.}}{\text{Hrs./Wk.} \times \text{STN. Occ.}} \times 100 = \text{ASF/100 WSCH}$$

Example A. For determining ASF/WSCH in Classrooms and Seminars on an 8 a.m. to 10 p.m. basis:

$$\begin{array}{l} \text{ASF/STN.} = 15 \\ \text{Hrs./Wk.} = 53 \\ \text{STN./Occ.} = .66 \end{array} \quad \frac{15}{53.0 \times .66} \times 100 = 42.9 \text{ ASF/100 WSCH}$$

Example B. For determining ASF/WSCH in Biological Science Laboratory on an 8 a.m. to 10 p.m. basis:

$$\begin{array}{l} \text{ASF/STN.} = 55 \\ \text{Hrs./Wk.} = 27.5 \\ \text{STN./Occ.} = .85 \end{array} \quad \frac{55}{27.5 \times .85} \times 100 = 235 \text{ ASF/100 WSCH}$$

*History:* 1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).

Title 5, CCR, Register 80-39

§ 57050

**57033. Submission of Plan.**

Community college districts maintaining colleges, or one college and one or more educational centers may submit capital outlay plans required by Education Code Section 81820 on the basis of each college or educational center if either of the following circumstances is present such that students will be better served by evaluating the capital outlay program of the district on that basis:

(1) isolation of students within a district in terms of the distance of students from the location of an educational program, or inadequacy of transportation, and student financial inability to meet costs of transportation to an educational program, or

(2) inability of existing colleges and educational centers in the district to meet the unique educational and cultural needs of a significant number of ethnic students.

Districts submitting plans on the basis of individual colleges or educational centers must include justification demonstrating the circumstances outlined in (1) and/or (2) above. Such justification must at least (a) identify the problem, specifying the educational program or programs in which the affected students would be enrolled, and the efforts by the district either to offer the program or programs in a location closer to the affected students, or to improve transportation within the district; (b) show the magnitude of the above problem, stating the number of students or potential students affected; (c) describe the district's present method for serving the affected students; and (d) describe the proposed solution. In its evaluation, the Chancellor's Office will examine the severity of the problem and alternative solutions considered by the district. The results of this evaluation will be reported to the district at the same time when it is notified of the Chancellor's Office approval of the plan for capital construction as provided by Education Code Section 81822.

NOTE: Authority cited: Sections 71020, 81823 and 71025, Education Code. Reference: Sections 81823 and 81824, Education Code.

**HISTORY:**

1. New section filed 1-18-78; effective thirtieth day thereafter (Register 78, No. 3).

**SUBCHAPTER 2. ENERGY AND RESOURCE CONSERVATION**

**57050. General Provisions.**

For the purposes of administration and implementation of Board of Governors Energy and Resources Policy under the Community College Construction Act, the provisions of this subchapter apply.

NOTE: Authority cited: Sections 66700, 71020, 71076 and 81805, Education Code. Reference: Sections 71023, 71028, 71076, and 81800-81845, Education Code.

**HISTORY:**

1. New Subchapter 2 (Sections 57050-57055) filed 9-25-80; effective thirtieth day thereafter (Register 80, No. 39).

**57051. Definitions.**

For the purposes of this subchapter:

(a) "Energy Conservation Project" means the acquisition, development, or modification of facilities and equipment which result in the conservation of energy; energy audits; energy conservation and operating procedures; energy conservation measures; water conservation measures; and retrofit consisting of modifications made to existing equipment or structures.

(b) "Energy Conservation Program," means an organized activity approved and adopted by a community college district board of trustees in the form of a written summary of the activities by the district toward the conserving of energy sources.

(c) "Energy Audit (EA)," means the nontechnical review of a facility to ascertain the existing level of energy use efficiency.

(d) "Technical Audit" (TA), means a specialized study designed to identify and specify energy resource savings and related cost savings which may be realized as a result of modification of maintenance and operating procedures, acquisition and installation of one or more specified energy conservation measures, or planning of specific remodeling, renovation, repair and replacement of facilities.

(e) "Technical Auditor" means a California registered engineer with energy conservation experience authorized by the California Energy Commission to conduct technical audits for all public building in the State of California.

(f) "Pay-back Period" is the length of time required for the flow of net cash proceeds or cash saving produced by an investment to equal the original cash outlay required by the investment.

(g) "Energy Conservation Measure" means an installation or modification of a system in a building or facility which is primarily intended to reduce energy consumption or allow the use of a more desirable energy source.

NOTE: Authority cited: Sections 66700, 71020, 71076 and 81805, Education Code. Reference: Sections 71023, 71028, 71076, and 81800-81845, Education Code.

#### 57052. Need for Energy Conservation Projects.

(a) For those districts requesting a state supported energy conservation project, a summary of the local district Energy Conservation program as adopted by the board of trustees shall be a part of the annual district Five-Year Construction Plan.

(b) A community college district submitting an energy conservation project for state aid under the capital outlay program of the Community College Construction Act of 1980 shall indicate the need for such assistance in the annual district Five-Year Construction Plan. Such need is to appear as a component part of the Statement of Educational Plans for the district.

NOTE: Authority cited: Sections 66700, 71020, 71076 and 81805, Education Code. Reference: Sections 71023, 71028, 71076, and 81800-81845, Education Code.

#### 57053. Identification of Energy Conservation Projects.

(a) When the need for state financial assistance for an energy conservation project (as defined in subsection (a) of Section 57051) has been adequately established, it shall be submitted as a project planning guide in accordance with established format to the Chancellor's Office.

(b) The project planning guide shall contain evidence of an approved Energy Audit (EA) on file with the California Energy Commission.

NOTE: Authority cited: Sections 66700, 71020, 71076 and 81805, Education Code. Reference: Sections 71023, 71028, 71076, and 81800-81845, Education Code.

**57054. Evaluation of Energy Conservation Projects.**

All projects submitted as energy conservation related shall be ranked on the basis of criteria developed by the Chancellor's Office and shall include but not be limited to:

- (a) Level of energy use—those projects identified to correct conditions of higher energy use application shall receive higher priority evaluation.
- (b) Pay-back period—those projects which by their design or proposed application demonstrate the shortest possible pay-back period shall receive higher priority evaluation.
- (c) The extent to which the district has implemented an energy conservation program which meets the objectives specified in Board of Governors Policy Statement on Energy and Resource Conservation.

NOTE: Authority cited: Sections 66700, 71020, 71076 and 81805, Education Code. Reference: Sections 71023, 71028, 71076, and 81800-81845, Education Code.

**57055. Developmental Progression of Energy Conservation Related Capital Outlay Projects.**

(a) Energy conservation related projects shall be evaluated and ranked for approval by the Chancellor following the existing procedures for the statewide capital outlay program.

(b) Upon securing approval of a proposed energy conservation project by all appropriate review agencies, the governing board of a community college may submit to the Chancellor for approval, or disapproval, preliminary plans for the project.

(c) Preliminary plans for energy related projects shall include:

- (1) The results of a technical audit (TA) performed by an authorized Technical Auditor which describes in detail the energy conservation measures the project is to institute.
- (2) The status of the project as related to the various federal and state aided programs for energy conservation.
- (3) An architectural and/or engineering analysis setting forth the detailed costs of the various elements of the project.

NOTE: Authority cited: Sections 66700, 71020, 71076 and 81805, Education Code. Reference: Sections 71023, 71028, 71076, and 81800-81845, Education Code.

**CHAPTER 2. ENVIRONMENTAL QUALITY**

**57100. Authority.**

The regulations adopted under this Chapter are pursuant to the California Environmental Quality Act of 1970 (Division 13 commencing with Section 21000 of the Public Resources Code) and Guidelines adopted by Secretary for Resources in Division 6, Title 14, California Administrative Code.

NOTE: Authority cited for Chapter 2: Section 71020, Education Code and Section 21022, Public Resources Code. Reference: Division 13 (commencing with Section 21000), Public Resources Code.

**HISTORY:**

- 1. New Chapter 2 (Sections 57100 through 57140, not consecutive) filed 4-26-74; effective thirtieth day thereafter (Register 74, No. 17).
- 2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

**57101. Purpose.**

The purpose of these regulations is to provide basic principles, objectives, criteria and definitions for use by the Chancellor of the California Community Colleges in reviews required by the Education Code of Community College construction projects.

Title 5, CCR, Register 80-44

§ 57150

**CHAPTER 3. DISTRICT FUNDED CONSTRUCTION PROJECTS**

**57150. Purpose.**

The purpose of these regulations is to provide basic definitions, principles, and standards for use by the Chancellor of the California Community Colleges in considering any district-funded construction project subject to the requirements of Section 81837 of the Education Code.

NOTE: Authority cited: Sections 66700, 71020, 81836, Education Code. Reference: Sections 81836, 81837, Education Code.

**HISTORY:**

1. New Chapter 3 (Sections 57150-57158, not consecutive) filed 10-30-80; effective thirtieth day thereafter (Register 80, No. 44).

**57152. Definitions.**

(a) "Capital Outlay Project" includes purchase of land and costs related thereto, including court costs, condemnation costs, legal fees, title fees, etc.; construction projects, including working drawings; and equipment related to a construction project regardless of cost or timing.

(b) "Construction Project" includes new construction, alteration, and extension or betterment of existing structures.

(c) "State-Funded Project" means a capital outlay project qualifying as a project pursuant to Section 81805 of the Education Code, and for which a district requests or receives State funding assistance.

(d) "District-Funded Project" means a capital outlay project subject to the provisions of Section 81837 of the Education Code for which any funds, other than state funds, are paid or to be paid for erecting, adding to, or altering any community college facility.

(e) "Five-Year Construction Plans" means a plan for capital construction for community college purposes of a community college district for the five-year period commencing with the next proposed year of funding.

NOTE: Authority cited: Sections 66700, 71020, 81836, Education Code. Reference: Sections 81836, 81837, Education Code.

**57154. Application.**

In each case, the application for approval of plans for a district-funded project shall be accompanied by the plans and full, complete and accurate take-off of assignable and gross square feet of space, which shall comply with any and all requirements prescribed by the Chancellor.

NOTE: Authority cited: Sections 66700, 71020, 81836, Education Code. Reference: Sections 81836, 81837, Education Code.

**57156. Review.**

The review and evaluation of plans for a district-funded project by the Chancellor, shall include the following elements:

(a) Review and evaluate each district-funded project with reference to the elements of the capital construction program specified in Education Code Section 81821.

(b) The review and evaluation shall be directed particularly to ascertain whether the locally funded project is of appropriate size, is appropriately timed and is justified in terms of the elements of the capital construction plans and where applicable, the standards as adopted by the Board of Governors.

NOTE: Authority cited: Sections 66700, 71020, 81836, Education Code. Reference: Sections 81836, 81837, Education Code.

§ 57158  
(p. 676.6)

CALIFORNIA COMMUNITY COLLEGES

TITLE 5

(Register No. 44-11-1-83)

**57158. Chancellor's Response to Request for Approval of Plans.**

(a) When analysis by the Chancellor shows that approval of the plans for a proposed locally-funded construction of a community college facility would not result in facilities which would be substantially at variance with space and utilization standards adopted by the Board of Governors, the Chancellor shall approve the plans.

(b) When analysis by the Chancellor shows that approval of the plans would result in facilities which would be substantially at variance with space and utilization standards adopted by the Board of Governors, the Chancellor shall respond by:

- (1) Imposing conditions for the approval of the plans; or
- (2) Finding that despite the significant variance with space standards, the plans, as submitted, are acceptable, and responding to the district with:
  - (A) Cautions, and/or
  - (B) Appraisal of the potential consequences of this variance.

NOTE: Authority cited: Sections 63700, 71020, 81836, Education Code. Reference: Sections 81836, 81837, Education Code.



Title 5, CCR, Register 81-03

§ 57001

§ 57158

## CHAPTER 1. COMMUNITY COLLEGE CONSTRUCTION ACT

## SUBCHAPTER 1. GENERAL PROVISIONS

**57000. General Provisions.**

For the purposes of the administration of the Community College Construction Act, the provisions of this chapter apply.

NOTE: Authority cited for Chapter 1: Sections 71020, 71024 and 81805, Education Code. Reference: Chapter 4 (commencing with Section 81800), Part 49, Division 7, Education Code.

**HISTORY:**

1. Repealer of Chapters 1 and 2 (§§ 57000 through 57121, not consecutive) and new Chapter 1 (§§ 57000 through 57032, not consecutive) filed 11-2-73; effective thirtieth day thereafter (Register 73, No. 44).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

**57001. Definitions.**

For the purposes of this chapter:

- (a) "Student contract hours" means the actual or estimated total number of programmed class periods per week for a student.
- (b) "A small community college" means a college with 35,000 or fewer weekly student contact hours (WSCH) in graded and ungraded day and evening programs.
- (c) "Leased or rented" means a building for which lease or rental costs are paid, and the use of which will be discontinued upon the completion of the project for which application has been submitted.
- (d) "Permanent building" means a building for which there is no plan for removal or demolition and, so far as is known, will remain as a facility on the campus.
- (e) "Temporary building" means an on-campus building of limited worth which, according to the capital construction master plan, is anticipated to be demolished or replaced within a decade. All other buildings should be considered permanent.
- (f) "Federal funds" means money from any source whatsoever provided by the federal government to the district operating a Community College for the project or any part of the project which will be available to the district under any federal acts.

NOTE: Authority cited: Sections 71020, 81805, Education Code. Reference: Chapter 4 (commencing with Section 81800) of Part 49, Division 7, Education Code.

**HISTORY:**

1. Repealer of subsections (i) and (j) filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).

**57002. Federal Fund Proration.**

When the physical detail and intent of a project subject to a federal grant differs materially from the physical detail and intent for which state funds are appropriated, the federal funds shall be prorated on the scope of the project subject to the federal grant and that prorata share be made applicable to the project subject to state matching funds.

**57003. Projecting Graded and Ungraded Enrollments.**

**HISTORY:**

1. Repealer filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

**57020. Standards.**

The computed existing and projected capacity and utilization standards listed in this article shall apply unless it is determined by the Chancellor in consultation with the Department of Finance that extraordinary conditions exist.

**57021. Classroom Use.**

For purposes of support of Facilities in the 1975-76 Capital Outlay Program and subsequent years:

Classrooms and seminar room use shall be not less than 48 hours per 70-hour week for a campus of less than 140,000 weekly student contact hours per week, and not less than 53 hours per 70-hour week for a campus with 140,000, or more, weekly student contact hours.

**HISTORY:**

1. Repealer and new section filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).
2. Repealer and new section filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).

**57022. Laboratory Use.**

Laboratory room use shall be not less than 27.5 hours per 70-hour week.

**HISTORY:**

1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).

**57023. Classroom Occupancy.**

Classroom and seminar room station occupancy shall be not less than 66 percent of capacity.

**57024. Laboratory Occupancy.**

Laboratory room station occupancy shall be not less than 85 percent of capacity.

**57025. Classroom Space Per Station.**

The computed average space per station in both existing and future classroom, seminar room, and service areas shall be 15 square feet per student station.

**57026. Small College, Sliding Scale Allowance.**

**HISTORY:**

1. Repealer filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).
2. Repealer filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).

**CHAPTER 3. DISTRICT FUNDED CONSTRUCTION PROJECTS**

**57150. Purpose.**

The purpose of these regulations is to provide basic definitions, principles, and standards for use by the Chancellor of the California Community Colleges in considering any district-funded construction project subject to the requirements of Section 81837 of the Education Code.

NOTE: Authority cited: Sections 66700, 71020, 81836, Education Code. Reference: Sections 81836, 81837, Education Code.

**HISTORY:**

1. New Chapter 3 (Sections 57150-57158, not consecutive) filed 10-30-80; effective thirtieth day thereafter (Register 80, No. 44).

**57152. Definitions.**

(a) "Capital Outlay Project" includes purchase of land and costs related thereto, including court costs, condemnation costs, legal fees, title fees, etc.; construction projects, including working drawings; and equipment related to a construction project regardless of cost or timing.

(b) "Construction Project" includes new construction, alteration, and extension or betterment of existing structures.

(c) "State-Funded Project" means a capital outlay project qualifying as a project pursuant to Section 81805 of the Education Code, and for which a district requests or receives State funding assistance.

(d) "District-Funded Project" means a capital outlay project subject to the provisions of Section 81837 of the Education Code for which any funds, other than state funds, are paid or to be paid for erecting, adding to, or altering any community college facility.

(e) "Five-Year Construction Plans" means a plan for capital construction for community college purposes of a community college district for the five-year period commencing with the next proposed year of funding.

NOTE: Authority cited: Sections 66700, 71020, 81836, Education Code. Reference: Sections 81836, 81837, Education Code.

**57154. Application.**

In each case, the application for approval of plans for a district-funded project shall be accompanied by the plans and full, complete and accurate take-off of assignable and gross square feet of space, which shall comply with any and all requirements prescribed by the Chancellor.

NOTE: Authority cited: Sections 66700, 71020, 81836, Education Code. Reference: Sections 81836, 81837, Education Code.

**57156. Review.**

The review and evaluation of plans for a district-funded project by the Chancellor, shall include the following elements:

(a) Review and evaluate each district-funded project with reference to the elements of the capital construction program specified in Education Code Section 81821.

(b) The review and evaluation shall be directed particularly to ascertain whether the locally funded project is of appropriate size, is appropriately timed and is justified in terms of the elements of the capital construction plans and where applicable, the standards as adopted by the Board of Governors.

NOTE: Authority cited: Sections 66700, 71020, 81836, Education Code. Reference: Sections 81836, 81837, Education Code.

§ 57158  
(p. 676.6)

CALIFORNIA COMMUNITY COLLEGES

TITLE 5

(Register 81, No. 3—1-17-81)

**57158. Chancellor's Response to Request for Approval of Plans.**

(a) When analysis by the Chancellor shows that approval of the plans for a proposed locally-funded construction of a community college facility would not result in facilities which would be substantially at variance with space and utilization standards adopted by the Board of Governors, the Chancellor shall approve the plans.

(b) When analysis by the Chancellor shows that approval of the plans would result in facilities which would be substantially at variance with space and utilization standards adopted by the Board of Governors, the Chancellor shall respond by:

(1) Imposing conditions for the approval of the plans; or  
(2) Finding that despite the substantial variance with space standards, the plans, as submitted, are acceptable, and responding to the district with:

(A) Cautions, and/or

(B) Appraisal of the potential consequences of this variance.

NOTE: Authority cited: Sections 66700, 71020, 81836, Education Code. Reference: Sections 81836, 81837, Education Code.

**HISTORY:**

1. Amendment of subsection (b) filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).

Title 5, CCR, Register 83-18

§ 57000

§ 57001

§ 57002

§ 57050

**CHAPTER 1. COMMUNITY COLLEGE CONSTRUCTION ACT**

**57000. General Provisions.**

NOTE: Authority cited for Chapter 1: Sections 71020, 71024 and 81805, Education Code. Reference: Chapter 4 (commencing with Section 81800), Part 49, Division 7, Education Code.

**HISTORY:**

1. Repealer of Chapters 1 and 2 (§§ 57000 through 57121, not consecutive) and new Chapter 1 (§§ 57000 through 57032, not consecutive) filed 11-2-73; effective thirtieth day thereafter (Register 73, No. 44).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of Subchapter 1 heading and Section 57000 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

**57001. Definitions.**

For the purposes of this chapter:

- (a) "A small community college" means a college with 35,000 or fewer weekly student contact hours (WSCH) in credit and noncredit courses and programs.
- (b) "Leased or rented" means a building for which lease or rental costs are paid, and the use of which will be discontinued upon the completion of the project for which application has been submitted.
- (c) "Permanent building" means a building for which there is no plan for removal or demolition.
- (d) "Temporary building" means a building of limited worth which, according to the capital construction master plan, is anticipated to be demolished or replaced within five years. All other buildings are to be considered permanent.

NOTE: Authority cited: Sections 71020 and 81805, Education Code. Reference: Chapter 4 (commencing with Section 81800) of Part 49, Division 7, Education Code.

**HISTORY:**

1. Repealer of subsections (i) and (j) filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).
4. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

**57002. Federal Fund Proration.**

When the physical detail and intent of a project subject to a federal grant differs materially from the physical detail and intent for which state funds are appropriated, the federal funds shall be prorated on the scope of the project subject to the federal grant and that prorata share be made applicable to the project subject to state matching funds.

NOTE: Authority cited: Sections 71020, 71062 and 81805, Education Code. Reference: Section 81805, Education Code.

**HISTORY:**

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

**57003. Projecting Graded and Ungraded Enrollments.**

**HISTORY:**

1. Repealer filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

**57020. Standards.**

The computed existing and projected capacity and utilization standards listed in this article shall apply unless it is determined by the Chancellor in consultation with the Department of Finance that extraordinary conditions exist.

NOTE: Authority cited: Sections 71020, 71062, 81805 and 81836, Education Code. Reference: Section 81805, Education Code.

**HISTORY:**

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

**57021. Classroom Use.**

Classrooms and seminar room use shall be not less than 48 hours per 70-hour week for a campus of less than 140,000 weekly student contact hours per week, and not less than 53 hours per 70-hour week for a campus with 140,000, or more, weekly student contact hours.

NOTE: Authority cited: Sections 71020, 71062, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY:**

1. Repealer and new section filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).
2. Repealer and new section filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).
3. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

**57022. Laboratory Use.**

Laboratory room use shall be not less than 27.5 hours per 70-hour week.

NOTE: Authority cited: Sections 71020, 71062, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY:**

1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

**57023. Classroom Occupancy.**

Classroom and seminar room station occupancy shall be not less than 66 percent of capacity.

NOTE: Authority cited: Sections 71020, 71062, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY:**

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

**57024. Laboratory Occupancy.**

Laboratory room station occupancy shall be not less than 85 percent of capacity.

NOTE: Authority cited: Sections 71020, 71062, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY:**

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

**57025. Classroom Space Per Station.**

The computed average space per station in both existing and future classroom, seminar room, and service areas shall be 15 square feet per student station.

NOTE: Authority cited: Sections 71020, 71062, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY:**

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).



**57026. Small College, Sliding Scale Allowance.**

**HISTORY:**

1. Repealer filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).
2. Repealer filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).

**57027. Future Assignable Space.**

The formula for determining the assignable space for future classrooms and seminar rooms per projected 100 weekly student contact hours is as follows:

$$\frac{\text{Assignable square feet per station}}{\text{Room use standard} \times \text{station occupancy standard}} \times 100$$

NOTE: Authority cited: Sections 71020, 71062, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY:**

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

**57028. Capacity of Future Laboratory and Service Areas.**

In determining the computed capacity of future laboratory and service area facilities, the following space allocations by standard classification of subject matter shall be applied on a campus-wide basis:

Assignable Square Feet Per Station and Per 100 Weekly Student Contact Hours, California Community Colleges

**1. Classroom and Seminars**

(Including Classroom Service) 8 a.m. to 10 p.m.

<i>Campus Weekly Student Contact Hours</i>	<i>ASF/STN.</i>	<i>ASF/100 WSCH*</i>
Less than 140,000 .....	15	47.3
140,000 or more .....	15	42.9

**2. Teaching Laboratories**

(Including Teaching Laboratory Service) 8 a.m. to 10 p.m.

<i>Classification of Instructional Disciplines</i>	<i>Subject Grouping</i>	<i>ASF/STN.</i>	<i>ASF/100 WSCH*</i>
0100 .....	Agriculture .....	115	492
0200 .....	Architecture .....	60	257
0400 .....	Biological Sciences .....	55	235
0500 .....	Business and Mgmt. ....	30	128
0600 .....	Communications .....	50	214
0700 .....	Computer & Info. Sci. ....	40	171
0800 .....	Education .....	75	321
0930 .....	Diesel .....	200	856
0944 .....	Air Conditioning .....	130	556
0945 .....	Refrigeration .....	130	556
0946 .....	Auto-Body & Fender .....	200	856
0947 .....	Auto-Mechanic .....	200	856
0948 .....	Auto-Technology .....	75	321
0949 .....	Small Engine Repair .....	100	428

0950 .....	Aviation Maint.	175	749
0954 .....	Plastics	130	556
0955 .....	Stationary Eng.	200	856
All other 0900's.....	(Engineering)	75	321
1000 .....	Fine & Applied Arts	60	257
1100 .....	Foreign Language	35	150
1200 .....	Health Services	50	214
1300 .....	Home Economics	60	257
1500 .....	Letters	35	150
1600 .....	Library Science	35	150
1700 .....	Mathematics	35	150
1900 .....	Physical Sciences	60	257
2000 .....	Psychology	35	150
2100 .....	Pub. Affairs & Serv.	50	214
2200 .....	Social Sciences	35	150
3000 .....	Commercial Serv.	50	214
4900 .....	Interdisciplinary	60	257
5330 .....	Carpentry	175	749
5331 .....	Electricity	175	749
5332 .....	Plumbing	175	749
5333 .....	Glazing	175	749
5334 .....	Roofing	175	749
5335 .....	Masonry	175	749
5336 .....	Dry-Wall	175	749
5337 .....	Plastering	175	749
5338 .....	Painting	175	749
5339 .....	Millwork	90	385
5340 .....	Metal Trades	90	385
5341 .....	Welding	90	385
5342 .....	Machine Tools	90	385
5343, 5344.....	Heavy Equipment	200	856
5345 .....	Auto Mechanics	200	856
5346 .....	Auto-Body & Fender	200	856
5347 .....	Graphic Arts	80	342
5348 .....	Stationary Eng.	200	856

<sup>a</sup> Based on following utilization components for space standards computation:

Classrooms and Seminars:

Campus WSCH	Hrs./Wk.	Stn.	Occ. %	Stn. Use
Less than 140,000	48	x	.66	= 31.68
140,000 or more	53	x	.66	= 34.98

Laboratories:

LD	27.5	x	.85	= 23.375
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NOTE: Authority cited: Sections 71020, 71062, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

HISTORY:

1. Amendment filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).
2. Amendment filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).
3. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
4. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

**57029. Office Space.**

All office space (academic offices, administrative and clerical office service rooms, and conference rooms) shall be computed at 140 assignable square feet for each full-time equivalent instructional staff member. Office space for a small Community College district shall be computed at 160 assignable square feet for each full-time equivalent instructional staff member.

NOTE: Authority cited: Sections 71020, 71062, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY:**

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

**57030. Library Space.**

All library space shall be computed by assignable square feet for library functions as specified in the subdivisions of this section. Square feet are "assignable" only if they are usable for the function described. Areas such as the main lobby (excluding card catalogue area), elevators, stairs, walled corridors, rest rooms, and areas accommodating building maintenance services are not deemed usable for any of the described functions.

Stack Space = .1 ASF × Number of Bound Volumes

Number of Volumes  
Initial Increment = 16,000 volumes  
Additional Increments  
(a) Under 3,000 DGE \* = +8 volumes per DGS \*\*  
(b) 3,000-9,000 DGE = +7 volumes per DGS  
(c) Above 9,000 DGE = +6 volumes per DGS

Staff Space = (140 ASF × Number of FTE Staff) + 400 ASF

Number of FTE Staff  
Initial Increment = 3.0 FTE  
Additional Increments  
(a) Under 3,000 DGE = +.0020 FTE Staff per DGS  
(b) 3,000-9,000 DGE = +.0015 FTE Staff per DGS  
(c) Above 9,000 DGE = +.0010 FTE Staff per DGS

*Reader*

Station Space = 27.5 ASF × Number of Reader Stations

Number of Reader Stations  
Initial Increment = 50 Stations  
Additional Increments  
(a) Under 3,000 DGE = +.10 Stations per DGS  
(b) 3,000-9,000 DGE = +.09 Stations per DGS  
(c) Above 9,000 DGE = +.08 Stations per DGS

Total Space = Initial Increment = 3,795 ASF

Additional Increments  
(a) Under 3,000 DGE = +3.83 ASF per DGS  
(b) 3,000-9,000 DGE = +3.39 ASF per DGS  
(c) Above 9,000 DGE = +2.94 ASF per DGS

For audio-visual and programmed instruction activities associated with library/learning resource functions, additional areas sized for individual needs but not exceeding the following totals for the district as a whole

Total Space = Initial Increment = 3,500 ASF

Additional Increments

- (a) Under 3,000 DGE \* = 1.50 ASF per DCS \*\*
- (b) 3,000-9,000 DGE = 0.75 ASF per DGS
- (c) Above 9,000 DGE = 0.25 ASF per DGS

\* Day-Graded Enrollment

\*\* Day-Graded Student

NOTE: Authority cited: Sections 71020, 71062, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY:**

1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

**57031. Abbreviations.**

ASF/STN = Assignable square feet per student station

*Classrooms:*

Hrs./Wk. = Number of hours out of a 70-hour week, 8 a.m. to 10 p.m., a classroom, on the average, should be used

*Class Laboratories:*

Hrs./Wk. = Number of hours out of a 70-hour week, 8 a.m. to 10 p.m., a class laboratory, on the average, should be used

STN. Occ. = The percentage of expected student station occupancy when rooms are in use

STN. Use = The number of hours per week (out of the 70-hour week for classrooms and class laboratories) which a student station, on the average, should be used

WSCH = Weekly Student Contact Hours—8 a.m. to 10 p.m. WSCH for nonlaboratory (lecture) and laboratory hours.

NOTE: Authority cited: Sections 71020, 71062, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY:**

1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

**57032. Formula for Deriving the Standards.**

$$\frac{\text{ASF/STN.}}{\text{Hrs./Wk.} \times \text{STN. Occ.}} \times 100 = \text{ASF/100 WSCH}$$

Example A. For determining ASF/WSCH in Classrooms and Seminars on an 8 a.m. to 10 p.m. basis:

$$\begin{array}{l} \text{ASF/STN.} = 15 \\ \text{Hrs./Wk.} = 53 \\ \text{STN./Occ.} = .66 \end{array} \quad \frac{15}{53.0 \times .66} \times 100 = 42.9 \text{ ASF/100 WSCH}$$

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**Example B.** For determining ASF/WSCH in Biological Science Laboratory on an 8 a.m. to 10 p.m. basis:

$$\begin{array}{l} \text{ASF/STN.} = 55 \\ \text{Hrs./Wk.} = 27.5 \\ \text{STN./Occ.} = .85 \end{array} \quad \frac{55}{27.5 \times .85} \times 100 = 235 \text{ ASF/100 WSCH}$$

**NOTE:** Authority cited: Sections 71020, 71062, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY:**

1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

**57033. Submission of Plan.**

**NOTE:** Authority cited: Sections 71020, 81823 and 71025, Education Code. Reference: Sections 81823 and 81824, Education Code.

**HISTORY:**

1. New section filed 1-18-78; effective thirtieth day thereafter (Register 78, No. 3).
2. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

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CALIFORNIA COMMUNITY COLLEGES

TITLE 5

(Register 83, No. 18—4-30-83)

CHAPTER 1.5. ENERGY AND RESOURCE CONSERVATION

**57050. General Provisions.**

For the purposes of administration and implementation of Board of Governors Energy and Resources Policy under the Community College Construction Act, the provisions of this subchapter apply.

NOTE: Authority cited: Sections 66700, 71020, 71076 and 81805, Education Code. Reference: Sections 71023, 71028, 71076, and 81800-81845, Education Code.

**HISTORY:**

1. New Subchapter 2 (Sections 57050-57055) filed 9-25-80; effective thirtieth day thereafter (Register 80, No. 39).
2. Redesignation of Subchapter 2 as Chapter 1.5 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

**57051. Definitions.**

For the purposes of this subchapter:

(a) "Energy Conservation Project" means the acquisition, development, or modification of facilities and equipment which result in the conservation of energy; energy audits; energy conservation and operating procedures; energy conservation measures; water conservation measures; and retrofit consisting of modifications made to existing equipment or structures.

(b) "Energy Conservation Program," means an organized activity approved and adopted by a community college district board of trustees in the form of a written summary of the activities by the district toward the conserving of energy sources.

(c) "Energy Audit (EA)," means the nontechnical review of a facility to ascertain the existing level of energy use efficiency.

(d) "Technical Audit" (TA), means a specialized study designed to identify and specify energy resource savings and related cost savings which may be realized as a result of modification of maintenance and operating procedures, acquisition and installation of one or more specified energy conservation measures, or planning of specific remodeling, renovation, repair and replacement of facilities.

(e) "Technical Auditor" means a California registered engineer with energy conservation experience authorized by the California Energy Commission to conduct technical audits for all public building in the State of California.

(f) "Pay-back Period" is the length of time required for the flow of net cash proceeds or cash saving produced by an investment to equal the original cash outlay required by the investment.

(g) "Energy Conservation Measure" means an installation or modification of a system in a building or facility which is primarily intended to reduce energy consumption or allow the use of a more desirable energy source.

NOTE: Authority cited: Sections 66700, 71020, 71076 and 81805, Education Code. Reference: Sections 71023, 71028, 71076, and 81800-81845, Education Code.

**57052. Need for Energy Conservation Projects.**

(a) For those districts requesting a state supported energy conservation project, a summary of the local district Energy Conservation program as adopted by the board of trustees shall be a part of the annual district Five-Year Construction Plan.

(b) A community college district submitting an energy conservation project for state aid under the capital outlay program of the Community College Construction Act of 1980 shall indicate the need for such assistance in the annual district Five-Year Construction Plan. Such need is to appear as a component part of the Statement of Educational Plans for the district.

NOTE: Authority cited: Sections 66700, 71020, 71076 and 81805, Education Code. Reference: Sections 71023, 71028, 71076, and 81800-81845, Education Code.

**57053. Identification of Energy Conservation Projects.**

(a) When the need for state financial assistance for an energy conservation project (as defined in subsection (a) of Section 57051) has been adequately established, it shall be submitted as a project planning guide in accordance with established format to the Chancellor's Office.

(b) The project planning guide shall contain evidence of an approved Energy Audit (EA) on file with the California Energy Commission.

NOTE: Authority cited: Sections 66700, 71020, 71076 and 81805, Education Code. Reference: Sections 71023, 71028, 71076, and 81800-81845, Education Code.

**57054. Evaluation of Energy Conservation Projects.**

All projects submitted as energy conservation related shall be ranked on the basis of criteria developed by the Chancellor's Office and shall include but not be limited to:

(a) Level of energy use—those projects identified to correct conditions of higher energy use application shall receive higher priority evaluation.

(b) Pay-back period—those projects which by their design or proposed application demonstrate the shortest possible pay-back period shall receive higher priority evaluation.

(c) The extent to which the district has implemented an energy conservation program which meets the objectives specified in Board of Governors Policy Statement on Energy and Resource Conservation.

NOTE: Authority cited: Sections 66700, 71020, 71076 and 81805, Education Code. Reference: Sections 71023, 71028, 71076, and 81800-81845, Education Code.

**57055. Developmental Progression of Energy Conservation Related Capital Outlay Projects.**

(a) Energy conservation related projects shall be evaluated and ranked for approval by the Chancellor following the existing procedures for the statewide capital outlay program.

(b) Upon securing approval of a proposed energy conservation project by all appropriate review agencies, the governing board of a community college may submit to the Chancellor for approval, or disapproval, preliminary plans for the project.

(c) Preliminary plans for energy related projects shall include:

(1) The results of a technical audit (TA) performed by an authorized Technical Auditor which describes in detail the energy conservation measures the project is to institute.

(2) The status of the project as related to the various federal and state aided programs for energy conservation.

(3) An architectural and/or engineering analysis setting forth the detailed costs of the various elements of the project.

NOTE: Authority cited: Sections 66700, 71020, 71076 and 81805, Education Code. Reference: Sections 71023, 71028, 71076, and 81800-81845, Education Code.



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§ 57001	§ 57052
§ 57001.5	§ 57053
§ 57001.7	§ 57054
§ 57002	§ 57055
§ 57010	§ 57060
§ 57011	§ 57061
§ 57013	§ 57062
§ 57014	§ 57063
§ 57015	§ 57150
§ 57016	§ 57152
§ 57033.1	§ 57154
§ 57050	§ 57156
§ 57051	§ 57158

## Chapter 8. Construction

### Subchapter 1. Community College Construction Act

#### § 57000. General Provisions.

NOTE: Authority cited for Chapter 1: Sections 71020, 71024 and 81805, Education Code. Reference: Chapter 4 (commencing with Section 81800), Part 49, Division 7, Education Code.

##### HISTORY

1. Repealer of Chapters 1 and 2 (§§ 57000 through 57121, not consecutive) and new Chapter 1 (§§ 57000 through 57032, not consecutive) filed 11-2-73; effective thirtieth day thereafter (Register 73, No. 44).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of Subchapter 1 heading and Section 57000 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

#### § 57001. Definitions.

For the purposes of this chapter:

(a) "A small community college" means a college with 35,000 or fewer weekly student contact hours (WSCH) in credit and noncredit courses and programs.

(b) "Leased or rented" means a building for which rental costs are paid, and the use of which will be discontinued upon the completion of the project for which application has been submitted.

(c) "Permanent building" means a building for which there is no plan for removal or demolition.

(d) "Temporary building" means a building of limited worth which, according to the capital construction master plan, is anticipated to be demolished or replaced within five years. All other buildings are to be considered permanent.

(e) As used in this chapter, "weekly student contact hours" means the product of the number of students and the scheduled class periods in which they are enrolled, in graded and ungraded community college classes convened prior to 10 o'clock p.m. during a census week. A class period is not less than 50 minutes and not more than 60 minutes.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Chapter 4 (commencing with Section 81800) of Part 49, Division 7, Education Code.

##### HISTORY

1. Repealer of subsections (i) and (j) filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).
4. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
5. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

#### § 57001.5. Project.

(a) As used in this chapter "project" means the purpose for which a community college district has applied for assistance under Chapter 4 of Part 49 of the Education Code for one or more institutions under its authority or for district-wide facilities. A project may include the planning, acquisition, and improvement of community college sites; the planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, a laboratory, a library, a performing arts facility, a gymnasium, the basic outdoor physical education facilities, the basic food service facilities, or child development centers, pursuant to section 79120 of the Education Code; related facilities necessary for the instruction of students or for administration of the educational program; maintenance or utility facilities essential to the operation of the foregoing facilities and the initial acquisition of equipment. A project may also in-

clude the initial furnishing of, and initial acquisition of equipment for, any facility leased or lease-purchased by a community college district as of August 1, 1987, for educational purpose or purposes.

(b) A project may also include the reconstruction or remodeling of any facility leased or lease-purchased for educational purposes. The Chancellor's Office shall require transfer to the community college district of title or any other interest considered sufficient by the district, in and to facilities presently leased or to be leased in the future by the district, to the extent of the funds appropriated for reconstruction or remodeling of leased facilities. When sufficient title or interest has not been transferred, the term of the lease shall be of sufficient duration to completely amortize the reconstruction or remodeling cost. Such amortization shall be determined by utilizing current interest rates and normal accounting practices. If the lease is terminated prior to amortizing the reconstruction or remodeling costs the district shall repay the state for any unamortized state costs.

A project consisting of the construction of any facilities listed in subdivision (a) on property that conforms to subdivision (b) of section 81530 of the Education Code shall be eligible for state funding. For any project that is constructed under this paragraph, the term of the lease shall be of sufficient duration to completely amortize the cost of the project and the governing board of the community college district shall provide in the lease agreement a hold harmless clause satisfactory to the lessor. The amortization shall be determined by utilizing current interest rates and normal accounting practices. If the lease is terminated prior to amortizing the project, the district shall pay the state for any unamortized state costs.

(c) The projects defined by subdivisions (a) and (b) of this section shall not be construed as a commitment by the Board of Governors as to the type or possible number of projects that may be considered during any fiscal year.

(d) A project shall not include the planning or construction of dormitories, student centers other than cafeterias, stadia, the improvement of sites for student or staff parking, or single-purpose auditoriums.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

##### HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

#### § 57001.7. Educational Center.

As used in this chapter, "educational center" means an off campus location established and administered by an existing college or district which:

- (a) Is scheduled to operate for three or more years.
- (b) Is estimated to have enrolled an average daily attendance of 500 or more students by the third year of operations;
- (c) Has onsite administrative personnel; and
- (d) Offers courses in programs leading to certificates or degrees to be conferred by the parent institution.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

##### HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

#### § 57002. Federal Fund Proration.

When the physical detail and intent of a project subject to a federal grant differs materially from the physical detail and intent for which state funds are appropriated, the federal funds shall be prorated on the scope of the project subject to the federal grant and that prorated share be made applicable to the project subject to state matching funds.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Section 81805, Education Code.

##### HISTORY

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57003. Projecting Graded and Ungraded Enrollments.****HISTORY**

1. Repealer filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

**§ 57010. Appeals from Administrative Actions.**

Any action of the Chancellor in administering this chapter may be appealed to the Board of Governors by the governing board of an affected community college district. The appeal shall be placed on the agenda of the Board in accordance with the general agenda practices of the Board. The decision of the Board on such appeals shall be final.

**NOTE:** Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57011. Expenditures; Final Report.**

Upon completion of a project the governing board shall submit to the Chancellor, within 30 days after the closure of the current fiscal year, a final report on all expenditures in connection with the sources of the funds expended. The district shall be subject to a state post-audit review of fund claims for all such projects.

**NOTE:** Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57013. Coordination of Planning with Recreation and Park Authorities.**

The governing board of any community college district shall meet with appropriate local government recreation and park authorities to review all possible methods of coordinating planning, design, and construction of new facilities and sites or major additions to existing facilities and recreation and park facilities in the community. Any community college district planning, designing, or constructing new facilities shall report to the Chancellor's Office on plans to achieve:

(a) a greater use of any joint or contiguous recreation and park facilities by the district; and

(b) possible use by the total community of such facilities and sites and recreation and park facilities.

**NOTE:** Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57014. Submission.**

Any community college district may submit a proposed project to the Chancellor for review and approval or disapproval. The proposed project shall be an element of the district's plan for capital construction. It shall be in such form and contain such detail as will permit its evaluation and approval with reference to the elements of the capital construction program specified in section 81821 of the Education Code.

**NOTE:** Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57015. Chancellor's Review and Evaluation; Elements of Review.**

The Chancellor shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Education Code, section 81821. The review shall include the following elements:

(a) An architectural analysis to determine costs of the various phases of the project, with particular attention to be directed to the type of con-

struction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area.

(b) Determining the amount of federal funds available for the project, and taking appropriate measures to ensure that the project will qualify for the maximum amounts of federal funds practicable under the circumstances.

"Federal funds" means any construction and equipment moneys provided by the federal government to a community college district for the project or any part of the project, which are or will be available to the district for the project.

(c) Determining the total cost of the project, reducing the total cost by the amount of federal funds available thereof, and determining the remainder thereof to be borne by the state, or, if the district has matching funds, by the state and by the district.

The determination as to whether the district has funds to provide all or part of its matching share of the project shall be made on the basis of district ability. If the district ability, as determined by section 57033.1, is sufficient to meet the matching costs of the project or its individual phases of planning, working drawings, construction, equipment, or land acquisition, the district shall bear its matching share of the cost of the project or one or more of its phases. If the district funds available are insufficient to provide the district's matching share for the cost of the project or one or more of its phases, computed pursuant to section 57033.1, the district shall provide the moneys available, as defined by the Board of Governors, and state funds may be requested to provide the balance of funds required.

Private funds available for specific projects may be used as a credit toward the district match.

(d) Determining the total of funds required for the first phase of the project to be provided on a matching basis by the state and the district, and the total state appropriation required to be provided for the project or one or more of its phases.

**NOTE:** Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57016. Final Action; Time Limit.**

A proposed project submitted by the governing board of a community college district to the Chancellor pursuant to section 57014 prior to February 1st of each year shall be finally acted upon by the Chancellor pursuant to section 57014 on or before the next succeeding May 1st of each year.

**NOTE:** Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57020. Standards.**

The computed existing and projected capacity and utilization standards listed in this article shall apply unless it is determined by the Chancellor in consultation with the Department of Finance that extraordinary conditions exist.

**NOTE:** Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Section 81805, Education Code.

**HISTORY**

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57021. Classroom Use.**

Classrooms and seminar room use shall be not less than 48 hours per 70-hour week for a campus of less than 140,000 weekly student contact hours per week, and not less than 53 hours per 70-hour week for a campus with 140,000, or more, weekly student contact hours.

**NOTE:** Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Repealer and new section filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).
2. Repealer and new section filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).
3. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57022. Laboratory Use.**

Laboratory room use shall be not less than 27.5 hours per 70-hour week.

Note. Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57023. Classroom Occupancy.**

Classroom and seminar room station occupancy shall be not less than 66 percent of capacity.

Note. Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57024. Laboratory Occupancy.**

Laboratory room station occupancy shall be not less than 85 percent of capacity.

Note. Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57025. Classroom Space Per Station.**

The computed average space per station in both existing and future classroom, seminar room, and service areas shall be 15 square feet per student station.

Note. Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57026. Small College, Sliding Scale Allowance.**

**HISTORY**

1. Repealer filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).
2. Repealer filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).

**§ 57027. Capacity of Future Assignable Space.**

The formula for determining the assignable space for future classrooms and seminar rooms per projected 100 weekly student contact hours is as follows:

$$\frac{\text{Assignable square feet per station}}{\text{Room use standard} \times \text{station occupancy standard}} \times 100$$

Note. Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57028. Capacity of Future Laboratory and Service Areas.**

In determining the computed capacity of future laboratory and service area facilities, the following space allocations by standard classification of subject matter shall be applied on a campus-wide basis:

1. Classroom and Seminars (Including Classroom Service) 8 a.m. to 10 p.m.

Campus Weekly Student Contact Hours	ASF/STN.	ASF/100 WSCH*
Less than 140,000	15	47.3
140,000 or more	15	42.9

2. Teaching Laboratories (Including Teaching Laboratory Service) 8 a.m. to 10 p.m.

Classification of Instructional Disciplines	Subject Grouping	ASF/STN.	ASF/100 WSCH*
0100	Agriculture	115	492
0200	Architecture	60	257
0400	Biological Sciences	55	233
0500	Business and Mgmt.	30	128
0600	Communications	50	214
0720	Computer & Info. Sci.	40	171
0800	Education	75	321
0930	Diesel	200	856
0944	Air Conditioning	130	556
0945	Refrigeration	130	556
0946	Auto-Body & Fender	200	856
0947	Auto-Mechanic	200	856
0948	Auto-Technology	75	321
0949	Small Engine Repair	100	428
0950	Aviation Maint.	175	749
0954	Plastics	130	556
0955	Stationary Eng. (Engineering)	200	856
	All other 0900's	75	321
1000	Fine & Applied Arts	60	257
1100	Foreign Language	35	150
1200	Health Services	50	214
1300	Home Economics	60	257
1500	Letters	35	150
1600	Library Science	35	150
1700	Mathematics	35	150
1900	Physical Sciences	60	257
2000	Psychology	35	150
2100	Pub Affairs & Serv.	50	214
2200	Social Sciences	35	150
3000	Commercial Serv.	50	214
4900	Interdisciplinary	60	257
5330	Carpentry	175	749
5331	Electricity	175	749
5332	Plumbing	175	749
5333	Glazing	175	749
5334	Roofing	175	749
5335	Masonry	175	749
5336	Dry-Wall	175	749
5337	Plastering	175	749
5338	Painting	175	749
5339	Millwork	90	385
5340	Metal Trades	90	385
5341	Welding	90	385
5342	Machine Tools	90	385
5343, 5344	Heavy Equipment	200	856
5345	Auto-Mechanics	200	856
5346	Auto-Body & Fender	200	856
5347	Graphic Arts	80	342
5348	Stationary Eng.	200	856

\*Based on following utilization components for space standards computation:

Classrooms and Seminars: Campus WSCH	Hrs./Wks.	Stn. Occ. %	Stn. Use
Less than 140,000	48 x	.66	31.68
140,000 or more	53 x	.66	34.98
Laboratories: LD	27.5 x	.85	23.375

**NOTE:** Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Amendment filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).
2. Amendment filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).
3. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
4. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
5. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57029. Office Space.**

All office space (academic offices, administrative and clerical office service rooms, and conference rooms) shall be computed at 140 assignable square feet for each full-time equivalent instructional staff member. Office space for a small Community College district shall be computed at 160 assignable square feet for each full-time equivalent instructional staff member.

**NOTE:** Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57030. Library Space.**

All library space shall be computed by assignable square feet for library functions as specified in the subdivisions of this section. Square feet are "assignable" only if they are usable for the function described. Areas such as the main lobby (excluding card catalogue area), elevators, stairs, walled corridors, rest rooms, and areas accommodating building maintenance services are not deemed usable for any of the described functions.

**Stack Space** -  $.1 \text{ ASF} \times \frac{\text{Number of Bound Volumes}}{\text{Number of Volumes}}$   
 Initial Increment = 16,000 volumes  
 Additional Increments:  
 (a) Under 3,000 DGE\* = +8 volumes per DGS\*\*  
 (b) 3,000-9,000 DGE = +7 volumes per DGS  
 (c) Above 9,000 DGE = +6 volumes per DGS

**Staff Space** -  $(140 \text{ ASF} \times \frac{\text{Number of FTE Staff}}{\text{Number of FTE Staff}}) + 400 \text{ ASF}$   
 Initial Increment = 3.0 FTE  
 Additional Increments:  
 (a) Under 3,000 DGE = +.0020 FTE Staff per DGS  
 (b) 3,000-9,000 DGE = +.0015 FTE Staff per DGS  
 (c) Above 9,000 DGE = +.0010 FTE Staff per DGS

**Reader Station Space** -  $27.5 \text{ ASF} \times \frac{\text{Number of Reader Stations}}{\text{Number of Reader Stations}}$   
 Initial Increment = 50 Stations  
 Additional Increments:  
 (a) Under 3,000 DGE = +.10 Stations per DGS  
 (b) 3,000-9,000 DGE = +.09 Stations per DGS  
 (c) Above 9,000 DGE = +.08 Stations per DGS

**Total Space** - Initial Increment = 3,795 ASF  
 Additional Increments:  
 (a) Under 3,000 DGE = +3.83 ASF per DGS  
 (b) 3,000-9,000 DGE = +3.39 ASF per DGS  
 (c) Above 9,000 DGE = +2.94 ASF per DGS

For audio-visual and programmed instruction activities associated with library learning resource functions, additional areas sized for individual needs but not exceeding the following totals for the district as a whole.

**Total Space** - Initial Increment = 3,500 ASF  
 Additional Increments:  
 (a) Under 3,000 DGE\* = 1.50 ASF per DGS\*\*  
 (b) 3,000-9,000 DGE = 0.75 ASF per DGS  
 (c) Above 9,000 DGE = 0.25 ASF per DGS

\* Day-Graded Enrollment  
 \*\* Day-Graded Student

**NOTE:** Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57031. Abbreviations.**

- ASF/STN** - Assignable square feet per student station  
**Classrooms:**  
**Hrs./Wk.** - Number of hours out of a 70-hour week, 8 a.m. to 10 p.m., a classroom, on the average, should be used  
**Class Laboratories:**  
**Hrs./Wk.** - Number of hours out of a 70-hour week, 8 a.m. to 10 p.m., a class laboratory, on the average, should be used  
**STN. Occ.** - The percentage of expected student station occupancy when rooms are in use  
**STN. Use** - The number of hours per week (out of the 70-hour week for classrooms and class laboratories) which a student station, on the average, should be used  
**WSCH** - Weekly Student Contact Hours-8 a.m. to 10 p.m. WSCH for nonlaboratory (lecture) and laboratory hours.

**NOTE:** Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57032. Formula for Deriving the Standards.**

**ASF/STN**  $\times 100 = \text{ASF}/100 \text{ WSCH}$   
 $\frac{\text{Hrs./Wk.} \times \text{STN. Occ.}}{\text{ASF/STN.}} \times 100 = \text{ASF}/100 \text{ WSCH}$   
**Example A.** For determining ASF/WSCH in Classrooms and Seminars on an 8 a.m. to 10 p.m. basis:  
 ASF/STN. = 15  
 Hrs./Wk. = 53      15       $\times 100 = 42.9 \text{ ASF}/100 \text{ WSCH}$   
 STN./Occ. = .66      53.0  $\times .66$   
**Example B.** For determining ASF/WSCH in Biological Science Laboratory on an 8 a.m. to 10 p.m. basis:  
 ASF/STN = 55  
 Hrs./Wk. = 27.5      55       $\times 100 = 235 \text{ ASF}/100 \text{ WSCH}$   
 STN./Occ. = .85      27.5  $\times .85$

**NOTE:** Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57033. District Matching Share.**

**NOTE:** Authority cited: Sections 71020, 81805 and 81838, Education Code. Reference: Sections 81802, 81806, 81807, 81830, 81831 and 81838, Education Code.

**HISTORY**

1. New section filed 2-6-86; effective thirtieth day thereafter (Register 86, No. 6). For history of former section, see Registers 83, No. 18 and 78, No. 3.
2. Repeal of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57033.1. Determination of District's Matching Share; Adoption of Criteria; Chancellor's Recommendation; Review by Board in Forwarding Budget Request to Department of Finance.**

The Chancellor shall adopt criteria for determining districts' matching shares of the cost of capital outlay projects. Pursuant to that criteria, the Chancellor shall recommend each district's match, which shall be reviewed by the Board in forwarding its annual budget request to the Department of Finance for determination by the Legislature.

**NOTE:** Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57034. Waiver of District Matching Share.**

**NOTE:** Authority cited: Sections 71020, 81805 and 81838, Education Code. Reference: Sections 81802, 81806, 81807, 81830, 81831 and 81838, Education Code.

**HISTORY**

1. New section filed 2-6-86; effective thirtieth day thereafter (Register 86, No. 6).
2. Repeal of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

## Subchapter 1.5. Energy and Resource Conservation

**§ 57050. General Provisions.**

For the purposes of administration and implementation of Board of Governors Energy and Resources Policy under the Community College Construction Act, the provisions of this subchapter apply.

**NOTE:** Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901 and 81800-81839, Education Code.

**HISTORY**

1. New subchapter 2 (sections 57050-57055) filed 9-25-80; effective thirtieth day thereafter (Register 80, No. 39).
2. Redesignation of subchapter 2 as chapter 1.5 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57051. Definitions.**

For the purposes of this subchapter:

(a) "Energy Conservation Project" means the acquisition, development, or modification of facilities and equipment which result in the conservation of energy; energy audits; energy conservation and operating procedures; energy conservation measures; water conservation measures; and redraft consisting of modifications made to existing equipment or structures.

(b) "Energy Conservation Program," means an organized activity approved and adopted by a community college district governing board in the form of a written summary of the activities by the district toward the conserving of energy sources.

(c) "Energy Audit (EA)," means the nontechnical review of a facility to ascertain the existing level of energy use efficiency.

(d) "Technical Audit" (TA), means a specialized study designed to identify and specify energy resource savings and related cost savings which may be realized as a result of modification of maintenance and operating procedures, acquisition and installation of one or more specified energy conservation measures, or planning of specific remodeling, renovation, repair and replacement of facilities.

(e) "Technical Auditor" means a California registered engineer with energy conservation experience authorized by the California Energy Commission to conduct technical audits for all public building in the State of California.

(f) "Pay-back Period" is the length of time required for the flow of net cash proceeds or cash saving produced by an investment to equal the original cash outlay required by the investment.

(g) "Energy Conservation Measure" means an installation or modification of a system in a building or facility which is primarily intended to reduce energy consumption or allow the use of a more desirable energy source.

**NOTE:** Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Sections 70901, and 81800-81839, Education Code.

**HISTORY**

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57052. Need for Energy Conservation Projects.**

(a) For those districts requesting a state supported energy conservation project, a summary of the local district Energy Conservation program as adopted by the governing board shall be a part of the annual district Five-Year Construction Plan.

(b) A community college district submitting an energy conservation project for state aid under the capital outlay program of the Community College Construction Act of 1980 shall indicate the need for such assistance in the annual district Five-Year Construction Plan. Such need is to appear as a component part of the Statement of Educational Plans for the district.

**NOTE:** Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Sections 70901, and 81800-81839, Education Code.

**HISTORY**

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57053. Identification of Energy Conservation Projects.**

(a) When the need for state financial assistance for an energy conservation project (as defined in subsection (a) of section 57051) has been adequately established, it shall be submitted as a project planning guide in accordance with established format to the Chancellor's Office.

(b) The project planning guide shall contain evidence of an approved Energy Audit (EA) on file with the California Energy Commission.

**NOTE:** Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Sections 70901, and 81800-81839, Education Code.

**HISTORY**

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57054. Evaluation of Energy Conservation Projects.**

All projects submitted as energy conservation related shall be ranked on the basis of criteria developed by the Chancellor's Office and shall include but not be limited to:

(a) Level of energy use—those projects identified to correct conditions of higher energy use application shall receive higher priority evaluation.

(b) Pay-back period—those projects which by their design or proposed application demonstrate the shortest possible pay-back period shall receive higher priority evaluation.

(c) The extent to which the district has implemented an energy conservation program which meets the objectives specified in Board of Governors Policy Statement on Energy and Resource Conservation.

**NOTE:** Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Sections 70901, and 81800-81839, Education Code.

**HISTORY**

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57055. Developmental Progression of Energy Conservation Related Capital Outlay Projects.**

(a) Energy conservation related projects shall be evaluated and ranked for approval by the Chancellor following the existing procedures for the statewide capital outlay program.

(b) Upon securing approval of a proposed energy conservation project by all appropriate review agencies, the governing board of a community college may submit to the Chancellor for approval, or disapproval, preliminary plans for the project.

(c) Preliminary plans for energy related projects shall include:

(1) The results of a technical audit (TA) performed by an authorized Technical Auditor which describes in detail the energy conservation measures the project is to institute.

(2) The status of the project as related to the various federal and state aided programs for energy conservation.

(3) An architectural and/or engineering analysis setting forth the detailed costs of the various elements of the project.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Sections 70901, and 81800-81839, Education Code.

#### HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

### § 57060. Legislative Findings, Declarations and Intent; Energy Conservation.

The Board of Governors finds and declares that it is in the interest of the state and of the people thereof for the state to aid community college districts in finding cost-effective methods of conserving energy in buildings maintained by the districts. The Board of Governors also finds that while many districts may desire to participate in energy conservation programs designed to reduce the steadily rising costs of meeting the energy needs of district buildings, that the costs involved in improving existing facilities to become more energy efficient are often prohibitive.

It is the intent of the Board of Governors in adopting this regulation to encourage community college districts to retrofit buildings so as to conserve energy and reduce the costs of supplying energy.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

#### HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

### § 57061. Community College Districts, Borrowing; Retrofitting Buildings for Energy Conservation; Savings and Loan Investment.

(a) Community college districts may borrow funds from federal or state regulated financial institutions for the purposes of design and construction costs associated with retrofitting buildings to become more energy efficient. Community college districts shall only be authorized to borrow an amount which does not exceed that which can be repaid from energy cost avoidance savings accumulated from the improvement of school facilities.

(b) Any savings and loan association may make loans or advances of credit pursuant to the provisions of subdivision (a) in an amount not in excess of 5 percent of its total assets. This investment may be in addition to any other investment savings and loan associations are permitted to undertake under the provisions of section 6705.7 of the Financial Code.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

#### HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

### § 57062. Pre-Audits and Post-Audits for Buildings.

To the extent that these services are available, community college districts shall arrange for the pre-audit and post-audit of buildings by investor-owned or municipal utility companies or by independent energy audit companies or organizations which are recognized by federal or state regulated financial institutions. The pre-audit shall identify the type and amount of work necessary to retrofit the buildings and shall include an estimate of projected energy savings. The post-audit shall be conducted upon completion of the retrofitting of the buildings to insure that the project satisfies the recommendations of the pre-audit.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

#### HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

### § 57083. Contracts.

Community college districts taking action under this article shall contract with qualified businesses capable of retrofitting school buildings. To the extent that lists of qualified businesses are made available to community college districts by investor-owned or municipal utility companies or federal or state regulated financial institutions, community college districts may utilize the services of these businesses.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

#### HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

## Subchapter 2. Environmental Quality

### § 57100. General.

(a) The regulations adopted under this Chapter are pursuant to the California Environmental Quality Act of 1970 (division 13 commencing with section 21000 of the Public Resources Code) and Guidelines adopted by Secretary for Resources in Division 6, Title 14, California Administrative Code.

(b) The purpose of these regulations is to provide basic principles, objectives, criteria and definitions for use by the Chancellor of the California Community Colleges in reviews required by the Education Code of community college construction projects.

(c) It is the intent of the Board of Governors to adopt in substance the Guidelines adopted by the Secretary for Resources in division 6, title 14, California Administrative Code, section 15000 et seq.

NOTE: Authority cited: Sections 66700 and 70901, Education Code, and Section 21082, Public Resources Code. Reference: Division 13 (commencing with Section 21000), Public Resources Code.

#### HISTORY

1. New chapter 2 (sections 57100 through 57140, not consecutive) filed 4-26-74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of article 1 heading and amendment of section filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

### § 57101. Purpose.

#### HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

### § 57120. Basic Guidelines.

#### HISTORY

1. Repealer of Article 2 heading and Section 57120 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

### § 57121. Application.

(a) When reviewing proposals from Community College districts for acquisition of land to be used as a site for college facilities, the Chancellor shall also review the Community College district's Initial Study (section 15080, title 14, California Administrative Code) of the development intended on the land and include the result of this review in a site review report.

(b) The Chancellor shall require that proposals for initial construction of facilities for a new campus be accompanied by a long-range plan for physical development approved by the district governing board which shows the intended use of all portions of the land and approximate location of buildings and facilities.

(c) The Chancellor shall require that an Initial Study, pursuant to section 15080, title 14, California Administrative Code, be submitted to the Chancellor's office concurrent with other required information.

(d) The Chancellor shall require that a copy of the (1) finding of Categorical Exemption (section 15023, title 14, California Administrative Code); Negative Declaration (section 15083, Title 14, California Administrative Code); or Notice of Completion (section 15085(c), title 14, California Administrative Code), whichever is appropriate, be submitted to his office concurrently with preliminary plans.

(e) The Chancellor shall require a copy of the findings of Categorical Exemption or Notice of Determination (section 15085(g), Title 14, California Administrative Code), whichever is appropriate, be submitted to the Chancellor's office concurrently with plans submitted for approval in accordance with section 81837 of the Education Code.

(f) The Chancellor shall withhold authorization of the use of state funds for construction until requirements of the California Environmental Quality Act of 1970 have been met.

Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Division 13 (commencing with Section 21000), Public Resources Code.

#### HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

#### § 57140. Procedures.

Note: Authority cited: Sections 71020 and 71062, Education Code. Reference: Section 71091, Education Code; Division 13 (commencing with Section 21000), Public Resources Code.

#### HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer of article 3 heading and new NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Repeal of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

### Subchapter 3. District Funded Construction Projects

#### § 57150. Purpose.

The purpose of these regulations is to provide basic definitions, principles, and standards for use by the Chancellor of the California Community Colleges in considering any district-funded construction project subject to the requirements of section 81837 of the Education Code.

Note: Authority cited: Sections 66700, 70901, and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

#### HISTORY

1. New chapter 3 (sections 57150-57158, not consecutive) filed 10-30-80; effective thirtieth day thereafter (Register 80, No. 44).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

#### § 57152. Definitions.

(a) "Capital Outlay Project" includes purchase of land and costs related thereto, including court costs, condemnation costs, legal fees, title fees, etc.; construction projects, including working drawings; and equipment related to a construction project regardless of cost or timing.

(b) "Construction Project" includes new construction, alteration, and extension or betterment of existing structures.

(c) "State-Funded Project" means a capital outlay project qualifying as a project pursuant to section 81805 of the Education Code, and for which a district requests or receives State funding assistance.

(d) "District-Funded Project" means a capital outlay project subject to the provisions of section 81837 of the Education Code for which any funds, other than state funds, are paid or to be paid for erecting, adding to, or altering any community college facility.

(e) "Five-Year Construction Plans" means a plan for capital construction for community college purposes of a community college district for the five-year period commencing with the next proposed year of funding. Note: Authority cited: Sections 66700, 70901 and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

#### HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

#### § 57154. Application.

In each case, the application for approval of plans for a district-funded project shall be accompanied by the plans and full, complete and accurate take-off of assignable and gross square feet of space, which shall comply with any and all requirements prescribed by the Chancellor.

Note: Authority cited: Sections 66700, 70901, and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

#### HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

#### § 57156. Review.

The review and evaluation of plans for a district-funded project by the Chancellor, shall include the following elements:

(a) Review and evaluate each district-funded project with reference to the elements of the capital construction program specified in Education Code section 81821.

(b) The review and evaluation shall be directed particularly to ascertain whether the locally funded project is of appropriate size, is appropriately timed and is justified in terms of the elements of the capital construction plans and where applicable, the standards as adopted by the Board of Governors.

Note: Authority cited: Sections 66700, 70901, and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

#### HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

#### § 57158. Chancellor's Response to Request for Approval of Plans.

(a) When analysis by the Chancellor shows that approval of the plans for a proposed locally-funded construction of a community college facility would not result in facilities which would be substantially at variance with space and utilization standards adopted by the Board of Governors, the Chancellor shall approve the plans.

(b) When analysis by the Chancellor shows that approval of the plans would result in facilities which would be substantially at variance with space and utilization standards adopted by the Board of Governors, the Chancellor shall respond by:

- (1) Imposing conditions for the approval of the plans; or
- (2) Finding that despite the substantial variance with space standards, the plans, as submitted, are acceptable, and responding to the district with:

(A) Cautions, and/or

(B) Appraisal of the potential consequences of this variance.

Note: Authority cited: Sections 66700, 70901 and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

#### HISTORY

1. Amendment of subsection (b) filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

### Subchapter 4. Deferred Maintenance

#### § 57200. Purpose.

For the purposes of administration and implementation of the Community Colleges Facility Deferred Maintenance and Special Repair Program as required by Education Code section 84660, the provisions of this chapter shall apply.



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§ 57001

§ 57001.5

§ 57014

## Chapter 8. Construction

### Subchapter 1. Community College Construction Act

#### § 57000. General Provisions.

NOTE: Authority cited for Chapter 1: Sections 71020, 71024 and 81805, Education Code. Reference: Chapter 4 (commencing with Section 81800), Part 49, Division 7, Education Code.

##### HISTORY

1. Repealer of Chapters 1 and 2 ( §§ 57000 through 57121, not consecutive) and new Chapter 1 ( §§ 57000 through 57032, not consecutive) filed 11-2-73; effective thirtieth day thereafter (Register 73, No. 44).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of Subchapter 1 heading and Section 57000 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

#### § 57001. Definitions.

For the purposes of this chapter:

(a) "A small community college" means a college with 35,000 or fewer weekly student contact hours (WSCH) in credit and noncredit courses and programs.

(b) "Leased or rented" means a building for which rental costs are paid, and the use of which will be discontinued upon the completion of the project for which application has been submitted.

(c) "Permanent building" means a building for which there is no plan for removal or demolition.

(d) "Temporary building" means a building of limited worth which, according to the capital construction master plan, is anticipated to be demolished or replaced within five years. All other buildings are to be considered permanent.

(e) As used in this chapter, "weekly student contact hours" means the product of the number of students and the scheduled class periods in which they are enrolled, in graded and ungraded community college classes convened prior to 10 o'clock p.m. during a census week. A class period is not less than 50 minutes and not more than 60 minutes.

NOTE: Authority cited: Sections 66700, 70901, and 81805 Education Code. Reference: Chapter 4 (commencing with Section 81800) of Part 49, Division 7, Education Code.

##### HISTORY

1. Repealer of subsections (i) and (j) filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).
4. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
5. Adoption of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
6. Editorial correction of printing error in subsection (e) (Register 91, No. 43).

#### § 57001.5. Project.

(a) As used in this chapter "project" means the purpose for which a community college district has applied for assistance under chapter 4 of part 49 of the Education Code for one or more institutions under its authority or for district wide facilities. A project may include the planning, acquisition, and improvement of community college sites; the planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, a laboratory, a library, a performing arts facility, a gymnasium, the basic outdoor physical education facilities, the basic food service facilities, or child development centers, pursuant to section 79120 of the Education Code; related facilities necessary for the instruction of students or for administration of the educational program; maintenance or utility facilities essential to the operation of the foregoing facilities and the initial acquisition of equipment. A project may also in-

clude the initial furnishing of, and initial acquisition of equipment for, any facility leased or lease-purchased by a community college district as of August 1, 1987, for educational purpose or purposes.

(b) A project may also include the reconstruction or remodeling of any facility leased or lease-purchased for educational purposes. The Chancellor's Office shall require transfer to the community college district of title or any other interest considered sufficient by the district, in and to facilities presently leased or to be leased in the future by the district, to the extent of the funds appropriated for reconstruction or remodeling of leased facilities. When sufficient title or interest has not been transferred, the term of the lease shall be of sufficient duration to completely amortize the reconstruction or remodeling cost. Such amortization shall be determined by utilizing current interest rates and normal accounting practices. If the lease is terminated prior to amortizing the reconstruction or remodeling costs the district shall repay the state for any unamortized state costs.

A project consisting of the construction of any facilities listed in subdivision (a) on property that conforms to subdivision (b) of section 81530 of the Education Code shall be eligible for state funding. For any project that is constructed under this paragraph, the term of the lease shall be of sufficient duration to completely amortize the cost of the project and the governing board of the community college district shall provide in the lease agreement a hold harmless clause satisfactory to the lessor. The amortization shall be determined by utilizing current interest rates and normal accounting practices. If the lease is terminated prior to amortizing the project, the district shall pay the state for any unamortized state costs.

(c) The projects defined by subdivisions (a) and (b) of this section shall not be construed as a commitment by the Board of Governors as to the type or possible number of projects that may be considered during any fiscal year.

(d) A project shall not include the planning or construction of dormitories, student centers other than cafeterias, stadia, the improvement of sites for student or staff parking, or single-purpose auditoriums.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

##### HISTORY

1. Adoption of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error in subsection (a) (Register 91, No. 43).

#### § 57001.7. Educational Center.

As used in this chapter, "educational center" means an off campus location established and administered by an existing college or district which:

- (a) Is scheduled to operate for three or more years.
- (b) Is estimated to have enrolled an average daily attendance of 500 or more students by the third year of operations;
- (c) Has onsite administrative personnel; and
- (d) Offers courses in programs leading to certificates or degrees to be conferred by the parent institution.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

##### HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

#### § 57002. Federal Fund Proration.

When the physical detail and intent of a project subject to a federal grant differs materially from the physical detail and intent for which state funds are appropriated, the federal funds shall be prorated on the scope of the project subject to the federal grant and that prorated share be made applicable to the project subject to state matching funds.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Section 81805, Education Code.

##### HISTORY

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57003. Projecting Graded and Ungraded Enrollments.**

**HISTORY**

1. Repealer filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

**§ 57010. Appeals from Administrative Actions.**

Any action of the Chancellor in administering this chapter may be appealed to the Board of Governors by the governing board of an affected community college district. The appeal shall be placed on the agenda of the Board in accordance with the general agenda practices of the Board. The decision of the Board on such appeals shall be final.

**NOTE:** Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57011. Expenditures; Final Report.**

Upon completion of a project the governing board shall submit to the Chancellor, within 30 days after the closure of the current fiscal year, a final report on all expenditures in connection with the sources of the funds expended. The district shall be subject to a state post-audit review of fund claims for all such projects.

**NOTE:** Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57013. Coordination of Planning with Recreation and Park Authorities.**

The governing board of any community college district shall meet with appropriate local government recreation and park authorities to review all possible methods of coordinating planning, design, and construction of new facilities and sites or major additions to existing facilities and recreation and park facilities in the community. Any community college district planning, designing, or constructing new facilities shall report to the Chancellor's Office on plans to achieve:

- (a) a greater use of any joint or contiguous recreation and park facilities by the district; and
- (b) possible use by the total community of such facilities and sites and recreation and park facilities.

**NOTE:** Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57014. Submission.**

Any community college district may submit a proposed project to the Chancellor for review and approval or disapproval. The proposed project shall be an element of the district's plan for capital construction. It shall be in such form and contain such detail as will permit its evaluation and approval with reference to the elements of the capital construction program specified in section 81821 of the Education Code.

**NOTE:** Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. Adoption of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error (Register 91, No. 43).

**§ 57015. Chancellor's Review and Evaluation: Elements of Review.**

The Chancellor shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Education Code, section 81821. The review shall include the following elements:

- (a) An architectural analysis to determine costs of the various phases of the project, with particular attention to be directed to the type of construction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area.

struction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area.

(b) Determining the amount of federal funds available for the project, and taking appropriate measures to ensure that the project will qualify for the maximum amounts of federal funds practicable under the circumstances.

"Federal funds" means any construction and equipment moneys provided by the federal government to a community college district for the project or any part of the project, which are or will be available to the district for the project.

(c) Determining the total cost of the project, reducing the total cost by the amount of federal funds available thereof, and determining the remainder thereof to be borne by the state, or, if the district has matching funds, by the state and by the district.

The determination as to whether the district has funds to provide all or part of its matching share of the project shall be made on the basis of district ability. If the district ability, as determined by section 57033.1, is sufficient to meet the matching costs of the project or its individual phases of planning, working drawings, construction, equipment, or land acquisition, the district shall bear its matching share of the cost of the project or one or more of its phases. If the district funds available are insufficient to provide the district's matching share for the cost of the project or one or more of its phases, computed pursuant to section 57033.1, the district shall provide the moneys available, as defined by the Board of Governors, and state funds may be requested to provide the balance of funds required.

Private funds available for specific projects may be used as a credit toward the district match.

(d) Determining the total of funds required for the first phase of the project to be provided on a matching basis by the state and the district, and the total state appropriation required to be provided for the project or one or more of its phases.

**NOTE:** Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57016. Final Action; Time Limit.**

A proposed project submitted by the governing board of a community college district to the Chancellor pursuant to section 57014 prior to February 1st of each year shall be finally acted upon by the Chancellor pursuant to section 57014 on or before the next succeeding May 1st of each year.

**NOTE:** Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57020. Standards.**

The computed existing and projected capacity and utilization standards listed in this article shall apply unless it is determined by the Chancellor in consultation with the Department of Finance that extraordinary conditions exist.

**NOTE:** Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Section 81805, Education Code.

**HISTORY**

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57021. Classroom Use.**

Classrooms and seminar room use shall be not less than 48 hours per 70-hour week for a campus of less than 140,000 weekly student contact hours per week, and not less than 53 hours per 70-hour week for a campus with 140,000, or more, weekly student contact hours.

**NOTE:** Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Repealer and new section filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).
2. Repealer and new section filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).
3. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57022. Laboratory Use.**

Laboratory room use shall be not less than 27.5 hours per 70-hour week.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57023. Classroom Occupancy.**

Classroom and seminar room station occupancy shall be not less than 66 percent of capacity.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57024. Laboratory Occupancy.**

Laboratory room station occupancy shall be not less than 85 percent of capacity.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57025. Classroom Space Per Station.**

The computed average space per station in both existing and future classroom, seminar room, and service areas shall be 15 square feet per student station.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57026. Small College, Sliding Scale Allowance.**

**HISTORY**

1. Repealer filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).
2. Repealer filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).

**§ 57027. Capacity of Future Assignable Space.**

The formula for determining the assignable space for future classrooms and seminar rooms per projected 100 weekly student contact hours is as follows:

$$\frac{\text{Assignable square feet per station}}{\text{Room use standard}} \times \text{station occupancy standard} \times 100$$

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57028. Capacity of Future Laboratory and Service Areas.**

In determining the computed capacity of future laboratory and service area facilities, the following space allocations by standard classification of subject matter shall be applied on a campus-wide basis:

**ASSIGNABLE SQUARE FEET PER STATION AND PER 100 WEEKLY STUDENT CONTACT HOURS, CALIFORNIA COMMUNITY COLLEGES.**

1. Classroom and Seminars  
(Including Classroom Service) 8 a.m. to 10 p.m.

Campus Weekly Student Contact Hours	ASF/STN.	ASF/100 WSCH*
Less than 140,000	15	47.3
140,000 or more	15	42.9

2. Teaching Laboratories  
(Including Teaching Laboratory Service) 8 a.m. to 10 p.m.

Classification of Instructional Disciplines	ASF/100 Subject Grouping	ASF/STN.	WSCH*
0100	Agriculture	115	492
0200	Architecture	60	257
0400	Biological Sciences	55	233
0500	Business and Mgmt.	30	128
0600	Communications	50	214
0700	Computer & Info. Sci.	40	171
0800	Education	75	321
0930	Diesel	200	856
0944	Air Conditioning	130	556
0945	Refrigeration	130	556
0946	Auto-Body & Fender	200	856
0947	Auto-Mechanic	200	856
0948	Auto-Technology	75	321
0949	Small Engine Repair	100	428
0950	Aviation Maint.	175	749
0954	Plastics	130	556
0955	Stationary Eng. (Engineering)	200	856
All other 0900's		75	321
1000	Fine & Applied Arts	60	257
1100	Foreign Language	35	150
1200	Health Services	50	214
1300	Home Economics	60	257
1500	Letters	35	150
1600	Library Science	35	150
1700	Mathematics	35	150
1900	Physical Sciences	60	257
2000	Psychology	35	150
2100	Pub. Affairs & Serv.	50	214
2200	Social Sciences	35	150
3000	Commercial Serv.	50	214
4900	Interdisciplinary	60	257
5330	Carpentry	175	749
5331	Electricity	175	749
5332	Plumbing	175	749
5333	Glazing	175	749
5334	Roofing	175	749
5335	Masonry	175	749
5336	Dry-Wall	175	749
5337	Plantering	175	749
5338	Painting	175	749
5339	Millwork	90	385
5340	Metal Trades	90	385
5341	Welding	90	385
5342	Machine Tools	90	385
5343, 5344	Heavy Equipment	200	856
5345	Auto-Mechanics	200	856
5346	Auto-Body & Fender	200	856
5347	Graphic Arts	80	342
5348	Stationary Eng.	200	856

\*Based on following utilization components for space standards computation:

Classrooms and Seminars	Campus WSCH	Hrs./wkc.	Stn. Occ. %	Stn. Use
	Less than 140,000	48 X	.66	31.68
	140,000 or more	53 X	.66	34.98
Laboratories:	LD	27.5 X	.85	23.375

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Amendment filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).
2. Amendment filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).
3. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
4. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
5. Amendment of sections submitted to OAL for printing only pursuant to Government Code sections 11343.8 (Register 91, No. 23).
6. Editorial correction of printing error in heading (Register 91, No. 43).

**§ 57029. Office Space.**

All office space (academic offices, administrative and clerical office service rooms, and conference rooms) shall be computed at 140 assignable square feet for each full-time equivalent instructional staff member. Office space for a small Community College district shall be computed at 160 assignable square feet for each full-time equivalent instructional staff member.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57030. Library Space.**

All library space shall be computed by assignable square feet for library functions as specified in the subdivisions of this section. Square feet are "assignable" only if they are usable for the function described. Areas such as the main lobby (excluding card catalogue area), elevators, stairs, walled corridors, rest rooms, and areas accommodating building maintenance services are not deemed usable for any of the described functions.

- Stack Space** -  $.1 \text{ ASF} \times \frac{\text{Number of Bound Volumes}}{\text{Number of Volumes}}$   
 Initial Increment = 16,000 volumes  
 Additional Increments  
 (a) Under 3,000 DGE\* = +8 volumes per DGS\*\*  
 (b) 3,000-9,000 DGE = +7 volumes per DGS  
 (c) Above 9,000 DGE = +6 volumes per DGS
- Staff Space** -  $(140 \text{ ASF} \times \frac{\text{Number of FTE Staff}}{\text{Number of FTE Staff}}) + 400 \text{ ASF}$   
 Initial Increment = 3.0 FTE  
 Additional Increments  
 (a) Under 3,000 DGE = +.0020 FTE Staff per DGS  
 (b) 3,000-9,000 DGE = +.0015 FTE Staff per DGS  
 (c) Above 9,000 DGE = +.0010 FTE Staff per DGS
- Reader Station Space** -  $27.5 \text{ ASF} \times \frac{\text{Number of Reader Stations}}{\text{Number of Reader Stations}}$   
 Initial Increment = 50 Stations  
 Additional Increments  
 (a) Under 3,000 DGE = +.10 Stations per DGS  
 (b) 3,000-9,000 DGE = +.09 Stations per DGS  
 (c) Above 9,000 DGE = +.08 Stations per DGS
- Total Space** - Initial Increment = 3,795 ASF  
 Additional Increments  
 (a) Under 3,000 DGE = +3.83 ASF per DGS  
 (b) 3,000-9,000 DGE = +3.39 ASF per DGS  
 (c) Above 9,000 DGE = +2.94 ASF per DGS

For audio-visual and programmed instruction activities associated with library learning resource functions, additional areas sized for individual needs but not exceeding the following totals for the district as a whole.

- Total Space** - Initial Increment = 3,500 ASF  
 Additional Increments  
 (a) Under 3,000 DGE\* = 1.50 ASF per DGS\*\*  
 (b) 3,000-9,000 DGE = 0.75 ASF per DGS  
 (c) Above 9,000 DGE = 0.25 ASF per DGS

- \* Day-Graded Enrollment
- \*\* Day-Graded Student

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57031. Abbreviations.**

- ASF/STN** - Assignable square feet per student station
- Classrooms:**  
**Hrs./Wk.** - Number of hours out of a 70-hour week, 8 a.m. to 10 p.m., a classroom, on the average, should be used
- Class Laboratories:**  
**Hrs./Wk.** - Number of hours out of a 70-hour week, 8 a.m. to 10 p.m., a class laboratory, on the average, should be used
- STN. Occ.** - The percentage of expected student station occupancy when rooms are in use
- STN. Use** - The number of hours per week (out of the 70-hour week for classrooms and class laboratories) which a student station, on the average, should be used
- WSCH** - Weekly Student Contact Hours-8 a.m. to 10 p.m. WSCH for nonlaboratory (lecture) and laboratory hours.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57032. Formula for Deriving the Standards.**

$$\frac{\text{ASF/STN}}{\text{Hrs./Wk.} \times \text{STN. Occ.}} \times 100 = \text{ASF/100 WSCH}$$

**Example A.** For determining ASF/WSCH in Classrooms and Seminars on an 8 a.m. to 10 p.m. basis:

ASF/STN. = 15  
 Hrs./Wk. = 53      15  
 STN./Occ. = .66      53.0 x .66

**Example B.** For determining ASF/WSCH in Biological Science Laboratory on an 8 a.m. to 10 p.m. basis:

ASF/STN = 55  
 Hrs./Wk. = 27.5      55  
 STN./Occ. = .85      27.5 x .85

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57033. District Matching Share.**

NOTE: Authority cited: Sections 71020, 81805 and 81838, Education Code. Reference: Sections 81802, 81806, 81807, 81830, 81831 and 81838, Education Code.

**HISTORY**

1. New section filed 2-6-86; effective thirtieth day thereafter (Register 86, No. 6). For history of former section, see Registers 83, No. 18 and 78, No. 3.
2. Repeal of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57033.1. Determination of District's Matching Share; Adoption of Criteria; Chancellor's Recommendation; Review by Board in Forwarding Budget Request to Department of Finance.**

The Chancellor shall adopt criteria for determining districts' matching shares of the cost of capital outlay projects. Pursuant to that criteria, the Chancellor shall recommend each district's match, which shall be reviewed by the Board in forwarding its annual budget request to the Department of Finance for determination by the Legislature.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57034. Waiver of District Matching Share.**

NOTE: Authority cited: Sections 71020, 81805 and 81838, Education Code. Reference: Sections 81802, 81806, 81807, 81830, 81831 and 81838, Education Code.

**HISTORY**

1. New section filed 2-6-86; effective thirtieth day thereafter (Register 86, No. 6).
2. Repeal of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

## Subchapter 1.5. Energy and Resource Conservation

**§ 57050. General Provisions.**

For the purposes of administration and implementation of Board of Governors Energy and Resources Policy under the Community College Construction Act, the provisions of this subchapter apply.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901 and 81800-81839, Education Code.

**HISTORY**

1. New subchapter 2 (sections 57050-57055) filed 9-25-80; effective thirtieth day thereafter (Register 80, No. 39).
2. Redesignation of subchapter 2 as chapter 1.5 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57051. Definitions.**

For the purposes of this subchapter:

(a) "Energy Conservation Project" means the acquisition, development, or modification of facilities and equipment which result in the conservation of energy; energy audits; energy conservation and operating procedures; energy conservation measures; water conservation measures; and redraft consisting of modifications made to existing equipment or structures.

(b) "Energy Conservation Program," means an organized activity approved and adopted by a community college district governing board in the form of a written summary of the activities by the district toward the conserving of energy sources.

(c) "Energy Audit (EA)," means the nontechnical review of a facility to ascertain the existing level of energy use efficiency.

(d) "Technical Audit" (TA), means a specialized study designed to identify and specify energy resource savings and related cost savings which may be realized as a result of modification of maintenance and operating procedures, acquisition and installation of one or more specified energy conservation measures, or planning of specific remodeling, renovation, repair and replacement of facilities.

(e) "Technical Auditor" means a California registered engineer with energy conservation experience authorized by the California Energy Commission to conduct technical audits for all public building in the State of California.

(f) "Pay-back Period" is the length of time required for the flow of net cash proceeds or cash saving produced by an investment to equal the original cash outlay required by the investment.

(g) "Energy Conservation Measure" means an installation or modification of a system in a building or facility which is primarily intended to reduce energy consumption or allow the use of a more desirable energy source.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Sections 70901, and 81800-81839, Education Code.

**HISTORY**

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57052. Need for Energy Conservation Projects.**

(a) For those districts requesting a state supported energy conservation project, a summary of the local district Energy Conservation program as adopted by the governing board shall be a part of the annual district Five-Year Construction Plan.

(b) A community college district submitting an energy conservation project for state aid under the capital outlay program of the Community College Construction Act of 1980 shall indicate the need for such assistance in the annual district Five-Year Construction Plan. Such need is to appear as a component part of the Statement of Educational Plans for the district.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Sections 70901, and 81800-81839, Education Code.

**HISTORY**

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57053. Identification of Energy Conservation Projects.**

(a) When the need for state financial assistance for an energy conservation project (as defined in subsection (a) of section 57051) has been adequately established, it shall be submitted as a project planning guide in accordance with established format to the Chancellor's Office.

(b) The project planning guide shall contain evidence of an approved Energy Audit (EA) on file with the California Energy Commission.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Sections 70901, and 81800-81839, Education Code.

**HISTORY**

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57054. Evaluation of Energy Conservation Projects.**

All projects submitted as energy conservation related shall be ranked on the basis of criteria developed by the Chancellor's Office and shall include but not be limited to:

(a) Level of energy use—those projects identified to correct conditions of higher energy use application shall receive higher priority evaluation.

(b) Pay-back period—those projects which by their design or proposed application demonstrate the shortest possible pay-back period shall receive higher priority evaluation.

(c) The extent to which the district has implemented an energy conservation program which meets the objectives specified in Board of Governors Policy Statement on Energy and Resource Conservation.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Sections 70901, and 81800-81839, Education Code.

**HISTORY**

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57055. Developmental Progression of Energy Conservation Related Capital Outlay Projects.**

(a) Energy conservation related projects shall be evaluated and ranked for approval by the Chancellor following the existing procedures for the statewide capital outlay program.

(b) Upon securing approval of a proposed energy conservation project by all appropriate review agencies, the governing board of a community college may submit to the Chancellor for approval, or disapproval, preliminary plans for the project.

(c) Preliminary plans for energy related projects shall include:

(1) The results of a technical audit (TA) performed by an authorized Technical Auditor which describes in detail the energy conservation measures the project is to institute.

(2) The status of the project as related to the various federal and state aided programs for energy conservation.

(3) An architectural and/or engineering analysis setting forth the detailed costs of the various elements of the project.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Sections 70901, and 81800-81839, Education Code.

**HISTORY**

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57060. Legislative Findings, Declarations and Intent; Energy Conservation.**

The Board of Governors finds and declares that it is in the interest of the state and of the people thereof for the state to aid community college districts in finding cost-effective methods of conserving energy in buildings maintained by the districts. The Board of Governors also finds that while many districts may desire to participate in energy conservation programs designed to reduce the steadily rising costs of meeting the energy needs of district buildings, that the costs involved in improving existing facilities to become more energy efficient are often prohibitive.

It is the intent of the Board of Governors in adopting this regulation to encourage community college districts to retrofit buildings so as to conserve energy and reduce the costs of supplying energy.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57061. Community College Districts, Borrowing; Retrofitting Buildings for Energy Conservation; Savings and Loan Investment.**

(a) Community college districts may borrow funds from federal or state regulated financial institutions for the purposes of design and construction costs associated with retrofitting buildings to become more energy efficient. Community college districts shall only be authorized to borrow an amount which does not exceed that which can be repaid from energy cost avoidance savings accumulated from the improvement of school facilities.

(b) Any savings and loan association may make loans or advances of credit pursuant to the provisions of subdivision (a) in an amount not in excess of 5 percent of its total assets. This investment may be in addition to any other investment savings and loan associations are permitted to undertake under the provisions of section 6705.7 of the Financial Code.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57062. Pre-Audits and Post-Audits for Buildings.**

To the extent that these services are available, community college districts shall arrange for the pre-audit and post-audit of buildings by investor-owned or municipal utility companies or by independent energy audit companies or organizations which are recognized by federal or state regulated financial institutions. The pre-audit shall identify the type and amount of work necessary to retrofit the buildings and shall include an estimate of projected energy savings. The post-audit shall be conducted upon completion of the retrofitting of the buildings to insure that the project satisfies the recommendations of the pre-audit.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57063. Contracts.**

Community college districts taking action under this article shall contract with qualified businesses capable of retrofitting school buildings. To the extent that lists of qualified businesses are made available to community college districts by investor-owned or municipal utility companies or federal or state regulated financial institutions, community college districts may utilize the services of these businesses.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**Subchapter 2. Environmental Quality**

**§ 57100. General.**

(a) The regulations adopted under this Chapter are pursuant to the California Environmental Quality Act of 1970 (division 13 commencing with section 21000 of the Public Resources Code) and Guidelines adopted by Secretary for Resources in Division 6, Title 14, California Administrative Code.

(b) The purpose of these regulations is to provide basic principles, objectives, criteria and definitions for use by the Chancellor of the California Community Colleges in reviews required by the Education Code of community college construction projects.

(c) It is the intent of the Board of Governors to adopt in substance the Guidelines adopted by the Secretary for Resources in division 6, title 14, California Administrative Code, section 15000 et seq.

NOTE: Authority cited: Sections 66700 and 70901, Education Code, and Section 21082, Public Resources Code. Reference: Division 13 (commencing with Section 21000), Public Resources Code.

**HISTORY**

1. New chapter 2 (sections 57100 through 57140, not consecutive) filed 4-26-74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of article 1 heading and amendment of section filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

**§ 57101. Purpose.**

**HISTORY**

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

**§ 57120. Basic Guidelines.**

**HISTORY**

1. Repealer of Article 2 heading and Section 57120 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

**§ 57121. Application.**

(a) When reviewing proposals from Community College districts for acquisition of land to be used as a site for college facilities, the Chancellor shall also review the Community College district's Initial Study (section 15080, title 14, California Administrative Code) of the development intended on the land and include the result of this review in a site review report.

(b) The Chancellor shall require that proposals for initial construction of facilities for a new campus be accompanied by a long-range plan for physical development approved by the district governing board which shows the intended use of all portions of the land and approximate location of buildings and facilities.

(c) The Chancellor shall require that an Initial Study, pursuant to section 15080, title 14, California Administrative Code, be submitted to the Chancellor's office concurrent with other required information.

(d) The Chancellor shall require that a copy of the (1) finding of Categorical Exemption (section 15023, title 14, California Administrative Code); Negative Declaration (section 15083, Title 14, California Administrative Code); or Notice of Completion (section 15085(c), title 14, California Administrative Code), whichever is appropriate, be submitted to his office concurrently with preliminary plans.

(e) The Chancellor shall require a copy of the findings of Categorical Exemption or Notice of Determination (section 15085(g), Title 14, California Administrative Code), whichever is appropriate, be submitted to the Chancellor's office concurrently with plans submitted for approval in accordance with section 81837 of the Education Code.

(f) The Chancellor shall withhold authorization of the use of state funds for construction until requirements of the California Environmental Quality Act of 1970 have been met.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Division 13 (commencing with Section 21000), Public Resources Code.

#### HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

#### § 57140. Procedures.

NOTE: Authority cited: Sections 71020 and 71062, Education Code. Reference: Section 71091, Education Code; Division 13 (commencing with Section 21000), Public Resources Code.

#### HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. Repealer of article 3 heading and new NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Repeal of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

### Subchapter 3. District Funded Construction Projects

#### § 57150. Purpose.

The purpose of these regulations is to provide basic definitions, principles, and standards for use by the Chancellor of the California Community Colleges in considering any district-funded construction project subject to the requirements of section 81837 of the Education Code.

NOTE: Authority cited: Sections 66700, 70901, and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

#### HISTORY

1. New chapter 3 (sections 57150-57158, not consecutive) filed 10-30-80; effective thirtieth day thereafter (Register 80, No. 44).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

#### § 57152. Definitions.

(a) "Capital Outlay Project" includes purchase of land and costs related thereto, including court costs, condemnation costs, legal fees, title fees, etc.; construction projects, including working drawings; and equipment related to a construction project regardless of cost or timing.

(b) "Construction Project" includes new construction, alteration, and extension or betterment of existing structures.

(c) "State-Funded Project" means a capital outlay project qualifying as a project pursuant to section 81805 of the Education Code, and for which a district requests or receives State funding assistance.

(d) "District-Funded Project" means a capital outlay project subject to the provisions of section 81837 of the Education Code for which any funds, other than state funds, are paid or to be paid for erecting, adding to, or altering any community college facility.

(e) "Five-Year Construction Plans" means a plan for capital construction for community college purposes of a community college district for the five-year period commencing with the next proposed year of funding.

NOTE: Authority cited: Sections 66700, 70901 and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

#### HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

#### § 57154. Application.

In each case, the application for approval of plans for a district-funded project shall be accompanied by the plans and full, complete and accurate take-off of assignable and gross square feet of space, which shall comply with any and all requirements prescribed by the Chancellor.

NOTE: Authority cited: Sections 66700, 70901, and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

#### HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

#### § 57156. Review.

The review and evaluation of plans for a district-funded project by the Chancellor, shall include the following elements:

(a) Review and evaluate each district-funded project with reference to the elements of the capital construction program specified in Education Code section 81821.

(b) The review and evaluation shall be directed particularly to ascertain whether the locally funded project is of appropriate size, is appropriately timed and is justified in terms of the elements of the capital construction plans and where applicable, the standards as adopted by the Board of Governors.

NOTE: Authority cited: Sections 66700, 70901, and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

#### HISTORY

1. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

#### § 57158. Chancellor's Response to Request for Approval of Plans.

(a) When analysis by the Chancellor shows that approval of the plans for a proposed locally-funded construction of a community college facility would not result in facilities which would be substantially at variance with space and utilization standards adopted by the Board of Governors, the Chancellor shall approve the plans.

(b) When analysis by the Chancellor shows that approval of the plans would result in facilities which would be substantially at variance with space and utilization standards adopted by the Board of Governors, the Chancellor shall respond by:

- (1) Imposing conditions for the approval of the plans; or
- (2) Finding that despite the substantial variance with space standards, the plans, as submitted, are acceptable, and responding to the district with:

- (A) Cautions, and/or
- (B) Appraisal of the potential consequences of this variance.

NOTE: Authority cited: Sections 66700, 70901 and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

#### HISTORY

1. Amendment of subsection (b) filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

### Subchapter 4. Deferred Maintenance

#### § 57200. Purpose.

For the purposes of administration and implementation of the Community Colleges Facility Deferred Maintenance and Special Repair Program as required by Education Code section 84660, the provisions of this chapter shall apply.

NOTE: Authority cited: Sections 66700, 70901 and 84660, Education Code. Reference: Section 84660, Education Code.

#### HISTORY

1. New chapter 4 (sections 57200-57205) filed 7-8-82; effective thirtieth day thereafter (Register 82, No. 28).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).



Title 5, CCR, Register 94-38

§ 57001.7

## Chapter 8. Construction

### Subchapter 1. Community College Construction Act

#### § 57000. General Provisions.

NOTE: Authority cited for Chapter 1: Sections 71020, 71024 and 81805, Education Code. Reference: Chapter 4 (commencing with Section 81800), Part 49, Division 7, Education Code.

##### HISTORY

1. Repealer of Chapters 1 and 2 (§ § 57000 through 57121, not consecutive) and new Chapter 1 (§ § 57000 through 57032, not consecutive) filed 11-2-73; effective thirtieth day thereafter (Register 73, No. 44).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of Subchapter 1 heading and Section 57000 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

#### § 57001. Definitions.

For the purposes of this chapter:

- (a) "A small community college" means a college with 35,000 or fewer weekly student contact hours (W.S.C.H.) in credit and noncredit courses and programs.
- (b) "Leased or rented" means a building for which rental costs are paid, and the use of which will be discontinued upon the completion of the project for which application has been submitted.
- (c) "Permanent building" means a building for which there is no plan for removal or demolition.
- (d) "Temporary building" means a building of limited worth which, according to the capital construction master plan, is anticipated to be demolished or replaced within five years. All other buildings are to be considered permanent.

(e) As used in this chapter, "weekly student contact hours" means the product of the number of students and the scheduled class periods in which they are enrolled, in graded and ungraded community college classes convened prior to 10 o'clock p.m. during a census week. A class period is not less than 50 minutes and not more than 60 minutes.

NOTE: Authority cited: Sections 66700, 70901, and 81805 Education Code. Reference: Chapter 4 (commencing with Section 81800) of Part 49, Division 7, Education Code.

##### HISTORY

1. Repealer of subsections (i) and (j) filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).
4. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
5. Adoption of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
6. Editorial correction of printing error in subsection (e) (Register 91, No. 43).

#### § 57001.5. Project.

(a) As used in this chapter "project" means the purpose for which a community college district has applied for assistance under chapter 4 of part 49 of the Education Code for one or more institutions under its authority or for district wide facilities. A project may include the planning, acquisition, and improvement of community college sites; the planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, a laboratory, a library, a performing arts facility, a gymnasium, the basic outdoor physical education facilities, the basic food service facilities, or child development centers, pursuant to section 79120 of the Education Code; related facilities necessary for the instruction of students or for administration of the educational program; maintenance or utility facilities essential to the operation of the foregoing

facilities and the initial acquisition of equipment. A project may also include the initial furnishing of, and initial acquisition of equipment for, any facility leased or lease-purchased by a community college district as of August 1, 1987, for educational purpose or purposes.

(b) A project may also include the reconstruction or remodeling of any facility leased or lease-purchased for educational purposes. The Chancellor's Office shall require transfer to the community college district of title or any other interest considered sufficient by the district, in and to facilities presently leased or to be leased in the future by the district, to the extent of the funds appropriated for reconstruction or remodeling of leased facilities. When sufficient title or interest has not been transferred, the term of the lease shall be of sufficient duration to completely amortize the reconstruction or remodeling cost. Such amortization shall be determined by utilizing current interest rates and normal accounting practices. If the lease is terminated prior to amortizing the reconstruction or remodeling costs the district shall repay the state for any unamortized state costs.

A project consisting of the construction of any facilities listed in subdivision (a) on property that conforms to subdivision (b) of section 81530 of the Education Code shall be eligible for state funding. For any project that is constructed under this paragraph, the term of the lease shall be of sufficient duration to completely amortize the cost of the project and the governing board of the community college district shall provide in the lease agreement a hold harmless clause satisfactory to the lessor. The amortization shall be determined by utilizing current interest rates and normal accounting practices. If the lease is terminated prior to amortizing the project, the district shall pay the state for any unamortized state costs.

(c) The projects defined by subdivisions (a) and (b) of this section shall not be construed as a commitment by the Board of Governors as to the type or possible number of projects that may be considered during any fiscal year.

(d) A project shall not include the planning or construction of dormitories, student centers other than cafeterias, stadia, the improvement of sites for student or staff parking, or single-purpose auditoriums.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

##### HISTORY

1. Adoption of sections submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Editorial correction of printing error in subsection (a) (Register 91, No. 43).

#### § 57001.7. Educational Center.

As used in this Chapter, "educational center" is defined as provided in Section 55827(b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

##### HISTORY

1. Adoption of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).

#### § 57002. Federal Fund Proration.

When the physical detail and intent of a project subject to a federal grant differs materially from the physical detail and intent for which state funds are appropriated, the federal funds shall be prorated on the scope of the project subject to the federal grant and that prorated share be made applicable to the project subject to state matching funds.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Section 81805, Education Code.

##### HISTORY

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment of section submitted to OAL for printing only pursuant to Government Code section 11343.8 (Register 91, No. 23).

#### § 57003. Projecting Graded and Ungraded Enrollments.

##### HISTORY

1. Repealer filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

Title 5, CCR, Register 95-23

§ 57001	§ 57052
§ 57001.5	§ 57053
§ 57001.7	§ 57054
§ 57002	§ 57055
§ 57010	§ 57060
§ 57011	§ 57061
§ 57013	§ 57062
§ 57014	§ 57063
§ 57015	§ 57150
§ 57016	§ 57152
§ 57033.1	§ 57154
§ 57050	§ 57156
§ 57051	§ 57158

which the loan is made under this section, the State Controller shall deduct from the second principal apportionment made from Section B of the State School Fund to the community college district an amount equal to one-third of the amount loaned to the district, and transfer the amount into the Community College Fund for Instructional Improvement.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

#### HISTORY

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 23).

## Subchapter 6. Underrepresented Students Special Project Fund

### § 56700. Underrepresented Students Special Project Fund.

(a) The purpose of the Underrepresented Students Special Project Fund is to develop and disseminate alternative learning and teaching strategies designed to:

- (1) prepare underrepresented students for college level work;
- (2) increase the enrollment, retention and transfer of underrepresented students; and

(3) reduce underrepresentation of certain groups, particularly those with limited English proficiency and students with disabilities in vocational fields which prepare these students for employment.

(b) Projects funded under this section shall address one or more of the priorities established by the Board of Governors which include, but are not limited to:

- (1) enrollment, retention and transfer of underrepresented students in both vocational education and transfer education;
- (2) classroom-based research with an emphasis on collaborative learning methods and other teacher effectiveness strategies in working with underrepresented students;
- (3) dropout prevention for at-risk youth;
- (4) retention practices for students with disabilities; and
- (5) assessment of the impact of campus climate on the academic performance of underrepresented students.

(c) As used in this section:

(1) "underrepresented students" means students from groups which the Chancellor finds have been historically underrepresented or are currently underrepresented in the student bodies of community colleges with respect to their numbers in the general adult population. Such groups include, but are not limited to, African-Americans, Chicano/Latinos, American Indians, Alaskan Natives, Asian-Americans, students with disabilities, students receiving services through Extended Opportunity Programs and Services (EOPS), and students receiving instruction or support services for Limited-English Proficiency (LEP) or English as a Second Language (ESL).

(2) "classroom-based research" means the process of researching and evaluating various techniques which will enhance the learning of underrepresented, high risk students or improve the teaching effectiveness of faculty through the application of various activities and strategies in the classroom, such as curriculum course design, course content, process and resources intended to improve educational outcomes.

(3) "campus climate" means the environment on a college campus which affects the teaching, working and learning conditions of the community of students, faculty, administrators, and staff.

(4) "dropout prevention" means the strategies and activities which allow high school and college students to persist in a multicultural and gender equitable learning environment and succeed by completing a terminal degree (i.e., high school diploma or a GED).

(5) "retention" means assessing, changing, or adapting mainstream education for the purpose of preventing underrepresented or high risk students from dropping out.

(6) "transfer" means the outcome of students who engage in a prescribed course of study which leads to the students' eligibility for admissions to a four-year public or independent college or university.

NOTE: Authority cited: Section 70901, Education Code. Reference: Section 70901, Education Code.

#### HISTORY

1. New section filed 4-3-92; operative 5-4-92 (Register 92, No. 15).
2. New subchapter 6 heading filed 5-15-93; operative 6-14-93 (Register 93, No. 25).

## Chapter 8. Construction

### Subchapter 1. Community College Construction Act

#### § 57000. General Provisions.

NOTE: Authority cited for Chapter 1: Sections 71020, 71024 and 81805, Education Code. Reference: Chapter 4 (commencing with Section 81800), Part 49, Division 7, Education Code.

#### HISTORY

1. Repealer of Chapters 1 and 2 (§ § 57000 through 57121, not consecutive) and new Chapter 1 (§ § 57000 through 57032, not consecutive) filed 11-2-73; effective thirtieth day thereafter (Register 73, No. 44).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of Subchapter 1 heading and Section 57000 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

#### § 57001. Definitions.

For the purposes of this chapter:

(a) "A small community college" means a college with 35,000 or fewer weekly student contact hours (WSCH) in credit and noncredit courses and programs.

(b) "Leased or rented" means a building for which rental costs are paid, and the use of which will be discontinued upon the completion of the project for which application has been submitted.

(c) "Permanent building" means a building for which there is no plan for removal or demolition.

(d) "Temporary building" means a building of limited worth which, according to the capital construction master plan, is anticipated to be demolished or replaced within five years. All other buildings are to be considered permanent.

(e) As used in this chapter, "weekly student contact hours" means the product of the number of students and the scheduled class periods in which they are enrolled, in graded and ungraded community college classes convened prior to 10 o'clock p.m. during a census week. A class period is not less than 50 minutes and not more than 60 minutes.

NOTE: Authority cited: Sections 66700, 70901, and 81805 Education Code. Reference: Chapter 4 (commencing with Section 81800) of Part 49, Division 7, Education Code.

#### HISTORY

1. Repealer of subsections (i) and (j) filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Amendment filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).
4. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
5. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
6. Editorial correction of printing error in subsection (c) (Register 91, No. 43).
7. Editorial correction of HISTORY 5 (Register 95, No. 23).

#### § 57001.5. Project.

(a) As used in this chapter "project" means the purpose for which a community college district has applied for assistance under chapter 4 of

part 49 of the Education Code for one or more institutions under its authority or for district wide facilities. A project may include the planning, acquisition, and improvement of community college sites; the planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, a laboratory, a library, a performing arts facility, a gymnasium, the basic outdoor physical education facilities, the basic food service facilities, or child development centers, pursuant to section 79120 of the Education Code; related facilities necessary for the instruction of students or for administration of the educational program; maintenance or utility facilities essential to the operation of the foregoing facilities and the initial acquisition of equipment. A project may also include the initial furnishing of, and initial acquisition of equipment for, any facility leased or lease-purchased by a community college district as of August 1, 1987, for educational purpose or purposes.

(b) A project may also include the reconstruction or remodeling of any facility leased or lease-purchased for educational purposes. The Chancellor's Office shall require transfer to the community college district of title or any other interest considered sufficient by the district, in and to facilities presently leased or to be leased in the future by the district, to the extent of the funds appropriated for reconstruction or remodeling of leased facilities. When sufficient title or interest has not been transferred, the term of the lease shall be of sufficient duration to completely amortize reconstruction or remodeling cost. Such amortization shall be determined by utilizing current interest rates and normal accounting practices. If the lease is terminated prior to amortizing the reconstruction or remodeling costs the district shall repay the state for any unamortized state costs.

A project consisting of the construction of any facilities listed in subdivision (a) on property that conforms to subdivision (b) of section 81530 of the Education Code shall be eligible for state funding. For any project that is constructed under this paragraph, the term of the lease shall be of sufficient duration to completely amortize the cost of the project and the governing board of the community college district shall provide in the lease agreement a hold harmless clause satisfactory to the lessor. The amortization shall be determined by utilizing current interest rates and normal accounting practices. If the lease is terminated prior to amortizing the project, the district shall pay the state for any unamortized state costs.

(c) The projects defined by subdivisions (a) and (b) of this section shall not be construed as a commitment by the Board of Governors as to the type or possible number of projects that may be considered during any fiscal year.

(d) A project shall not include the planning or construction of dormitories, student centers other than cafeterias, stadia, the improvement of a site for student or staff parking, or single-purpose auditoriums.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

#### HISTORY

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error in subsection (a) (Register 91, No. 43).
3. Editorial correction of HISTORY 1 (Register 95, No. 23).

#### § 57001.7. Educational Center.

As used in this Chapter, "educational center" is defined as provided in Section 55827(b).

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

#### HISTORY

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Amendment filed 9-6-94; operative 10-6-94. Submitted to OAL for printing only pursuant to Education Code section 70901.5 (Register 94, No. 38).
3. Editorial correction of HISTORY 1 (Register 95, No. 23).

#### § 57002. Federal Fund Proration.

When the physical detail and intent of a project subject to a federal grant differs materially from the physical detail and intent for which state funds are appropriated, the federal funds shall be prorated on the scope of the project subject to the federal grant and that prorated share be made applicable to the project subject to state matching funds.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Section 81805, Education Code.

#### HISTORY

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 23).

#### § 57003. Projecting Graded and Ungraded Enrollments.

#### HISTORY

1. Repealer filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

#### § 57010. Appeals from Administrative Actions.

Any action of the Chancellor in administering this chapter may be appealed to the Board of Governors by the governing board of an affected community college district. The appeal shall be placed on the agenda of the Board in accordance with the general agenda practices of the Board. The decision of the Board on such appeals shall be final.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

#### HISTORY

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

#### § 57011. Expenditures; Final Report.

Upon completion of a project the governing board shall submit to the Chancellor, within 30 days after the closure of the current fiscal year, a final report on all expenditures in connection with the sources of the funds expended. The district shall be subject to a state post-audit review of fund claims for all such projects.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

#### HISTORY

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

#### § 57013. Coordination of Planning with Recreation and Park Authorities.

The governing board of any community college district shall meet with appropriate local government recreation and park authorities to review all possible methods of coordinating planning, design, and construction of new facilities and sites or major additions to existing facilities and recreation and park facilities in the community. Any community college district planning, designing, or constructing new facilities shall report to the Chancellor's Office on plans to achieve:

- (a) a greater use of any joint or contiguous recreation and park facilities by the district; and
- (b) possible use by the total community of such facilities and sites and recreation and park facilities.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

#### HISTORY

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57014. Submission.**

Any community college district may submit a proposed project to the Chancellor for review and approval or disapproval. The proposed project shall be an element of the district's plan for capital construction. It shall be in such form and contain such detail as will permit its evaluation and approval with reference to the elements of the capital construction program specified in section 81821 of the Education Code.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of printing error (Register 91, No. 43).
3. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57015. Chancellor's Review and Evaluation: Elements of Review.**

The Chancellor shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Education Code, section 81821. The review shall include the following elements:

(a) An architectural analysis to determine costs of the various phases of the project, with particular attention to be directed to the type of construction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area.

(b) Determining the amount of federal funds available for the project, and taking appropriate measures to ensure that the project will qualify for the maximum amounts of federal funds practicable under the circumstances.

"Federal funds" means any construction and equipment moneys provided by the federal government to a community college district for the project or any part of the project, which are or will be available to the district for the project.

(c) Determining the total cost of the project, reducing the total cost by the amount of federal funds available thereof, and determining the remainder thereof to be borne by the state, or, if the district has matching funds, by the state and by the district.

The determination as to whether the district has funds to provide all or part of its matching share of the project shall be made on the basis of district ability. If the district ability, as determined by section 57033.1, is sufficient to meet the matching costs of the project or its individual phases of planning, working drawings, construction, equipment, or land acquisition, the district shall bear its matching share of the cost of the project or one or more of its phases. If the district funds available are insufficient to provide the district's matching share for the cost of the project or one or more of its phases, computed pursuant to section 57033.1, the district shall provide the moneys available, as defined by the Board of Governors, and state funds may be requested to provide the balance of funds required.

Private funds available for specific projects may be used as a credit toward the district match.

(d) Determining the total of funds required for the first phase of the project to be provided on a matching basis by the state and the district, and the total state appropriation required to be provided for the project or one or more of its phases.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57016. Final Action; Time Limit.**

A proposed project submitted by the governing board of a community college district to the Chancellor pursuant to section 57014 prior to February 1st of each year shall be finally acted upon by the Chancellor pursuant to section 57014 on or before the next succeeding May 1st of each year.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57020. Standards.**

The computed existing and projected capacity and utilization standards listed in this article shall apply unless it is determined by the Chancellor in consultation with the Department of Finance that extraordinary conditions exist.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Section 81805, Education Code.

**HISTORY**

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 23).

**§ 57021. Classroom Use.**

Classrooms and seminar room use shall be not less than 48 hours per 70-hour week for a campus of less than 140,000 weekly student contact hours per week, and not less than 53 hours per 70-hour week for a campus with 140,000, or more, weekly student contact hours.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Repealer and new section filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).
2. Repealer and new section filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).
3. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
5. Editorial correction of HISTORY 4 (Register 95, No. 23).

**§ 57022. Laboratory Use.**

Laboratory room use shall be not less than 27.5 hours per 70-hour week.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 23).

**§ 57023. Classroom Occupancy.**

Classroom and seminar room station occupancy shall be not less than 66 percent of capacity.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

- 2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
- 3. Editorial correction of HISTORY 2 (Register 95, No. 23).

§ 57024. Laboratory Occupancy.

Laboratory room station occupancy shall be not less than 85 percent of capacity.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

HISTORY

- 1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
- 2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
- 3. Editorial correction of HISTORY 2 (Register 95, No. 23).

§ 57025. Classroom Space Per Station.

The computed average space per station in both existing and future classroom, seminar room, and service areas shall be 15 square feet per student station.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

HISTORY

- 1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
- 2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
- 3. Editorial correction of HISTORY 2 (Register 95, No. 23).

§ 57026. Small College, Sliding Scale Allowance.

HISTORY

- 1. Repealer filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).
- 2. Repealer filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).

§ 57027. Capacity of Future Assignable Space.

The formula for determining the assignable space for future classrooms and seminar rooms per projected 100 weekly student contact hours is as follows:

$$\frac{\text{Assignable square feet per station}}{\text{Room use standard} \times \text{station occupancy standard}} \times 100$$

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

HISTORY

- 1. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
- 2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
- 3. Editorial correction of HISTORY 2 (Register 95, No. 23).

§ 57028. Capacity of Future Laboratory and Service Areas.

In determining the computed capacity of future laboratory and service area facilities, the following space allocations by standard classification of subject matter shall be applied on a campus-wide basis:

ASSIGNABLE SQUARE FEET PER STATION AND PER 100 WEEKLY STUDENT CONTACT HOURS, CALIFORNIA COMMUNITY COLLEGES.

- 1. Classroom and Seminars (Including Classroom Service) 8 a.m. to 10 p.m.

Campus Weekly Student Contact Hours	ASF/STN.	WSCH*
Less than 140,000	15	47.3
140,000 or more	15	42.9

2. Teaching Laboratories (Including Teaching Laboratory Service) 8 a.m. to 10 p.m.

Classification of Instructional Disciplines	ASF/100 Subject Grouping	ASF/STN.	WSCH*
0100	Agriculture	115	492
0200	Architecture	60	257
0400	Biological Sciences	55	233
0500	Business and Mgmt.	30	128
0600	Communications	50	214
0700	Computer & Info. Sci.	40	171
0800	Education	75	321
0930	Diesel	200	856
0944	Air Conditioning	130	556
0945	Refrigeration	130	556
0946	Auto-Body & Fender	200	856
0947	Auto-Mechanic	200	856
0948	Auto-Technology	75	321
0949	Small Engine Repair	100	428
0950	Aviation Maint.	175	749
0954	Plastics	130	556
0955	Stationary Eng. (Engineering)	200	856
All other 0900's		75	321
1000	Fine & Applied Arts	60	257
1100	Foreign Language	35	150
1200	Health Services	50	214
1300	Home Economics	60	257
1500	Letters	35	150
1600	Library Science	35	150
1700	Mathematics	35	150
1900	Physical Sciences	60	257
2000	Psychology	35	150
2100	Pub. Affairs & Serv.	50	214
2200	Social Sciences	35	150
3000	Commercial Serv.	50	214
4900	Interdisciplinary	60	257
5330	Carpentry	175	749
5331	Electricity	175	749
5332	Plumbing	175	749
5333	Glazing	175	749
5334	Roofing	175	749
5335	Masonry	175	749
5336	Dry-Wall	175	749
5337	Plastering	175	749
5338	Painting	175	749
5339	Millwork	90	385
5340	Metal Trades	90	385
5341	Welding	90	385
5342	Machine Tools	90	385
5343, 5344	Heavy Equipment	200	856
5345	Auto-Mechanics	200	856
5346	Auto-Body & Fender	200	856
5347	Graphic Arts	80	342
5348	Stationary Eng.	200	856

\*Based on following utilization components for space standards computation:

Classrooms and Seminars	Hrs./wks.	Stn. Occ. %	Stn. Use
Campus WSCH			
Less than 140,000	48 X	.66	31.68
140,000 or more	53 X	.66	34.98
Laboratories:			
LD	27.5 X	.85	23.375

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

HISTORY

- 1. Amendment filed 6-26-74 as an emergency; effective upon filing (Register 74, No. 26).
- 2. Amendment filed 9-27-74 as an emergency; effective upon filing. Certificate of Compliance included (Register 74, No. 39).
- 3. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
- 4. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
- 5. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
- 6. Editorial correction of printing error in heading (Register 91, No. 43).
- 7. Editorial correction of HISTORY 5 (Register 95, No. 23).

§ 57029. Office Space.

All office space (academic offices, administrative and clerical office service rooms, and conference rooms) shall be computed at 140 assign-

able square feet for each full-time equivalent instructional staff member. Office space for a small Community College district shall be computed at 160 assignable square feet for each full-time equivalent instructional staff member.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 23).

**§ 57030. Library Space.**

All library space shall be computed by assignable square feet for library functions as specified in the subdivisions of this section. Square feet are "assignable" only if they are usable for the function described. Areas such as the main lobby (excluding card catalogue area), elevators, stairs, walled corridors, rest rooms, and areas accommodating building maintenance services are not deemed usable for any of the described functions.

- Stack Space** =  $\frac{.1 \text{ ASF} \times \text{Number of Bound Volumes}}{\text{Number of Volumes}}$   
 Initial Increment = 16,000 volumes  
 Additional Increments  
 (a) Under 3,000 DGE\* = +8 volumes per DGS\*\*  
 (b) 3,000-9,000 DGE = +7 volumes per DGS  
 (c) Above 9,000 DGE = +6 volumes per DGS
- Staff Space** =  $(140 \text{ ASF} \times \text{Number of FTE Staff}) + 400 \text{ ASF}$   
 Number of FTE Staff  
 Initial Increment = 3.0 FTE  
 Additional Increments  
 (a) Under 3,000 DGE = +.0020 FTE Staff per DGS  
 (b) 3,000-9,000 DGE = +.0015 FTE Staff per DGS  
 (c) Above 9,000 DGE = +.0010 FTE Staff per DGS
- Reader Station Space** =  $\frac{27.5 \text{ ASF} \times \text{Number of Reader Stations}}{\text{Number of Reader Stations}}$   
 Initial Increment = 50 Stations  
 Additional Increments  
 (a) Under 3,000 DGE = +.10 Stations per DGS  
 (b) 3,000-9,000 DGE = +.09 Stations per DGS  
 (c) Above 9,000 DGE = +.08 Stations per DGS
- Total Space** = Initial Increment = 3,795 ASF  
 Additional Increments  
 (a) Under 3,000 DGE = +3.83 ASF per DGS  
 (b) 3,000-9,000 DGE = +3.39 ASF per DGS  
 (c) Above 9,000 DGE = +2.94 ASF per DGS

For audio-visual and programmed instructional activities associated with library learning resource functions, additional areas sized for individual needs but not exceeding the following totals for the district as a whole.

- Total Space** = Initial Increment = 3,500 ASF  
 Additional Increments  
 (a) Under 3,000 DGE\* = 1.50 ASF per DGS\*\*  
 (b) 3,000-9,000 DGE = 0.75 ASF per DGS  
 (c) Above 9,000 DGE = 0.25 ASF per DGS

\* Day-Graded Enrollment  
 \*\* Day-Graded Student

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23).

Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

4. Editorial correction of HISTORY 3 (Register 95, No. 23).

**§ 57031. Abbreviations.**

- ASF/STN** = Assignable square feet per student station
- Classrooms:**  
**Hrs./Wk.** = Number of hours out of a 70-hour week, 8 a.m. to 10 p.m., a classroom, on the average, should be used
- Class Laboratories:**  
**Hrs./Wk.** = Number of hours out of a 70-hour week, 8 a.m. to 10 p.m., a class laboratory, on the average, should be used
- STN. Occ.** = The percentage of expected student station occupancy when rooms are in use
- STN. Use** = The number of hours per week (out of the 70-hour week for classrooms and class laboratories) which a student station, on the average, should be used
- WSCH** = Weekly Student Contact Hours—8 a.m. to 10 p.m. WSCH for nonlaboratory (lecture) and laboratory hours.

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 23).

**§ 57032. Formula for Deriving the Standards.**

$$\frac{\text{ASF/STN}}{\text{Hrs./Wk.} \times \text{STN. Occ.}} \times 100 = \text{ASF/100 WSCH}$$

**Example A. For determining ASF/WSCH in Classrooms and Seminars on an 8 a.m. to 10 p.m. basis:**

ASF/STN. = 15  
 Hrs./Wk. = 53  
 STN./Occ. = .66

$$\frac{15}{53 \times .66} \times 100 = 42.9 \text{ ASF/100 WSCH}$$

**Example B. For determining ASF/WSCH in Biological Science Laboratory on an 8 a.m. to 10 p.m. basis:**

ASF/STN = 55  
 Hrs./Wk. = 27.5  
 STN./Occ. = .85

$$\frac{55}{27.5 \times .85} \times 100 = 235 \text{ ASF/100 WSCH}$$

NOTE: Authority cited: Sections 66700, 70901, 81805 and 81836, Education Code. Reference: Sections 81805 and 81836, Education Code.

**HISTORY**

1. Amendment filed 10-1-75; effective thirtieth day thereafter (Register 75, No. 40).
2. New NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 23).

**§ 57033. District Matching Share.**

NOTE: Authority cited: Sections 71020, 81805 and 81838, Education Code. Reference: Sections 81802, 81806, 81807, 81830, 81831 and 81838, Education Code.

**HISTORY**

1. New section filed 2-6-86; effective thirtieth day thereafter (Register 86, No. 6). For history of former section, see Registers 83, No. 18 and 78, No. 3.
2. Repealer filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 23).



**§ 57033.1. Determination of District's Matching Share; Adoption of Criteria; Chancellor's Recommendation; Review by Board in Forwarding Budget Request to Department of Finance.**

The Chancellor shall adopt criteria for determining districts' matching shares of the cost of capital outlay projects. Pursuant to that criteria, the Chancellor shall recommend each district's match, which shall be reviewed by the Board in forwarding its annual budget request to the Department of Finance for determination by the Legislature.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

**HISTORY**

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57034. Waiver of District Matching Share.**

NOTE: Authority cited: Sections 71020, 81805 and 81838, Education Code. Reference: Sections 81802, 81806, 81807, 81830, 81831 and 81838, Education Code.

**HISTORY**

1. New section filed 2-6-86; effective thirtieth day thereafter (Register 86, No. 1).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 23).

## Subchapter 1.5. Energy and Resource Conservation

**§ 57050. General Provisions.**

For the purposes of administration and implementation of Board of Governors Energy and Resources Policy under the Community College Construction Act, the provisions of this subchapter apply.

NOTE: Authority cited: Sections 66700, 70901 and 81805, Education Code. Reference: Sections 70901 and 81800-81839, Education Code.

**HISTORY**

1. New subchapter 2 (sections 57050-57055) filed 9-25-80; effective thirtieth day thereafter (Register 80, No. 39).
2. Redesignation of subchapter 2 as chapter 1.5 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
4. Editorial correction of HISTORY 3 (Register 95, No. 23).

**§ 57051. Definitions.**

For the purposes of this subchapter:

- (a) "Energy Conservation Project" means the acquisition, development, or modification of facilities and equipment which result in the conservation of energy; energy audits; energy conservation and operating procedures; energy conservation measures; water conservation measures; and redraft consisting of modifications made to existing equipment or structures.
- (b) "Energy Conservation Program," means an organized activity approved and adopted by a community college district governing board in the form of a written summary of the activities by the district toward the conserving of energy sources.
- (c) "Energy Audit (EA)," means the nontechnical review of a facility to ascertain the existing level of energy use efficiency.
- (d) "Technical Audit" (TA), means a specialized study designed to identify and specify energy resource savings and related cost savings which may be realized as a result of modification of maintenance and operating procedures, acquisition and installation of one or more specified

energy conservation measures, or planning of specific remodeling, renovation, repair and replacement of facilities.

(e) "Technical Auditor" means a California registered engineer with energy conservation experience authorized by the California Energy Commission to conduct technical audits for all public building in the State of California.

(f) "Pay-back Period" is the length of time required for the flow of net cash proceeds or cash saving produced by an investment to equal the original cash outlay required by the investment.

(g) "Energy Conservation Measure" means an installation or modification of a system in a building or facility which is primarily intended to reduce energy consumption or allow the use of a more desirable energy source.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Sections 70901, and 81800-81839, Education Code.

**HISTORY**

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57052. Need for Energy Conservation Projects.**

(a) For those districts requesting a state supported energy conservation project, a summary of the local district Energy Conservation program as adopted by the governing board shall be a part of the annual district Five-Year Construction Plan.

(b) A community college district submitting an energy conservation project for state aid under the capital outlay program of the Community College Construction Act of 1980 shall indicate the need for such assistance in the annual district Five-Year Construction Plan. Such need is to appear as a component part of the Statement of Educational Plans for the district.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Sections 70901, and 81800-81839, Education Code.

**HISTORY**

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57053. Identification of Energy Conservation Projects.**

(a) When the need for state financial assistance for an energy conservation project (as defined in subsection (a) of section 57051) has been adequately established, it shall be submitted as a project planning guide in accordance with established format to the Chancellor's Office.

(b) The project planning guide shall contain evidence of an approved Energy Audit (EA) on file with the California Energy Commission.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Sections 70901, and 81800-81839, Education Code.

**HISTORY**

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

**§ 57054. Evaluation of Energy Conservation Projects.**

All projects submitted as energy conservation related shall be ranked on the basis of criteria developed by the Chancellor's Office and shall include but not be limited to:

- (a) Level of energy use—those projects identified to correct conditions of higher energy use application shall receive higher priority evaluation.
- (b) Pay-back period—those projects which by their design or proposed application demonstrate the shortest possible pay-back period shall receive higher priority evaluation.

(c) The extent to which the district has implemented an energy conservation program which meets the objectives specified in Board of Governors Policy Statement on Energy and Resource Conservation.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Sections 70901, and 81800-81839, Education Code.

## HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

### § 57055. Developmental Progression of Energy Conservation Related Capital Outlay Projects.

(a) Energy conservation related projects shall be evaluated and ranked for approval by the Chancellor following the existing procedures for the statewide capital outlay program.

(b) Upon securing approval of a proposed energy conservation project by all appropriate review agencies, the governing board of a community college may submit to the Chancellor for approval, or disapproval, preliminary plans for the project.

(c) Preliminary plans for energy related projects shall include:

(1) The results of a technical audit (TA) performed by an authorized Technical Auditor which describes in detail the energy conservation measures the project is to institute.

(2) The status of the project as related to the various federal and state aided programs for energy conservation.

(3) An architectural and/or engineering analysis setting forth the detailed costs of the various elements of the project.

NOTE: Authority cited: Sections 66700, 70901, and 81805, Education Code. Reference: Sections 70901, and 81800-81839, Education Code.

## HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

### § 57060. Legislative Findings, Declarations and Intent; Energy Conservation.

The Board of Governors finds and declares that it is in the interest of the state and of the people thereof for the state to aid community college districts in finding cost-effective methods of conserving energy in buildings maintained by the districts. The Board of Governors also finds that while many districts may desire to participate in energy conservation programs designed to reduce the steadily rising costs of meeting the energy needs of district buildings, that the costs involved in improving existing facilities to become more energy efficient are often prohibitive.

It is the intent of the Board of Governors in adopting this regulation to encourage community college districts to retrofit buildings so as to conserve energy and reduce the costs of supplying energy.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

## HISTORY

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

### § 57061. Community College Districts, Borrowing; Retrofitting Buildings for Energy Conservation; Savings and Loan Investment.

(a) Community college districts may borrow funds from federal or state regulated financial institutions for the purposes of design and construction costs associated with retrofitting buildings to become more energy efficient. Community college districts shall only be authorized to borrow an amount which does not exceed that which can be repaid from energy cost avoidance savings accumulated from the improvement of school facilities.

(b) Any savings and loan association may make loans or advances of credit pursuant to the provisions of subdivision (a) in an amount not in excess of 5 percent of its total assets. This investment may be in addition to any other investment savings and loan associations are permitted to undertake under the provisions of section 6705.7 of the Financial Code.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

## HISTORY

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

### § 57062. Pre-Audits and Post-Audits for Buildings.

To the extent that these services are available, community college districts shall arrange for the pre-audit and post-audit of buildings by investor-owned or municipal utility companies or by independent energy audit companies or organizations which are recognized by federal or state regulated financial institutions. The pre-audit shall identify the type and amount of work necessary to retrofit the buildings and shall include an estimate of projected energy savings. The post-audit shall be conducted upon completion of the retrofitting of the buildings to insure that the project satisfies the recommendations of the pre-audit.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

## HISTORY

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

### § 57063. Contracts.

Community college districts taking action under this article shall contract with qualified businesses capable of retrofitting school buildings. To the extent that lists of qualified businesses are made available to community college districts by investor-owned or municipal utility companies or federal or state regulated financial institutions, community college districts may utilize the services of these businesses.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.

## HISTORY

1. New section filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

## Subchapter 2. Environmental Quality

### § 57100. General.

(a) The regulations adopted under this Chapter are pursuant to the California Environmental Quality Act of 1970 (division 13 commencing with section 21000 of the Public Resources Code) and Guidelines adopted by Secretary for Resources in Division 6, Title 14, California Administrative Code.

(b) The purpose of these regulations is to provide basic principles, objectives, criteria and definitions for use by the Chancellor of the California Community Colleges in reviews required by the Education Code of community college construction projects.

(c) It is the intent of the Board of Governors to adopt in substance the Guidelines adopted by the Secretary for Resources in division 6, title 14, California Administrative Code, section 15000 et seq.

NOTE: Authority cited: Sections 66700 and 70901, Education Code, and Section 21082, Public Resources Code. Reference: Division 13 (commencing with Section 21000), Public Resources Code.

## HISTORY

1. New chapter 2 (sections 57100 through 57140, not consecutive) filed 4-26-74; effective thirtieth day thereafter (Register 74, No. 17).
2. Amendment of NOTE filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).
3. Repealer of article 1 heading and amendment of section filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).
4. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

5. Editorial correction of HISTORY 4 (Register 95, No. 23).

### § 57101. Purpose.

#### HISTORY

1. Repealer filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

### § 57120. Basic Guidelines.

#### HISTORY

1. Repealer of Article 2 heading and Section 57120 filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

### § 57121. Application.

(a) When reviewing proposals from Community College districts for acquisition of land to be used as a site for college facilities, the Chancellor shall also review the Community College district's Initial Study (section 15080, title 14, California Administrative Code) of the development intended on the land and include the result of this review in a site review report.

(b) The Chancellor shall require that proposals for initial construction of facilities for a new campus be accompanied by a long-range plan for physical development approved by the district governing board which shows the intended use of all portions of the land and approximate locations of buildings and facilities.

(c) The Chancellor shall require that an Initial Study, pursuant to section 15080, title 14, California Administrative Code, be submitted to the Chancellor's office, concurrent with other required information.

(d) The Chancellor shall require that a copy of the (1) finding of Categorical Exemption (section 15023, title 14, California Administrative Code); Negative Declaration (section 15083, Title 14, California Administrative Code); or Notice of Completion (section 15085(c), title 14, California Administrative Code), whichever is appropriate, be submitted to his office concurrently with preliminary plans.

(e) The Chancellor shall require a copy of the findings of Categorical Exemption or Notice of Determination (section 15085(g), Title 14, California Administrative Code), whichever is appropriate, be submitted to the Chancellor's office concurrently with plans submitted for approval in accordance with section 81837 of the Education Code.

(f) The Chancellor shall withhold authorization of the use of state funds for construction until requirements of the California Environmental Quality Act of 1970 have been met.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Division 13 (commencing with Section 21000); Public Resources Code.

#### HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

2. Amendment filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

3. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

4. Editorial correction of HISTORY 3 (Register 95, No. 23).

### § 57140. Procedures.

NOTE: Authority cited: Sections 71020 and 71062, Education Code. Reference: Section 71091, Education Code; Division 13 (commencing with Section 21000); Public Resources Code.

#### HISTORY

1. Amendment filed 11-4-77; effective thirtieth day thereafter (Register 77, No. 45).

2. Repealer of article 3 heading and new NOTE filed 4-27-83; effective thirtieth day thereafter (Register 83, No. 18).

3. Repealer filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

4. Editorial correction of HISTORY 3 (Register 95, No. 23).

## Subchapter 3. District Funded Construction Projects

### § 57150. Purpose.

The purpose of these regulations is to provide basic definitions, principles, and standards for use by the Chancellor of the California Community Colleges in considering any district-funded construction project subject to the requirements of section 81837 of the Education Code.

NOTE: Authority cited: Sections 66700, 70901, and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

#### HISTORY

1. New chapter 3 (sections 57150-57158, not consecutive) filed 10-30-80; effective thirtieth day thereafter (Register 80, No. 44).

2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

3. Editorial correction of HISTORY 2 (Register 95, No. 23).

### § 57152. Definitions.

(a) "Capital Outlay Project" includes purchase of land and costs related thereto, including court costs, condemnation costs, legal fees, title fees, etc.; construction projects, including working drawings; and equipment related to a construction project regardless of cost or timing.

(b) "Construction Project" includes new construction, alteration, and extension or betterment of existing structures.

(c) "State-Funded Project" means a capital outlay project qualifying as a project pursuant to section 81805 of the Education Code, and for which a district requests or receives State funding assistance.

(d) "District-Funded Project" means a capital outlay project subject to the provisions of section 81837 of the Education Code for which any funds, other than state funds, are paid or to be paid for erecting, adding to, or altering any community college facility.

(e) "Five-Year Construction Plans" means a plan for capital construction for community college purposes of a community college district for the five-year period commencing with the next proposed year of funding.

NOTE: Authority cited: Sections 66700, 70901 and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

#### HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 23).

### § 57154. Application.

In each case, the application for approval of plans for a district-funded project shall be accompanied by the plans and full, complete and accurate take-off of assignable and gross square feet of space, which shall comply with any and all requirements prescribed by the Chancellor.

NOTE: Authority cited: Sections 66700, 70901, and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

#### HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 23).

### § 57156. Review.

The review and evaluation of plans for a district-funded project by the Chancellor, shall include the following elements:

(a) Review and evaluate each district-funded project with reference to the elements of the capital construction program specified in Education Code section 81821.

(b) The review and evaluation shall be directed particularly to ascertain whether the locally funded project is of appropriate size, is appropriately timed and is justified in terms of the elements of the capital construction plans and where applicable, the standards as adopted by the Board of Governors.

NOTE: Authority cited: Sections 66700, 70901, and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

#### HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

### § 57158. Chancellor's Response to Request for Approval of Plans.

(a) When analysis by the Chancellor shows that approval of the plans for a proposed locally-funded construction of a community college facility would not result in facilities which would be substantially at variance with space and utilization standards adopted by the Board of Governors, the Chancellor shall approve the plans.

(b) When analysis by the Chancellor shows that approval of the plans would result in facilities which would be substantially at variance with space and utilization standards adopted by the Board of Governors, the Chancellor shall respond by:

- (1) Imposing conditions for the approval of the plans; or
- (2) Finding that despite the substantial variance with space standards, the plans, as submitted, are acceptable, and responding to the district with:

(A) Cautions, and/or

(B) Appraisal of the potential consequences of this variance.

NOTE: Authority cited: Sections 66700, 70901 and 81836, Education Code. Reference: Sections 81836 and 81837, Education Code.

#### HISTORY

1. Amendment of subsection (b) filed 1-16-81; effective thirtieth day thereafter (Register 81, No. 3).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 23).

## Subchapter 4. Deferred Maintenance

### § 57200. Purpose.

For the purposes of administration and implementation of the Community Colleges Facility Deferred Maintenance and Special Repair Program as required by Education Code section 84660, the provisions of this chapter shall apply.

NOTE: Authority cited: Sections 66700, 70901 and 84660, Education Code. Reference: Section 84660, Education Code.

#### HISTORY

1. New chapter 4 (sections 57200-57205) filed 7-8-82; effective thirtieth day thereafter (Register 82, No. 28).
2. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
3. Editorial correction of HISTORY 2 (Register 95, No. 23).

### § 57201. General Requirements.

Each community college district applying to receive funds pursuant to this chapter shall:

(a) Prepare and submit to the Chancellor a current five-year maintenance plan. The plan shall be consistent with the district's five-year capital outlay plan, but shall not duplicate that plan. The plan shall provide for ongoing as well as deferred maintenance.

(b) Maintain a level of ongoing maintenance during the year for which funds are requested commensurate with the level of activity in prior years.

NOTE: Authority cited: Sections 66700, 70901 and 84660, Education Code. Reference: Section 84660, Education Code.

#### HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23).

Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

2. Editorial correction of HISTORY 1 (Register 95, No. 23).

### § 57202. Application for Funds.

Districts shall apply to the Chancellor's Office for funding for deferred maintenance in the form and manner specified by the Chancellor.

NOTE: Authority cited: Sections 66700, 70901 and 84660, Education Code. Reference: Section 84660, Education Code.

#### HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

### § 57203. Allocation of Funds.

The Chancellor shall allocate the funds appropriated by the Legislature as soon as such funds are available, and in accordance with the project priorities established, provided that ten percent (10%) of the funds may be held for contingencies that may occur during the year. Any such funds initially held for contingencies shall be allocated prior to the end of the fiscal year.

NOTE: Authority cited: Sections 66700, 70901 and 84660, Education Code. Reference: Section 84660, Education Code.

#### HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

### § 57204. Selection of Projects.

The Chancellor shall evaluate district applications and rank projects for funding. Projects shall be ranked for funding using the following criteria, which shall be ranked equally:

(a) Health and Safety. Priority shall be given to projects necessary to meet safety requirements and to correct hazardous conditions which, if uncorrected, would result in facility closure or danger to staff and students utilizing the facility.

(b) Prevention of Further More Costly Repairs. Priority shall be given to deferred maintenance for instructional facilities necessary to prevent substantially increased maintenance or replacement costs in the future.

(c) Disruption of Programs. Priority shall be given to projects necessary to prevent disruption of instructional programs.

NOTE: Authority cited: Sections 66700, 70901 and 84660, Education Code. Reference: Section 84660, Education Code.

#### HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).
2. Editorial correction of HISTORY 1 (Register 95, No. 23).

### § 57205. District Match.

The Chancellor will allocate funds for only fifty percent of the costs for a deferred maintenance project. In accepting funds under this chapter, a district agrees to spend district funds necessary to complete the project.

The Chancellor may waive this requirement in whole or in part for projects for which the district demonstrates that it cannot make available fifty percent of the costs for the project from other sources.

The Chancellor shall waive this requirement only for projects with high priority for funding. Highest priority shall be given to those projects which the Chancellor determines are necessary to prevent a facility from being closed.

Where projects would otherwise be of equal rank, first priority shall be given to those projects for which the district provides matching funds.

NOTE: Authority cited: Sections 66700, 70901 and 84660, Education Code. Reference: Section 84660, Education Code.

#### HISTORY

1. Amendment filed 3-4-91 by Board of Governors of California Community Colleges with the Secretary of State; operative 4-5-91 (Register 91, No. 23). Submitted to OAL for printing only pursuant to Education Code Section 70901.5(b).

# SixTen and Associates Mandate Reimbursement Services

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JUN 03 2008

**COMMISSION ON  
STATE MANDATES**

June 2, 2008

Paula Higashi, Executive Director  
Commission on State Mandates  
U.S. Bank Plaza Building  
980 Ninth Street, Suite 300  
Sacramento, California 95814

Re: CSM 02-TC-47  
Community College Construction

Dear Ms. Higashi:

On January 8, 2007, I submitted to the Commission, on behalf of the test claimant, a supplement to the test claim filing, specifically, the history of the Title 5, CCR, sections included in the test claim, at the request of the Commission staff.

This letter transmits, on behalf of the test claimants, the list of registers and relevant section numbers, in the form of an amended attachment page to the CSM 2 form.

Sincerely,



Keith B. Petersen

C: Douglas Brinkley, Vice-Chancellor  
Finance and Administration  
State Center Community College District  
1525 East Weldon  
Fresno, CA 3268



Amended Attachment to Form CSM 2 (1/91)  
 Test Claim of Santa Monica Community College District  
 758/95 Community College Construction 02-TC-47

Chaptered Bills

Education Codes

Chapter 758, Statutes of 1995	Education Code Section 81663
Chapter 1038, Statutes of 1991	Education Code Section 81800
Chapter 1372, Statutes of 1990	Education Code Section 81805
Chapter 891, Statutes of 1981	Education Code Section 81807
Chapter 470, Statutes of 1981	Education Code Section 81808
Chapter 910, Statutes of 1980	Education Code Section 81820
	Education Code Section 81821
	Education Code Section 81822
	Education Code Section 81823
	Education Code Section 81836
	Education Code Section 81837
	Education Code Section 81839

**California Code of Regulations Registers**

**Register 75-40**

Title 5, Sections: 57001 57022 57028 57030 57031

**Register 77-45**

Title 5, Sections: 57000 57001 57003 57029

**Register 80-39**

Title 5, Sections: 57050 57051 57052 57053 57054  
 57055

**Register 80-44**

Title 5, Sections: 57150 57152 57154 57156 57158

**Register 81-03**

Title 5, Sections: 57001 57158

**Register 83-18**

Title 5, Sections: 57000 57001 57002 57020 57021  
 57022 57023 57024 57025 57027  
 57028 57029 57030 57031 57032  
 57033 57050

### Register 91-23

Title 5, Sections: 57001 57001.5 57001.7 57002 57010  
57011 57013 57014 57015 57016  
57020 57021 57022 57023 57024  
57025 57027 57028 57029 57031  
57032 57033 57033.1 57034 57050  
57051 57052 57053 57054 57055  
57060 57061 57062 57063 57150  
57152 57154 57156 57158

### Register 91-43

Title 5, Sections: 57001 57001.5 57014 57028

### Register 94-38

Title 5, Sections: 57001.7

### Register 95-23

Title 5, Sections: 57001 57001.5 57001.7 57002 57010  
57011 57013 57014 57015 57016  
57020 57021 57022 57023 57024  
57025 57027 57028 57029 57030  
57031 57032 57033 57033.1 57034  
57050 57051 57052 57053 57054  
57055 57060 57061 57062 57063  
57150 57152 57154 57156 57158

### California Code of Regulations Originally Listed

Title 5, Section 57001	Title 5, Section 57001.5	Title 5, Section 57001.7
Title 5, Section 57002	Title 5, Section 57010	Title 5, Section 57011
Title 5, Section 57013	Title 5, Section 57014	Title 5, Section 57015
Title 5, Section 57016	Title 5, Section 57033.1	Title 5, Section 57050
Title 5, Section 57051	Title 5, Section 57052	Title 5, Section 57053
Title 5, Section 57054	Title 5, Section 57055	Title 5, Section 57060
Title 5, Section 57061	Title 5, Section 57062	Title 5, Section 57063
Title 5, Section 57150	Title 5, Section 57152	Title 5, Section 57154
Title 5, Section 57156	Title 5, Section 57158	





February 11, 2004

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FEB 18 2004

**COMMISSION ON  
STATE MANDATES**

Ms. Paula Higashi  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

Dear Ms. Higashi:

As requested in your letter of July 11, 2003, the Department of Finance has reviewed the test claim submitted by the Santa Monica Community College District (claimant) asking the Commission to determine whether specified costs incurred under the Community College Construction Act of 1980 (Chapter 910, Statutes of 1980) and subsequent legislation and regulations, are reimbursable state mandated costs (Claim No. CSM-02-TC-47 "Community College Construction"). Commencing with page 27 of the test claim, claimant has identified numerous new duties which it asserts are reimbursable state mandates. Each of these assertions is discussed in detail in the body of our response.

As the result of our review, we have concluded that there are two activities which could be interpreted as state-reimbursable mandated activities. These two activities are 1) the inclusion in the five-year plan of the district's estimate of funds available for capital outlay matching purposes [Education Code (Ed Code) §81821(f)], and 2) the reporting to the Chancellor's Office on plans to achieve greater use of joint facilities with Parks and Recreation and possible use of new facilities by the community [Title V California Code of Regulations (CCR) §57013].

We disagree with all other claims of state-reimbursable mandated activities in this test claim. The disputed activities include, but are not limited to, those that are 1) substantially similar to activities that have been continuously required since the Community College Construction Act of 1967, 2) a requirement of the California Community Colleges Chancellor's Office, a state entity, rather than duties imposed on local districts, 3) discretionary activities or 4) required to provide cost savings that either meet or exceed the amount of expenses incurred.

The following sections of this letter respond to each of the claims contained in this test claim.

**A) To transfer any unused project funds when the existing district is incorporated into a newly formed district (Ed Code §81808)**

The activity described in Ed Code §81808 is not a state-reimbursable mandate as it has continuously existed since the Community College Construction Act of 1967. From 1967 through 1976, this requirement was contained in Ed Code §20057. In 1977, the Education Code was reorganized and this activity was renumbered as Ed Code §81808.

The Community College Construction Act of 1980 merely repealed and then reinstated the same activity in the same code section. Government Code (Gov Code) §17514 specifically defines "costs mandated by the State" as:

...any increased cost which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service or an existing program within the meaning of Section 6 of Article XIII B or the California Constitution.

As the activity required by Ed Code §81808 has existed since 1967, the Community College Construction Act of 1980 creates neither a higher level of service nor a new program. Therefore, this task does not meet the criteria stated in Gov Code §17514 for finding a state-reimbursable mandated activity.

Should it nevertheless be determined that this action qualifies as a state-reimbursable mandated activity, we note that no existing districts have been incorporated into newly formed districts during the effective period of this test claim.

**B) Annually prepare and submit a five-year plan for capital construction to the Board of Governors of the California Community Colleges (Board), including any required modifications or changes, by February 1 (Ed Code §§81820 and 81823, and Title 5, California Code of Regulations (CCR) §57014)**

Ed Code §81820 is not a state-reimbursable mandated activity as the requirement to prepare and submit a capital outlay plan has continuously existed since the Community College Construction Act of 1967. From 1967 through 1976, this requirement was contained in Ed Code §20065. In 1977, the Education Code was reorganized and this activity was renumbered as Ed Code §81820. The Community College Construction Act of 1980 merely repealed and then reinstated the same activity in the same code section. Such an act does not meet the criteria under Gov Code §17514 for a state-reimbursable mandate, as there is no new program and no higher level of service.

Although the Community College Construction Act of 1980 amends Ed Code §81820 to require that the five-year plan be submitted by February 1, rather than November 1, it does not require the activities involved with preparing and submitting a plan to include anything more than was required under the prior law. As such, it would have the effect of requiring the same activity, but at a different point in time. That activity has certain costs associated with its preparation, but advancing its due date, while in some instances may require a shift in workload organization and/or priorities, does not increase such costs by itself. Therefore, this bill would not result in any state-reimbursable mandated costs on local government.

Furthermore, Ed Code §81823 is not a state-reimbursable mandated activity as it is discretionary. This section allows multiple campus college districts, if they so elect, to submit a capital outlay plan for each college or educational center within that district. "Mandates" as used in Article XIII B, Section 6, of the California Constitution has been defined to mean "orders" or "commands" (*Long Beach Unified School District, supra*, 225 Cal.App.3d 155, 174). As Ed Code §81823 does not mandate the community college district to perform a task, then compliance is within the discretion of the community college district and a state-mandated program does not exist.

Similarly, CCR §57014, regarding the districts ability to submit proposed projects to the Chancellor for review, is not a state-reimbursable mandated activity as it is also discretionary.

**C) To include in the five-year plan:**

- 1) **The effect on estimated construction needs arising from particular courses of instruction and other student services [Ed Code §81821(a)];**
- 2) **The district's enrollment projection [Ed Code §81821(b)];**
- 3) **The district's current enrollment capacity [Ed Code §81821(c)];**
- 4) **The district's office, library and supporting facilities capacity [Ed Code §81821(d)];**
- 5) **The district's annual inventory of all facilities and land [Ed Code §81821(e)]; and**
- 6) **The district's estimate of matching funds available for capital outlay [Ed Code §81821(f)]**

Activities C1 through C5 (Ed Code §81821 subdivisions a through e) are not state-reimbursable mandated activities because the requirements in existing law are substantially similar to plan elements that have been required continuously since the Community College Construction Act of 1967. From 1967 through 1976, this requirement was contained in Ed Code §20066. In 1977, the Education Code was reorganized and this activity was renumbered as Ed Code §81821. The Community College Construction Act of 1980 merely repealed and then reinstated the same activity in the same code section. Such an act does not meet the criteria under Gov Code §17514 for a state-reimbursable mandate, as there is no new program and no higher level of service.

We do acknowledge that activity C6, the requirement to include in the five-year plan an estimate of district funds available for capital outlay matching purposes may be a state-reimbursable mandate if the statewide cost of this activity exceeds \$1,000. It is possible that the cost would not exceed \$1,000 as districts are not required to provide a local match, and the recommended district match value is provided by the California Community Colleges Chancellor's Office pursuant to CCR §57033. Thus, the only state-reimbursable mandated activity would be the cost to transcribe the value provided by the Chancellor into the five-year plan.

**D) For community college districts with more than one campus, the opportunity for those districts to submit more than one plan, if either a) students are isolated within a district due to distance, inadequacy of transportation or inability to meet the costs of transportation, or b) inability of the colleges or educational centers in a district to meet the unique educational and cultural needs of a significant number of ethnic students (Ed Code §81823)**

As discussed in Section B, Ed Code §81823 is a discretionary activity and therefore is not a state mandate.

**E) To pay the Board fees charged for the review of proposed new college sites (Ed Code §81836)**

Ed Code §81836 is not a state-reimbursable mandated activity as the activities for which local districts are being charged are discretionary. We are unable to find anything in existing code or regulations that requires districts to seek new college sites or for districts to submit specific construction plans in addition to the five-year plans. "Mandates" as used in Article

XIII B, Section 6, of the California Constitution has been defined to mean "orders" or "commands" (*Long Beach Unified School District, supra*, 225 Cal. App. 3d 155, 174). As Ed Code §81836 does not mandate the community college district to perform a task, then compliance is within the discretion of the community college district and a state-mandated program does not exist.

Furthermore, the state Chancellor's Office, or its governing board, has been required to charge for these services since they were first included in the Community College Construction Act of 1967. While the State's formula for determining the fee has changed, the fact remains that from 1967 through 1976, this site review and construction plan review fee was contained in Ed Code §20080.1. In 1977, the Education Code was reorganized and this activity was renumbered as Ed Code §81836. The Community College Construction Act of 1980 merely repealed and then reinstated the same activity in the same code section. Such an act does not meet the criteria under Gov Code §17514 for a state-reimbursable mandate, as there is no new program and no higher level of service.

**F) To submit capital construction plans to the Board for a new college facility or renovation project, if such costs are to exceed \$150,000 (Ed Code §81837)**

Ed Code §81837 is not a state-reimbursable mandated activity as the requirement to prepare and submit capital construction plans has continuously existed in substantially the same form since the Community College Construction Act of 1967. From 1967 through 1976, this requirement was contained in Ed Code §20080.2. In 1977, the Education Code was reorganized and this activity was renumbered as Ed Code §81837. The Community College Construction Act of 1980 merely repealed and then reinstated the same activity in the same code section. Such an act does not meet the criteria under Gov Code §17514 for a state-reimbursable mandate, as there is no new program and no higher level of service.

**G) The district may include a proposed site in its plans and may enter into an agreement with existing owner of the proposed site for the option to purchase such property (Ed Code §81839)**

Ed Code §81839 is not a state-reimbursable mandated activity as it is discretionary. This section allows community college districts, if they so elect, to enter into an option to purchase agreement with the owner of the property of a proposed project site. "Mandates" as used in Article XIII B, Section 6, of the California Constitution has been defined to mean "orders" or "commands" (*Long Beach Unified School District, supra*, 225 Cal. App. 3d 155, 174). As Ed Code §81839 does not mandate the community college district to perform a task, then compliance is within the discretion of the community college district and a state-mandated program does not exist.

Furthermore, Ed Code §81839 is not a state-reimbursable mandated activity as the ability to enter such an agreement has continuously existed since the Community College Construction Act of 1967. From 1967 through 1976, this requirement was contained in Ed Code §20085. In 1977, the Education Code was reorganized and this activity was renumbered as Ed Code §81845. The Community College Construction Act of 1980 merely repealed and then reinstated the same activity. Such an act does not meet the criteria under Gov Code §17514 for a state-reimbursable mandate, as there is no new program and no higher level of service.

**H) To apply for assistance under the Chapter 4, Part 49 of the Education Code (The Community College Construction Act of 1980) for various capital outlay projects at community college sites [CCR §57001.5(a) and (b)]**

CCR §57001.5(a) and (b) are not state-reimbursable mandated activities as there is no identifiable activity in this section of regulations, merely the definition of "project" as it pertains to the Community College Construction Act. It appears that the actual activity of applying for assistance occurs in accordance with language in Chapter 4, Part 49 of the Education Code, most likely Section §81837. Ed Code §81837 is not a state-reimbursable mandated activity, as noted in Section F of this response.

Furthermore, CCR §57001.5 is not a state-reimbursable mandated activity, as substantially similar language has continuously existed since the Community College Construction Act of 1967. From 1967 through 1976, this requirement was contained in Ed Code §20052. In 1977, the Education Code was reorganized and this activity was renumbered as Ed Code §81802. The Community College Construction Act of 1980 merely repealed and then reinstated the same activity. Chapter 1372, Statutes of 1990, shifted this language from the Education Code to the Title V Regulations, but in doing so, the Legislature ensured that there would be no lapse by indicating that all statutes listed for reversion would remain operative until the effective date of the regulations, March 4, 1991. An act, such as the Community College Construction Act of 1980 or Chapter 1372, Statutes of 1990, that repeals and then reinstates substantially similar language does not meet the criteria under Gov Code §17514 for a state-reimbursable mandate, as there is no new program and no higher level of service.

**I) The opportunity to appeal Board capital outlay actions (CCR §57010)**

CCR §57010 is not a state-reimbursable mandated activity as it is discretionary. This section allows community college districts, if they so elect, to appeal any action of the Board related to the Community College Construction Act. "Mandates" as used in Article XIII B, Section 6, of the California Constitution has been defined to mean "orders" or "commands" (*Long Beach Unified School District, supra*, 225 Cal. App. 3d 155, 174). As CCR §57010 does not mandate the community college district to perform a task, then compliance is within the discretion of the community college district and a state-mandated program does not exist.

In addition, CCR §57010 is not a state-reimbursable mandated activity, as the appeal opportunity has continuously existed since the Community College Construction Act of 1967. From 1967 through 1976, this requirement was contained in Ed Code §20055. In 1977, the Education Code was reorganized and this activity was renumbered as Ed Code §81806. The Community College Construction Act of 1980 merely repealed and then reinstated the same activity. In 1991, this section was transferred from statute to CCR §57010 without any lapse in the law. Such acts that repeal and then reinstate the same activity do not meet the criteria under Gov Code §17514 for a state-reimbursable mandate, as there is no new program and no higher level of service.

**J) To submit a final report, within 30 days after the closure of the current fiscal year, on all expenditures, by fund source, associated with a recently completed project (CCR §57011)**

CCR §57011 is not a state-reimbursable mandated activity, as the requirement has continuously existed since the Community College Construction Act of 1967. The only significant change is that the original law did not specify a due date. From 1967 through 1976, this requirement was contained in Ed Code §20058. In 1977, the Education Code was reorganized and this activity was renumbered as Ed Code §81809. The Community College Construction Act of 1980 merely repealed and then reinstated the same activity. In 1991, this section was transferred from statute to CCR §57011 without any lapse in the law. Such acts that repeal and then reinstate the same activity do not meet the criteria under Gov Code §17514 for a state-reimbursable mandate, as there is no new program and no higher level of service.

Although the Community College Construction Act of 1980 amended Ed Code §81820 to require that the final report be submitted within 30 days after the closure of the current fiscal year, it does not require the report contents to include anything more than was required under the prior law. As such, it would have the effect of requiring the same activity but at a specific point in time. That activity has certain costs associated with its preparation, but setting a due date, while in some instances may require a shift in workload organization and/or priorities, does not by itself increase such costs for an already required activity. Therefore, this bill would not result in any state-reimbursable mandated costs on local government.

- K) To meet with local park and recreation authorities to review methods of coordinating major capital outlay projects and, if a district is building new facilities, to report to the Chancellor's Office on plans for joint use of park and recreation facilities or possible use by the total community (CCR §57013)**

CCR §57013 does not require more than one meeting between the local district and recreation and parks authorities. Thus, subsequent meetings with Park and Recreation authorities are at the district's discretion and not a state-reimbursable mandated activity. Since this law was first enacted in 1980 as Ed Code §81821.5, it is very unlikely that a district would disregard the law until the effective period of this test claim, twenty years after the one-time requirement was created. For this reason it is also unlikely that meeting with local park and recreation authorities is a state-reimbursable mandated activity.

However, the component of CCR §57013 requiring local district to report to the Chancellor's Office on plans for joint use or community use of new facilities could be interpreted as a state-reimbursable mandated activity to the extent that a district is planning, designing or constructing a new facility within the effective period of this test claim. If deemed a mandate, the specific condition under which the reporting to the Chancellor's Office is to be reimbursed by the State will be determined by the Parameters and Guidelines for this test claim.

- L) For the Chancellor's Office to review and evaluate proposed projects. For a given project, such a review includes 1) an architectural analysis, 2) a determination of the amount of available federal funds available, 3) a determination of both the total cost of the project and the cost borne by the state and, if applicable, the local district and 4) the total funds required for the first phase of the project to be provided on a matching basis by the State and the district and the total state appropriation (CCR §57015)**

CCR §57015 does not contain any state-reimbursable mandated activities. The requirement for local districts to submit plans to the Chancellor's Office is codified in Ed Code §81837, and Ed Code §81837 is not a state-reimbursable mandated activity, as discussed in Section F of this response.

Furthermore, CCR §57015 solely pertains to activities required of the California Community Colleges Chancellor's Office, a state entity, upon the receipt of project plans from the local districts. As CCR §57015 does not impose any new activity or higher level of service on local community college districts, no mandate exists.

Not only do the activities of CCR §57015 solely apply to the Chancellor's Office, these requirements have continuously existed in substantially the same form since the Community College Construction Act of 1967. From 1967 through 1976, this requirement was contained in Ed Code §20081. In 1977, the Education Code was reorganized and this activity was renumbered as Ed Code §81838. The Community College Construction Act of 1980 merely repealed and then reinstated the same activity. In 1991, this section was transferred from statute to CCR §57015 without any lapse in the law. Such acts that repeal and then reinstate the same activity do not meet the criteria under Gov Code §17514 for a state-reimbursable mandate, as there is no new program and no higher level of service.

- M) If a district requests a state supported energy conservation project, inclusion of the local district energy conservation program and the need for state assistance in the annual Five-Year Construction Plan (CCR §57052)**
- N) When the need for state financial assistance for an energy conservation project has been established, it shall be submitted as a project planning guide as developed by the Chancellor's Office and containing evidence of an approved Energy Audit on file with the California Energy Commission (CCR §57053)**
- O) The opportunity to submit preliminary plans for an energy conservation related project to the Chancellor. If a college elects to submit preliminary plans, those plans shall include 1) the results of a technical audit which describes the energy conservation measures the project is to institute, 2) the status of the project as related to the various federal and state aided programs for energy conservation, and 3) an architectural and/or engineering analysis setting forth the detailed costs of the various elements of the project (CCR §57055)**
- P) If such services are available, for community college districts to arrange for the pre-audit and post-audit of buildings by investor-owned or municipal utility companies or by independent energy audit companies or organization which are recognized by federal or state regulated financial institutions. These audits are provided to identify an estimate of projected energy savings from an energy conservation project and to determine if the estimate was attained (CCR §57062)**
- Q) That any contracts entered into by the community college districts are with qualified businesses capable of retrofitting school buildings (CCR §57063)**

All regulations pertaining to energy conservation projects are not state-reimbursable mandates as all activities are contingent on the community college district electing to pursue funding for an energy conservation project. CCR §57052 states that only "those districts

requesting a state supported energy conservation project" need to perform any activities associated with such projects. "Mandates" as used in Article XIII B, Section 6, of the California Constitution has been defined to mean "orders" or "commands" (*Long Beach Unified School District, supra*, 225 Cal. App. 3d 155, 174). As no laws or regulations exist requiring community college districts to seek energy conservation projects, any required activities associated with such projects are based upon a discretionary action performed by the community college district. Therefore, a state-mandated program does not exist.

In addition to the discretionary nature of energy conservation projects, these projects, by definition, provide offsetting cost savings to districts through reduced energy consumption. CCR §57054 requires the Chancellor's Office to analyze energy savings and payback period as criteria for ranking energy conservation requests. CCR §57051 defines payback period as "the length of time required for the flow of net cash proceeds or cash savings produced by an investment to equal the original cash outlay required by the investment." Thus, it is very unlikely that the Chancellor's Office would approve a project that would not fully recover the capital investment through cost savings. In fact, the Chancellor's Office has verbally indicated that they only approve energy conservation projects that have an identifiable payback period. Furthermore, CCR §57055 indicates that support for the investment portion of such conservation projects often comes from state and federal sources, yet the districts, once any loans are paid, receive the full monetary benefits of this project.

Gov Code §17556(e) provides that the Commission on State Mandates shall not find a reimbursable mandate in a statute or executive order if the statute or executive order provides for offsetting savings which result in no net costs to local government. While energy conservation projects require an initial outlay of resources, the projected energy cost savings meet or exceed the outlay. Therefore, although this program may result in additional initial costs to locals that choose to participate, those costs are not reimbursable because savings will offset them.

- R) That any application submitted for the approval of plans for a district-funded project be accompanied by the plans and appropriate take-off or assignable and gross square footage. The application shall also comply with any and all requirements prescribed by the Chancellor (CCR §57154)**

CCR §57154 does not contain state-reimbursable mandated activities as the submittal of project plans was already required by Ed Code §81837 and the authority for the Chancellor to prescribe requirements, including the inclusion of appropriate take-off or assignable and gross square footage, is required by Ed Code §81836(b). The statutory requirements apply to all projects over \$150,000 and CCR §57152 specifies that a District-Funded Project is "a capital outlay project subject to the provisions of Section §81837 of the Education Code." Thus, CCR §57154 does not contain any new programs or highly level of service and is not a mandate.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list which accompanied your July 11, 2003 letter have been provided with copies of this letter via either United States Mail or, in the case of other State agencies, Interagency Mail Service.



If you have any questions regarding this letter, please contact Kathryn Amann, Principal Program Budget Analyst at (916) 445-9694 or Keith Gmeinder, State Mandates Claims Coordinator for the Department of Finance, at (916) 445-8913.

Sincerely,

A handwritten signature in cursive script, appearing to read "Fred Klass".

FRED KLASS  
Program Budget Manager

Attachment

## PROOF OF SERVICE

Test Claim Name: Community College Construction  
Test Claim Number: CSM-02-TC-47

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 9 Floor, Sacramento, CA 95814.

On February 9, 2004, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California and (2) to State agencies in the normal pickup location at 915 L Street, 9 Floor, for Interagency Mail Service, addressed as follows:

A-16

Ms. Paula Higashi  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

B-8

Mr. William Ashby  
State Controller's Office  
Division of Accounting & Reporting  
3301 C Street, Room 500  
Sacramento, CA 95816

B-29

Ms. Marianne O'Malley  
Legislative Analyst's Office  
925 L Street, Suite 1000  
Sacramento, CA 95814

Mr. Thomas J. Donner  
Santa Monica Community College District  
1900 Pico Blvd.  
Santa Monica, CA 90405-1628

Dr. Carol Berg  
Education Mandated Cost Network  
1121 L Street, Suite 1060  
Sacramento, CA 95814

Ms. Harmeet Barkschat  
Mandate Resource Services  
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Sacramento, CA 95842

Mr. Steve Shields  
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1536 36<sup>TH</sup> Street  
Sacramento, CA 95816

Mr. Paul Minney  
Spector, Middleton, Young & Minney, LLP  
7 Park Center Drive  
Sacramento, CA 95825

Mr. Michael Havey  
State Controller's Office (B-08)  
Division of Accounting and Reporting  
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Sacramento, CA 95814

Ms. Sandy Reynolds  
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Ms. Beth Hunter  
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8316 Red Oak Street, Suite 101  
Rancho Cucamonga, CA 91730

Mr. Steve Smith  
Mandated Cost Systems, Inc.  
11130 Sun Center Drive, Suite 100  
Rancho Cordova, CA 95670

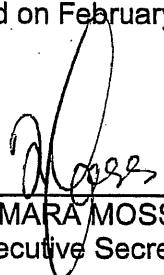
Mr. Keith Gmeinder  
Department of Finance (A-15)  
915 L Street, 8<sup>TH</sup> Floor  
Sacramento, CA 95814

Mr. Keith B. Peterson  
SixTen & Associates  
5252 Balboa Avenue, Suite 807  
San Diego, CA 92117

Mr. Thomas J. Donner  
Santa Monica Community College District  
1900 Pico Boulevard  
Santa Monica, CA 90405-1628

Mr. Fred Harris  
California Community Colleges (G-01)  
1102 Q Street, Suite 300  
Sacramento, CA 95814-6549

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on February 9, 2004 at Sacramento, California.

  
\_\_\_\_\_  
TAMARA MOSS  
Executive Secretary





Test Claim of Santa Monica Community College District  
758/95 Community College Construction

1 1980. Subdivision (b) provides the legislative intent to assist districts in the construction  
2 of community college facilities.

3 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
4 81805<sup>3</sup>. The Chancellor must administer the Community College Construction Act of  
5 1980 and the Board of Governors shall, as may be necessary, adopt all necessary rules  
6 and regulations. The Chancellor must assemble statewide data on facility and  
7 construction costs, and formulate cost and construction standards.

8 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
9 81807<sup>4</sup> to require the allocation and disbursement of all funds appropriated for a

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community college districts.

In enacting this chapter, the Legislature considers that there is a need to provide adequate community college facilities that will be required to accommodate community college students resulting from growth in population and from legislative policies expressed through implementation of the Master Plan for Higher Education."

<sup>3</sup> Education Code Section 81805, as added by Chapter 910, Statutes of 1980, Section 2:

"This chapter shall be administered by the chancellor, and for purposes of such administration the board of governors may adopt all necessary rules and regulations.

For purposes of this chapter, the chancellor shall assemble statewide data on facility and construction costs, and on the basis thereof formulate cost standards and construction standards. The formulation of standards shall include also the formulation of average ratios of equipment cost to total project costs, unit equipment costs per faculty or other staff measure, and unit costs related to floor areas."

<sup>4</sup> Education Code Section 81807, as added by Chapter 910, Statutes of 1980, Section 2:

"Funds appropriated for a project of a community college district for purposes of this chapter shall be allocated and disbursed upon order of the chancellor, and by warrants of the State Controller issued pursuant thereto."

1 district's project under the Community College Construction Act of 1980 upon order of  
2 the Chancellor.

3 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
4 81808<sup>5</sup> to require the transfer of any unused project funds appropriated, or authorized  
5 for appropriation, to a district under the Community College Construction Act of 1980,  
6 when the existing district is included in a newly formed district.

7 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
8 81820<sup>6</sup> to require the governing board to prepare and submit a plan for capital  
9 construction to the Chancellor. The plan must reflect the five-year period commencing

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<sup>5</sup> Education Code Section 81808, as added by Chapter 910, Statutes of 1980,  
Section 2:

"In the event an existing community college district is included in a newly formed community college district, any unused funds appropriated or authorized to be appropriated for a finally approved project of the included district pursuant to this chapter shall be transferred to the newly formed or including community college district on the date that such district is effective for all purposes, or prior to such effective date where the governing boards of the districts agree to such earlier transfer."

<sup>6</sup> Education Code Section 81820, as added by Chapter 910, Statutes of 1980,  
Section 2:

"On or before February 1, 1981, the governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district. The plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The five-year plan shall be subject to continuing review by the governing board and annually shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the five-year plan."

1 with the next proposed year of funding. The plan is subject to annual review by the  
2 Chancellor, and a report outlining required modifications or changes must be submitted  
3 to the Chancellor on or before the first day of February.

4 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
5 81821<sup>7</sup>. The five-year plan for capital construction must set out the estimated capital  
6 construction needs of the district referencing at least the following: (a) the district's  
7 plans concerning its future academic and student services programs, and the effect on  
8 estimated construction needs arising from particular courses of instruction, subject

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<sup>7</sup> Education Code Section 81821, as added by Chapter 910, Statutes of 1980,  
Section 2:

"The five-year plan for capital construction shall set out the estimated capital  
construction needs of the district with reference to elements including at least all of the  
following:

(a) The plans of the district concerning its future academic and student services  
programs, and the effect on estimated construction needs which may arise because of  
particular courses of instruction or subject matter areas or student services to be  
emphasized.

(b) The enrollment projections for each district formulated by the Department of  
Finance, expressed in terms of weekly student contact hours. The enrollment  
projections for each individual college and educational center within a district shall be  
made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly  
student contact hours and based upon the space and utilization standards for  
community college classrooms and laboratories adopted by the board of governors.

(d) District office, library, and supporting facility capacities as derived from the  
physical plant standards for office, library, and supporting facilities adopted by the  
board of governors in consultation with the California Postsecondary Education  
Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard  
definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay  
matching purposes pursuant to Section 81838."



1 matter areas, or student services to be emphasized; (b) the district's enrollment  
2 projections; (c) the district's current enrollment capacity; (d) the district's office, library,  
3 and supporting facility capacities; (e) the district's annual inventory of all facilities and  
4 land; and (f) the district's estimate of funds available for capital outlay matching  
5 purposes.

6 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
7 81822<sup>8</sup> to require the Chancellor to review and evaluate the district's plan for capital  
8 construction. The Chancellor shall then make such revisions and changes, and  
9 approve or disapprove the plan. The Chancellor must also review and evaluate  
10 continuing five-year plans and notify the districts of approval or disapproval.

11 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
12 81823<sup>9</sup>. Subdivision (a) provides that a district maintaining colleges, or one college and

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<sup>8</sup> Education Code Section 81822, as added by Chapter 910, Statutes of 1980,  
Section 2:

"The chancellor shall review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and approve or disapprove the plan. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each community college district shall be made on or before each succeeding first day of April. The chancellor shall, promptly after such approval or disapproval, notify the governing board of each community college district of the content of the district's plan for capital construction."

<sup>9</sup> Education Code Section 81823, as added by Chapter 910, Statutes of 1980,  
Section 2:

Test Claim of Santa Monica Community College District  
758/95 Community College Construction

1 one or more educational centers, shall, as may be necessary, submit its plan for capital  
2 construction on the basis of each college or educational center maintained by it if either  
3 of the following circumstances is present such that students will be better served by  
4 evaluating the capital outlay program on that basis: (1) the isolation of students within  
5 the district in terms of distance or inadequacy of transportation, and student financial  
6 inability to meet the costs of transportation to an educational program; or (2) the  
7 inability of existing colleges and educational centers to meet the unique educational  
8 and cultural needs of a significant number of ethnic students. Subdivision (b) requires a  
9 district submitting such a plan to include justification and documentation for doing so.  
10 Subdivision (c) requires the review and evaluation of the plan, as submitted, to include  
11 a review and evaluation of the justification and documentation for so doing.

12 Chapter 910, Statutes of 1980, Section 2, added Education Code Section

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“(a) If a community college district maintains colleges, or one college and one or more educational centers, it may additionally submit the plan required by Section 81820 on the basis of each college or educational center maintained by the district, if either of the following circumstances is present such that students will be better served by evaluating the capital outlay program for the district on that basis: (1) the isolation of students within a district in terms of the distance of students from the location of an educational program, or inadequacy of transportation, and student financial inability to meet costs of transportation to an educational program; or (2) the inability of existing colleges and educational centers in the district to meet the unique educational and cultural needs of a significant number of ethnic students.

(b) If a district elects to submit such a plan, it shall include therewith justification and documentation for so doing.

(c) When a district so elects, the evaluation of the plan pursuant to Section 81822 shall include an evaluation of both of the following:

(1) The justification and documentation for so doing, including enrollment projections for individual campuses and centers.

(2) The plan as thus submitted.”

1 81836<sup>10</sup>. Subdivision (a) requires the Chancellor to advise the governing board on the  
2 acquisition of new college sites and charge the board a reasonable fee as determined  
3 by the Chancellor's office for each school site reviewed.

4 Chapter 910, Statutes of 1980; Section 2, added Education Code Section  
5 81837<sup>11</sup> to require the governing board before letting any contract or contracts totaling

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<sup>10</sup> Education Code Section 81836, as added by Chapter 910, Statutes of 1980,  
Section 2:

"The chancellor shall:

(a) Advise the governing board of each community college district on the acquisition of new college sites, and after a review of available plots, give the governing board of the district in writing a list of the approved locations in the order of their merit, considering especially the matters of educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction, and charge the governing board of the community college district a reasonable fee as determined by the chancellor's office for each 10 acres or fraction thereof of school site reviewed.

(b) Establish standards for community college facilities.

(c) Review plans and specifications for all construction in those community college districts that have submitted plans and specifications therefor to the chancellor for approval.

(d) For services rendered for the review of plans and specifications of a proposed project pursuant to Section 81831, the chancellor's office shall charge a reasonable fee as established by the board of governors.

(e) Approve plans and specifications submitted by governing boards of community college districts, and return without approval and with recommendation for changes, any plans not conforming to established standards."

<sup>11</sup> Education Code Section 81837, as added by Chapter 910, Statutes of 1980,  
Section 2:

"The governing board of each community college district, except districts governed by a city board of education, before letting any contract or contracts totaling one hundred thousand dollars (\$100,000), or more, in the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the chancellor's office, and obtain the

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1 one hundred thousand dollars (\$100,000), or more, for any new college facility, or for  
2 any addition to, or alteration of, an existing facility must submit plans therefore to the  
3 Chancellor's office, and obtain written approval. No contract is valid, nor will any public  
4 money be paid out, for any facility in contravention of this Section.

5 Chapter 910, Statutes of 1980, Section 2, added Education Code Section  
6 81839<sup>12</sup> to provide that a district's governing board shall, as may be necessary, include  
7 a proposed site in its plans for a project and enter into an agreement with the owner of  
8 property constituting such proposed site whereby the district, for an annual  
9 consideration to be borne by the district, is given an option to purchase, or lease with an  
10 option to purchase such property at an unspecified future date, as a building site. The  
11 existence of such an agreement will not affect the determination of the share of the cost

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written approval of the plans by that office. No contract for construction made by any governing board of a community college district contrary to this section is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section."

<sup>12</sup> Education Code Section 81839, as added by Chapter 910, Statutes of 1980, section 2:

"The governing board of a community college district may include a proposed site in its plans for a project and may enter into an agreement with the owner of property constituting such proposed site whereby the district, for an annual consideration to be borne by the district, is given an option to purchase, or lease with an option to purchase such property at an unspecified future date, as a building site.

The existence of such an agreement shall in no way affect the determination of the share of the cost of the project to be borne by the state under this chapter, and the consideration paid by the district for such option or lease shall not be considered part of the cost of the project in determining the state's share of the funding thereof.

Such option or lease agreement shall constitute an obligation of the district and shall not be construed as in any way creating an obligation on the part of the state."

1 of the project to be borne by the state under this Chapter, and the consideration paid by  
2 the district for such option or lease shall not be considered part of the cost of the project  
3 in determining the state's share of the funding thereof. Such option or lease agreement  
4 constitutes an obligation of the district and does not create a state obligation.

5 Chapter 470, Statutes of 1981, Section 256, amended Education Code Section  
6 81821<sup>13</sup>, subdivision (c), to require the Board of Governors to work in consultation with  
7 the California Postsecondary Education Commission to determine the current

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<sup>13</sup> Education Code Section 81821, as added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 470, Statutes of 1981, Section 256:

"The five-year plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(d) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to Section 81838."

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1 enrollment capacity of the district.

2 Chapter 891, Statutes of 1981, Section 2, amended Education Code Section  
3 81821 without change.

4 Chapter 891, Statutes of 1981, Section 3, amended Education Code Section  
5 81822<sup>14</sup> to make technical changes.

6 Chapter 891, Statutes of 1981, Section 6, amended Education Code Section  
7 81837<sup>15</sup> to increase the dollar amounts.

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<sup>14</sup> Education Code Section 81822, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 891, Statutes of 1981, Section 3:

"The chancellor shall review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and ~~approve or disapprove the plan~~ notify the district. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each community college district shall be made on or before each succeeding first day of April. The chancellor shall, promptly after ~~such approval or disapproval~~ review, notify the governing board of each community college district of the content of the district's revised plan for capital construction."

<sup>15</sup> Education Code Section 81837, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 891, Statutes of 1981, Section 6:

"The governing board of each community college district, except districts governed by a city board of education, before letting any contract or contracts totaling one hundred fifty thousand dollars (~~\$100,000~~ \$150,000), or more, in the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the chancellor's office, and obtain the written approval of the plans by that office. No contract for construction made by any governing board of a community college district contrary to this section is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section."

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1 Chapter 1372, Statutes of 1990, Section 566, amended Education Code Section  
2 81805<sup>16</sup> to transfer all duties of the Chancellor under this Section to the Board of  
3 Governors while requiring the Board to adopt all necessary rules and regulations.

4 Chapter 1372, Statutes of 1990, Section 568, amended Education Code Section  
5 81807<sup>17</sup> to transfer all duties of the Chancellor under this Section to the Board of  
6 Governors.

7 Chapter 1372, Statutes of 1990, Section 571, amended Education Code Section  
8 81820<sup>18</sup> to require the governing board to submit its five-year plan and any annual

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<sup>16</sup> Education Code Section 81805, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 1372, Statutes of 1990, Section 566:

"This chapter shall be administered by the ~~chancellor~~ Board of Governors of the California Community Colleges, and for purposes of ~~such the~~ administration the board of governors ~~may shall~~ adopt all necessary rules and regulations.

For purposes of this chapter, the ~~chancellor~~ board of governors shall assemble statewide data on facility and construction costs, and on the basis thereof formulate cost standards and construction standards. The formulation of standards shall include also the formulation of average ratios of equipment cost to total project costs, unit equipment costs per faculty or other staff measure, and unit costs related to floor areas."

<sup>17</sup> Education Code Section 81807, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 1372, Statutes of 1990, section 568:

"Funds appropriated for a project of a community college district for purposes of this chapter shall be allocated and disbursed upon order of the ~~chancellor~~ Board of Governors of the California Community Colleges, and by warrants of the State Controller issued pursuant thereto."

<sup>18</sup> Education Code Section 81820, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 1372, Statutes of 1990, Section 571:

~~"On or before February 1, 1984, t~~The governing board of each community

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1 modifications or changes to the Board of Governors as opposed to the Chancellor.

2 Chapter 1372, Statutes of 1990, Section 573, amended Education Code Section  
3 81822<sup>19</sup> to require review and evaluation of the district's capital construction plan by the  
4 Board of Governors as opposed to the Chancellor.

5 Chapter 1372, Statutes of 1990, Section 577, amended Education Code Section  
6 81836<sup>20</sup> to transfer all duties of the Chancellor under this Section to the Board of

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college district shall prepare and submit to the chancellor Board of Governors of the California Community Colleges a plan for capital construction for community college purposes of the district. The plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The five-year plan shall be subject to continuing review by the governing board and annually shall be extended one year, and there shall be submitted to the chancellor board of governors, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the five-year plan."

<sup>19</sup> Education Code Section 81822, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 1372, Statutes of 1990, Section 573:

"The chancellor board of governors shall review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of ~~such~~ the review and evaluation, make ~~such~~ the revision and changes therein as are appropriate, and notify the district. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each community college district shall be made ~~on or before each succeeding first day of April~~. The chancellor board of governors shall, promptly after review, notify the governing board of each community college district of the content of the district's revised plan for capital construction."

<sup>20</sup> Education Code Section 81836, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 1372, Statutes of 1990, Section 577:

"The chancellor Board of Governors of the California Community Colleges shall:  
(a) Advise the governing board of each community college district on the



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1 Governors.

2 Chapter 1372, Statutes of 1990, Section 578, amended Education Code Section  
3 81837<sup>21</sup> to require the governing board to submit its plans to the Board of Governors as  
4 opposed to the Chancellor's office and receive written approval from them.

5 Chapter 1038, Statutes of 1991, Section 8, added Education Code Section

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acquisition of new college sites, and after a review of available plots, give the governing board of the district in writing a list of the approved locations in the order of their merit, considering especially the matters of educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction, and charge the governing board of the community college district a reasonable fee as determined by the ~~chancellor's office board of governors~~ for each 10 acres or fraction thereof of schoolsite reviewed.

(b) Establish standards for community college facilities.

(c) Review plans and specifications for all construction in those community college districts that have submitted plans and specifications therefor to the ~~chancellor board of governors~~ for approval.

(d) For services rendered for the review of plans and specifications of a proposed project pursuant to ~~Section 81834~~, the ~~chancellor's office board of governors~~ shall charge a reasonable fee as established by ~~the board of governors~~ it.

(e) Approve plans and specifications submitted by governing boards of community college districts, and return without approval and with recommendation for changes, any plans not conforming to established standards."

<sup>21</sup> Education Code Section 81837, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 1372, Statutes of 1990, Section 578:

"The governing board of each community college district, ~~except districts governed by a city board of education~~, before letting any contract or contracts totaling one hundred fifty thousand dollars (\$150,000), or more, in the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the ~~chancellor's office~~ Board of Governors of the California Community Colleges, and obtain the written approval of the plans by ~~that office~~ the board of governors. No contract for construction made by any governing board of a community college district contrary to ~~the provisions of this section~~ is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section."

1 81663<sup>22</sup>, subdivision (a), to provide that a college district shall, as may be necessary,  
2 borrow funds from federal or state regulated financial institutions for design and  
3 construction costs associated with retrofitting buildings to become more energy  
4 efficient. The amount borrowed shall not exceed the amount that can be repaid from  
5 energy cost avoidance savings accumulated from the improvement of facilities.  
6 Subdivision (b) provides that any savings association may make loans or advances of  
7 credit in an amount not in excess of 5 percent of its total assets.

8 Chapter 758, Statutes of 1995, Section 121, amended Education Code Section  
9 81821<sup>23</sup> to make technical changes.

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<sup>22</sup> Education Code Section 81663, added by Chapter 1038, Statutes of 1991,  
Section 8:

“(a) The governing board of any community college district may borrow funds from federal or state regulated financial institutions for design and construction costs associated with retrofitting buildings to become more energy efficient. The amount borrowed shall not exceed the amount that can be repaid from energy cost avoidance savings accumulated from the improvement of facilities.

(b) Any savings association may make loans or advances of credit pursuant to subdivision (a) in an amount not in excess of 5 percent of its total assets. This investment may be in addition to any other investment savings associations are permitted to undertake.”

<sup>23</sup> Education Code Section 81821, added by Chapter 910, Statutes of 1980, Section 2, as amended by Chapter 758, Statutes of 1995, Section 121:

“The five-year plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

1 Title 5, California Code of Regulations, Section 57001 (added in 1991), defines  
2 the terms and phrases: "a small community college," "leased or rented," "permanent  
3 building," "temporary building," and "weekly student contact hours."

4 Section 57001.5 (added in 1991), subdivision (a), defines the term "project" as  
5 the purpose for which a community college district has applied for assistance under the  
6 Community College Construction Act of 1980 for one or more institutions under its  
7 authority or for district wide facilities. A project shall include, as may be necessary:

- 8 (1) The planning, acquisition, and improvement of community college sites;
- 9 (2) The planning, construction, reconstruction, or remodeling of any  
10 permanent structure necessary for use as a classroom, a laboratory, a  
11 library, a performing arts facility, a gymnasium, the basic outdoor physical

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(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(d) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to Section 81838 regulations adopted by the board of governors.

1 education facilities, the basic food service facilities, or child development  
2 centers;

3 (3) Related facilities necessary for the instruction of students or for  
4 administration of the educational program;

5 (4) Maintenance or utility facilities essential to the operation of the foregoing  
6 facilities and the initial acquisition of equipment; and

7 (5) The initial furnishing of, and initial acquisition of equipment for, any facility  
8 leased or lease-purchased by a district as of August 1, 1987, for  
9 educational purpose or purposes.

10 Subdivision (b) further provides that a project shall, as may be necessary, include the  
11 reconstruction or remodeling of any facility leased or lease-purchased for educational  
12 purposes. The Chancellor's Office must then require transfer to the community college  
13 district of title or any other interest considered sufficient by the district, in and to facilities  
14 presently leased or to be leased in the future by the district, to the extent of the funds  
15 appropriated for reconstruction or remodeling of leased facilities. If sufficient title or  
16 interest has not been transferred, the term of the lease must be of sufficient duration to  
17 completely amortize the reconstruction or remodeling cost as determined by utilizing  
18 current interest rates and normal accounting practices. However, if the lease is  
19 terminated prior to amortizing the reconstruction or remodeling costs the district must  
20 repay the state for any unamortized state costs. If the governing board leases property  
21 from the federal government, the state, or any county, city and county, city, or district for

1 the purpose of constructing school buildings and facilities thereon in accordance with  
2 Education Code Section 81530, subdivision (b), it is eligible for state funding. The  
3 terms of a lease must be of sufficient duration to completely amortize the cost of the  
4 project and the governing board must provide in the lease agreement a hold harmless  
5 clause satisfactory to the lessor. The amortization shall be determined by utilizing  
6 current interest rates and normal accounting practices. If the lease is terminated prior  
7 to amortizing the project, the district must pay the state for any unamortized state costs.  
8 Subdivision (c) provides that the Board of Governors retains discretion as to the type or  
9 possible number of projects that may be considered during any fiscal year. Subdivision  
10 (d) prohibits the inclusion of the planning or construction of dormitories, student centers  
11 other than cafeterias, stadia, the improvement of sites for student or staff parking, or  
12 single-purpose auditoriums.

13 Section 57001.7 (added in 1991 and last amended in 1994), defines the term  
14 "educational center."

15 Section 57002 (added in 1991), requires that prorated federal funds, for a project  
16 subject to a federal grant that differs materially from the physical detail and intent for  
17 which state funds are appropriated, be applicable to the project subject to the state  
18 matching funds.

19 Section 57010 (added in 1991), provides that an affected governing board shall,  
20 as may be necessary appeal to the Board of Governors any action of the Chancellor.  
21 The appeal must be placed on the agenda of the Board in accordance with the general

1 agenda practices of the Board. The decision of the Board on such appeals is final.

2 Section 57011 (added in 1991), requires the governing board to submit to the  
3 Chancellor, within 30 days after the closure of the current fiscal year, a final report on  
4 all expenditures in connection with the sources of the funds expended for completed  
5 projects. The district is subject to a state post-audit review of fund claims for all such  
6 projects.

7 Section 57013 (added in 1991), requires the governing board to meet with  
8 appropriate local government recreation and park authorities to review all possible  
9 methods of coordinating planning, design, and construction of new facilities and sites or  
10 major additions to existing facilities and recreation and park facilities in the community.  
11 Any district planning, designing, or constructing new facilities must report to the  
12 Chancellor's Office on plans to achieve:

- 13 (a) A greater use of any joint or contiguous recreation and park facilities by  
14 the district; and  
15 (b) Possible use by the total community of such facilities and sites and  
16 recreation and park facilities.

17 Section 57014 (added in 1991), provides for the submission of a district's  
18 proposed project to the Chancellor for review and approval or disapproval. The  
19 proposed project must be an element of the district's plan for capital construction, and  
20 be in such form and contain such detail as will permit its evaluation and approval with  
21 reference to the elements of the five-year capital construction program as specified in

1 Education Code Section 81821.

2 Section 57015 (added in 1991), requires the Chancellor to review and evaluate  
3 each proposed project with reference to the elements of the capital construction  
4 program specified in Education Code Section 81821. The review shall include the  
5 following elements:

- 6 (a) An architectural analysis to determine costs of the various phases of the  
7 project, with particular attention to be directed to the type of construction,  
unit costs, and the efficiency of particular buildings and facilities in terms  
9 of effective utilization of area.
- 10 (b) Determining the amount of federal funds available for the project, and  
11 taking appropriate measures to ensure that the project will qualify for the  
12 maximum amounts of federal funds practicable under the circumstances.
- 13 (c) Determining the total cost of the project, reducing the total cost by the  
14 amount of federal funds available thereof, and determining the remainder  
thereof to be borne by the state, or, if the district has matching funds, by  
16 the state and by the district. Whether the district has funds to provide all  
17 or part of its matching share of the project shall be made on the basis of  
18 district ability. If the district ability, as determined by Section 57033.1, is  
19 sufficient to meet the matching costs of the project or its individual phases  
20 of planning, working drawings; construction, equipment, or land  
21 acquisition, the district must bear its matching share of the cost of the

1. project or one or more of its phases. If the district funds available are  
2 insufficient to provide the district's matching share for the cost of the  
3 project or one or more of its phases, computed pursuant to section  
4 57033.1, the district shall provide the moneys available, as defined by the  
5 Board of Governors, and state funds may be requested to provide the  
6 balance of funds required. Private funds available for specific projects  
7 shall be used, as may be necessary, as a credit toward the district match.

8 (d) Determining the total of funds required for the first phase of the project  
9 to be provided on a matching basis by the state and the district, and the  
10 total state appropriation required to be provided for the project or one or  
11 more of its phases.

12 Section 57016 (added in 1991), provides that the submission of a district's  
13 proposal to the Chancellor prior to February 1st of each year must be acted upon by the  
14 Chancellor on or before the next succeeding May 1st of each year.

15 Section 57033.1 (added in 1991), requires the Chancellor to adopt criteria for  
16 determining districts' matching shares of the cost of capital outlay projects. Pursuant to  
17 that criteria, the Chancellor must recommend each district's match, which shall be  
18 reviewed by the Board of Governors in forwarding its annual budget request to the  
19 Department of Finance for determination by the Legislature.

20 Section 57050 (added in 1980 and last amended in 1991), requires the  
21 administration and implementation of this subchapter's provisions to the Community



1 College Construction Act.

2 Section 57051 (added in 1980 and last amended in 1991), defines the terms  
3 "Energy Conservation Project," "Energy Conservation Program," "Energy Audit (EA),"  
4 "Technical Audit (TA)," "Technical Auditor," "Pay-back Period," and "Energy  
5 Conservation Measure."

6 Section 57052 (added in 1980 and last amended in 1991), subdivision (a),  
7 requires districts requesting a state supported energy conservation project, to include a  
8 summary of the local district energy conservation program as adopted by the governing  
9 board in the district's annual five-year construction plan. Subdivision (b) requires a  
10 district submitting an energy conservation project for state aid under the capital outlay  
11 program of the Community College Construction Act of 1980 to indicate the need for  
12 such assistance in the annual district five-year construction plan.

13 Section 57053 (added in 1980 and last amended in 1991), subdivision (a),  
14 requires that when the need for state financial assistance for an energy conservation  
15 project has been adequately established, it must be submitted as a project planning  
16 guide in accordance with established format to the Chancellor's Office. Subdivision (b)  
17 requires that the project planning guide contain evidence of an approved Energy Audit  
18 (EA) on file with the California Energy Commission.

19 Section 57054 (added in 1980 and last amended in 1991), requires the ranking  
20 of all projects submitted as energy conservation related on the basis of criteria  
21 developed by the Chancellor's Office, including but not limited to:

- 1 (a) The level of energy use. Those projects identified to correct conditions of  
2 higher energy use application shall receive higher priority evaluation.
- 3 (b) The pay-back period. Those projects which by their design or proposed  
4 application demonstrate the shortest possible pay-back period shall  
5 receive higher priority evaluation.
- 6 (c) The extent to which the district has implemented an energy conservation  
7 program which meets the objectives specified in Board of Governors  
8 Policy Statement on Energy and Resource Conservation.

9 Section 57055 (added in 1980 and last amended in 1991), subdivision (a),  
10 requires the Chancellor to evaluate and rank for approval energy conservation related  
11 projects following the existing procedures for the statewide capital outlay program.  
12 Subdivision (b) provides that the governing board shall submit, as may be necessary,  
13 the preliminary plans upon securing approval of a proposed energy conservation project  
14 by all appropriate review agencies, to the Chancellor for approval, or disapproval.  
15 Subdivision (c) requires that the preliminary plans for energy related projects include:

- 16 (1) The results of a technical audit (TA) performed by an authorized  
17 Technical Auditor which describes in detail the energy conservation  
18 measures the project is to institute.
- 19 (2) The status of the project as related to the various federal and state aided  
20 programs for energy conservation.
- 21 (3) An architectural and/or engineering analysis setting forth the detailed

1 costs of the various elements of the project.

2 Section 57060 (added in 1991), encourages districts to retrofit buildings so as to  
3 conserve energy and reduce the costs of supplying energy.

4 Section 57061 (added in 1991), subdivision (a), provides that districts shall, as  
5 may be necessary, borrow funds from state regulated financial institutions for the  
6 purposes of design and construction costs associated with retrofitting buildings to  
7 become more energy efficient. Districts are only authorized to borrow an amount which  
8 does not exceed that which can be repaid from energy cost avoidance savings  
9 accumulated from the improvement of school facilities. Subdivision (b) provides that  
10 any savings and loan association may make loans or advances of credit in an amount  
11 not in excess of 5 percent of its total assets.

12 Section 57062 (added in 1991), requires districts, to the extent that services are  
13 available, to arrange for the pre-audit and post-audit of buildings by investor-owned or  
14 municipal utility companies or by independent energy audit companies or organizations  
15 which are recognized by federal or state regulated financial institutions. The pre-audit  
16 must identify the type and amount of work necessary to retrofit the buildings and shall  
17 include an estimate of projected energy savings. The post-audit must be conducted  
18 upon completion of the retrofitting of the buildings to insure that the project satisfies the  
19 recommendations of the pre-audit.

20 Section 57063 (added in 1991), requires districts taking action under this article  
21 to contract with qualified businesses capable of retrofitting school buildings. To the  
22 extent that lists of qualified businesses are made available to community college

1 districts by investor-owned or municipal utility companies or federal or state regulated  
2 financial institutions, districts may utilize the services of these businesses.

3 Section 57150 (added 1980 and last amended in 1991), provides these  
4 regulations as basic definitions, principles, and standards for use by the Chancellor in  
5 considering any district-funded construction project subject to the requirements  
6 Education Code Section 81837.

7 Section 57152 (added in 1980 and last amended in 1991), defines the terms:

- 8 (A) "Capital Outlay Project" to include the purchase of land and costs related  
9 thereto, including court costs, condemnation costs, legal fees, title fees,  
10 etc.; construction projects, including working drawings; and equipment  
11 related to a construction project regardless of cost or timing.
- 12 (b) "Construction Project" to include new construction, alteration, and  
13 extension or betterment of existing structures.
- 14 (c) "State-Funded Project" to mean a capital outlay project qualifying as a  
15 project pursuant to section 81805 of the Education Code, and for which a  
16 district requests or receives State funding assistance.
- 17 (d) "District-Funded Project" to mean a capital outlay project subject to the  
18 provisions of section 81837 of the Education Code for which any funds,  
19 other than state funds, are paid or to be paid for erecting, adding to, or  
20 altering any community college facility.
- 21 (e) "Five-Year Construction Plans" to mean a plan for capital construction for  
22 community college purposes of a district for the five-year period

1 commencing with the next proposed year of funding.

2 Section 57154 (added in 1980 and last amended in 1991), requires that each  
3 application for approval of plans for a district-funded project be accompanied by the  
4 plans and full, complete and accurate take-off of assignable and gross square feet of  
5 space, complying with any and all requirements prescribed by the Chancellor.

6 Section 57156 (added in 1980 and last amended in 1991), requires the  
7 Chancellor to review and evaluate the plans for a district-funded project including:

8 (a) Reference to the elements of the capital construction program specified in  
9 Education Code Section 81821; and

10 (b) Whether the locally funded project is of appropriate size, is appropriately  
11 timed and is justified in terms of the elements of the capital construction  
12 plans and where applicable, the standards as adopted by the Board of  
13 Governors.

1 Section 57158 (added in 1980 and last amended in 1991), subdivision (a),  
2 requires plan approval when the Chancellor's analysis reveals locally-funded  
3 construction of a community college facility would not result in facilities which would be  
4 substantially at variance with space and utilization standards adopted by the Board of  
5 Governors. Subdivision (b) requires that, when approval of the plans would result in  
6 facilities which would be substantially at variance with space and utilization standards  
7 adopted by the Board of Governors, the Chancellor respond by:

8 (1) Imposing conditions for the approval of the plans; or

9 (2) Finding that despite the substantial variance with space standards, the

1 plans, as submitted, are acceptable, and responding to the district with:

2 (A) Cautions, and/or

3 (B) Appraisal of the potential consequences of this variance.

4 PART III. STATEMENT OF THE CLAIM

5 SECTION 1. COSTS MANDATED BY THE STATE

6 The code sections and regulations referenced in this test claim result in  
7 community college districts incurring costs mandated by the state, as defined in  
8 Government Code section 17514<sup>24</sup>, by creating new state-mandated duties related to  
9 the uniquely governmental function of providing public services and these statutes  
10 apply to community college districts and do not apply generally to all residents and  
11 entities in the state.<sup>25</sup>

12 The new duties mandated by the state upon community colleges districts require

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<sup>24</sup> Government Code section 17514, as added by Chapter 1459/84:

"Costs mandated by the state" means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

<sup>25</sup> Public schools are a Article XIII B, Section 6 "program," pursuant to Long Beach Unified School District v. State of California, (1990) 225 Cal.App.3d 155; 275 Cal.Rptr. 449:

"In the instant case, although numerous private schools exist, education in our society is considered to be a peculiarly government function. (Cf. Carmel Valley Fire Protection Dist. V. State of California (1987) 190 Cal.App.3d at p.537) Further, public education is administered by local agencies to provide service to the public. Thus public education constitutes a 'program' within the meaning of Section 6."

1 state reimbursement of the direct and indirect costs of labor, materials and supplies,  
2 data processing services and software, contracted services and consultants, equipment  
3 and capital assets, staff and student training and travel to implement the following  
4 activities:

- 5 A) To transfer any unused project funds appropriates, or authorized for  
6 appropriation, when the existing district is incorporated into a newly  
7 formed district, pursuant to Education Code Section 81808.
- 8 B) To prepare and submit a plan for capital construction to the Board of  
9 Governors of the California Community Colleges reflecting the five-year  
10 period commencing with the next proposed year of funding, pursuant to  
11 Education Code Section 81820. The capital construction plan is subject  
12 to annual review by the Board and a report outlining any required  
13 modifications or changes must be submitted on or before the 1<sup>st</sup> day of  
14 February, pursuant to Education Code Sections 81820 and 81823, and  
Title 5, California Code of Regulations Section 57014.
- 15 C) To set out the estimated capital construction needs of the district in its  
16 five-year capital construction plan including:  
17  
18 1) The district's plans concerning its future academic and student  
19 services programs, and the effect on estimated construction needs  
20 arising from particular courses of instruction, subject matter areas,  
21 or student services to be emphasized, pursuant to Education Code  
22 Section 81821, subdivision (a);

Test Claim of Santa Monica Community College District  
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- 1           2)    The district's enrollment projections, pursuant to Education Code
- 2                    Section 81821, subdivision (b);
- 3           3)    The district's current enrollment capacity, pursuant to Education
- 4                    Code Section 81821, subdivision (c);
- 5           4)    The district's office, library and supporting facility capacities,
- 6                    pursuant to Education Code Section 81821, subdivision (d);
- 7           5)    The district's annual inventory of all facilities and land, pursuant to
- 8                    Education Code Section 81821, subdivision (e); and
- 9           6)    The district's estimate of funds available for capital outlay matching
- 10                   purposes, pursuant to Education Code Section 81821, subdivision
- 11                   (f).

12           D)    To include justification and documentation in its capital construction plan

13                   when it is deemed necessary by the district to submit its plan for capital

14                   construction on the basis of each college or educational center

15                   maintained by it to better serve its students because:

- 16           1)    The students are isolated within the district in terms of distance or
- 17                   inadequacy of transportation, and the students are financially
- 18                   unable to meet the costs of transportation to an educational
- 19                   program, pursuant to Education Code Section 81823, subdivisions
- 20                   (a)(1) and (b), or
- 21           2)    The inability of the existing colleges and educational centers to
- 22                   meet the unique educational and cultural needs of a significant



1                    number of ethnic students, pursuant to Educational Code Section  
2                    81823, subdivisions (a)(2) and (b).

3            E)    To pay to the Board of Governors any reasonable fees charged for the  
4            review of proposed new college sites, pursuant to Education Code  
5            Section 81836.

6            F)    To submit its capital construction plans for any new college facility, or for  
7            any addition to, or alteration of, an existing facility totaling for than one  
8            hundred fifty thousand dollars (\$150,000) to the Board of Governors  
9            before contracting for such, pursuant to Education Code Section 81837.  
10           No contract is valid, nor will any public money be paid out before the  
11           district receives written approval from the Board of Governors, pursuant to  
12           Education Code Section 81837.

13           G)    The district shall, as may be necessary, include a proposed site in its  
14           capital construction plan, and enter into an option contract with the  
15           property owner whereby the district pays the consideration for the option,  
16           pursuant to Education Code Section 81839.

17           H)    To apply, as may be necessary, for project assistance under the  
18           Community College Construction Act of 1980, including:

19           1)    The planning, acquisition, and improvement of community college  
20           sites, pursuant to Title 5, California Code of Regulations Section  
21           57001.5, subdivision (a);

22           2)    The planning, construction, reconstruction, or remodeling of any

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1 permanent structure necessary for use as a classroom, a  
2 laboratory, a library, a performing arts facility, a gymnasium, the  
3 basic outdoor physical education facilities, the basic food service  
4 facilities, or child development centers, pursuant to Title 5,  
5 California Code of Regulations Section 57001.5, subdivision (a);

6 3) Related facilities necessary for the instruction of students or for  
7 administration of the educational program, pursuant to Title 5,  
8 California Code of Regulations Section 57001.5, subdivision (a);

9 4) Maintenance or utility facilities essential to the operation of the  
10 foregoing facilities and the initial acquisition of equipment, pursuant  
11 to Title 5, California Code of Regulations Section 57001.5,  
12 subdivision (a);

13 5) The initial furnishing of, and initial acquisition of equipment for, any  
14 facility leased or lease-purchased by a district as of August 1,  
15 1987, for educational purpose or purposes, pursuant to Title 5,  
16 California Code of Regulations Section 57001.5, subdivision (a);  
17 and

18 6) The reconstruction or remodeling of any facility leased or leased-  
19 purchased for educational purposes, pursuant to Title 5, California  
20 Code of Regulations Section 57001.5, subdivision (b). Title or any  
21 other interest considered sufficient by the district shall be  
22 transferred, but a district must repay the state for any unamortized

1 state costs if the lease is terminated prior to amortizing the  
2 reconstruction or remodeling costs. If the district leases property  
3 from the federal government, the state, or any county, city and  
4 county, city, or district for the purposes of constructing school  
5 buildings and facilities, it is eligible for state funding, pursuant to  
6 Title 5, California Code of Regulations Section 57001.5, subdivision  
7 (b).

- 8 I) To appeal to the Board of Governors any action of the Chancellor  
9 adversely affecting the district, pursuant to Title 5, California Code of  
10 Regulations Section 57010.
- 11 J) To submit to the Chancellor, within 30 days after the closure of the current  
12 fiscal year, a final report on all expenditures in connection with the  
13 sources of funds expended for completed projects, pursuant to Title 5,  
14 California Code of Regulations Section 57011. The district must further  
15 submit to any state post-audit review of fund claims for all projects,  
16 pursuant to Title 5, California Code of Regulations Section 57011.
- 17 K) To meet with appropriate local government recreation and park authorities  
18 to review all possible methods of coordinating planning, design, and  
19 construction of new facilities and sites or major additions to existing  
20 facilities and recreation and park facilities in the community, pursuant to  
21 Title 5, California Code of Regulations Section 57013. Any district  
22 planning, designing, or constructing new facilities must report to the

1 Chancellor's office on plans to achieve:

- 2 1) A greater use of any joint or contiguous recreation and park  
3 facilities by the district, pursuant to Title 5, California Code of  
4 Regulations Section 57013, subdivision (a);
- 5 2) Possible use by the total community of such facilities and sites and  
6 recreation and park facilities, pursuant to Title 5, California Code of  
7 Regulations Section 57013, subdivision (b).

8 L) To include in its capital construction program submission to the  
9 Chancellor's office the following to aid in the review and evaluation  
10 process:

- 11 1) An architectural analysis to determine costs of the various phases  
12 of the project, with particular attention to be directed to the type of  
13 construction, unit costs, and the efficiency of particular buildings  
14 and facilities in terms of effective utilization of area, pursuant to  
15 Title 5, California Code of Regulations Section 57015, subdivision  
16 (a).
- 17 2) A determination of the amount of federal funds available for the  
18 project, taking appropriate measures to ensure that the project will  
19 qualify for the maximum amounts of federal funds practicable  
20 under the circumstances, pursuant to Title 5, California Code of  
21 Regulations Section 57015, subdivision (b).
- 22 3) A determination of the total cost of the project, reducing the total

1 cost by the amount of federal funds available thereof, and  
2 determining the remainder thereof to be borne by the state, or, if  
3 the district has matching funds, by the state and by the district,  
4 pursuant to Title 5, California Code of Regulations Section 57015,  
5 subdivision (c). If the district ability is sufficient to meet the  
6 matching costs of the project or its individual phases of planning,  
7 working drawings, construction, equipment, or land acquisition, the  
8 district must bear its matching share of the cost of the project or  
9 one or more of its phases, but if the district funds available are  
10 insufficient to provide the district's matching share for the cost of  
11 the project or one or more of its phases, the district shall provide  
12 the moneys available, as defined by the Board of Governors, and  
13 state funds may be requested to provide the balance of funds  
14 required, pursuant to Title 5, California Code of Regulations  
15 Section 57015, subdivision (c).

16 4) A determination of the total of funds required for the first phase of  
17 the project to be provided on a matching basis by the state and the  
18 district, pursuant to Title 5, California Code of Regulations Section  
19 57015, subdivision (d).

20 M) To must include a summary of the local district energy conservation  
21 program and indicate its need for such assistance in its annual five-year  
22 construction plan when requesting a state supported energy conservation

1 project, pursuant to Title 5, California Code of Regulations Section 57052,  
2 subdivisions (a) and (b).

3 N) When the need for state financial assistance has been adequately  
4 established, the energy conservation project must be submitted as a  
5 project planning guide in accordance with the Chancellor's office's  
6 established format including evidence of an approved Energy Audit on file  
7 with the California Energy Commission, pursuant to Title 5, California  
8 Code of Regulations Section 57053.

9 O) To include in its preliminary plans for energy related projects: (1) the  
10 results of a technical audit performed by an authorized Technical Auditor  
11 which describes in detail the energy conservation measures the project is  
12 it institute, (2) the status of the project as related to the various federal  
13 and state aided programs for energy conservation; and (3) an  
14 architectural and/or engineering analysis setting forth the detailed costs of  
15 the various elements of the project, pursuant to Title 5, California Code of  
16 Regulations Section 57055, subdivision (b).

17 P) To arrange, to the extent that services are available, for the pre-audit and  
18 post-audit of buildings by investor-owned or municipal utility companies or  
19 by independent energy audit companies or organizations which are  
20 recognized by federal or state regulated financial institutions, pursuant to  
21 Title 5, California Code of Regulations Section 57062. The pre-audit must  
22 identify the type and amount of work necessary to retrofit the buildings

1 and shall include an estimate of projected energy savings, while the post-  
2 audit must be conducted upon completion of the retrofiting of the  
3 buildings to insure that the project satisfies the recommendations of the  
4 pre-audit, pursuant to Title 5, California Code of Regulations Section  
5 57062.

6 Q) To contract only with qualified business capable of retrofiting school  
7 buildings, pursuant to Title 5, California Code of Regulations Section  
8 57063.

9 R) To include complete and accurate take-off of assignable and gross square  
10 feet of space, complying with any and all requirements prescribed by the  
11 Chancellor in each application for capital construction plan approval,  
12 pursuant to Title 5, California Code of Regulations Section 57154.

13 SECTION 2. EXCEPTIONS TO MANDATE REIMBURSEMENT

14 None of the Government Code Section 17556<sup>26</sup> statutory exceptions to a finding of.

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<sup>26</sup> Government Code section 17556, as last amended by Chapter 589, Statutes of 1989:

"The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

(a) The claim is submitted by a local agency or school district which requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district which requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this paragraph.

(b) The statute or executive order affirmed for the state that which had been

1 costs mandated by the state apply to this test claim. Note, that to the community  
2 college districts may have previously performed functions similar to those mandated by  
3 the referenced code sections, such efforts did not establish a preexisting duty that  
4 would relieve the state of its constitutional requirement to later reimburse community  
5 college districts when these activities became mandated.<sup>27</sup>

### 6 SECTION 3. FUNDING PROVIDED FOR THE MANDATED PROGRAM

7 No funds are appropriated by the state for reimbursement of these costs  
8 mandated by the state and there is no other provision of law for recovery of costs from  
9 any other source.

---

declared existing law or regulation by action of the courts.

(c) The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation.

(d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

(e) The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

(f) The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a statewide election.

(g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction."

<sup>27</sup> Government Code section 17565, added by Chapter 879, Statutes of 1986:

"If a local agency or a school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for those costs incurred after the operative date of the mandate."





Test Claim of Santa Monica Community College District  
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1 Education Code Section 81836

2 Education Code Section 81837

3 Education Code Section 81839

4 Exhibit 4: Copies of Regulations Cited

5 Title 5, California Code of Regulations, Section 57001

6 Title 5, California Code of Regulations, Section 57001.5

7 Title 5, California Code of Regulations, Section 57001.7

8 Title 5, California Code of Regulations, Section 57002

9 Title 5, California Code of Regulations, Section 57010

10 Title 5, California Code of Regulations, Section 57011

11 Title 5, California Code of Regulations, Section 57013

12 Title 5, California Code of Regulations, Section 57014

13 Title 5, California Code of Regulations, Section 57015

14 Title 5, California Code of Regulations, Section 57016

15 Title 5, California Code of Regulations, Section 57033.1

16 Title 5, California Code of Regulations, Section 57050

17 Title 5, California Code of Regulations, Section 57051

18 Title 5, California Code of Regulations, Section 57052

19 Title 5, California Code of Regulations, Section 57053

20 Title 5, California Code of Regulations, Section 57054

21 Title 5, California Code of Regulations, Section 57055

22 Title 5, California Code of Regulations, Section 57060

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758/95 Community College Construction

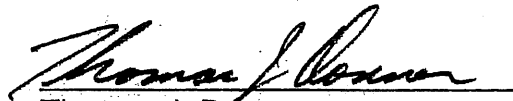
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- 1 Title 5, California Code of Regulations, Section 57061
- 2 Title 5, California Code of Regulations, Section 57062
- 3 Title 5, California Code of Regulations, Section 57063
- 4 Title 5, California Code of Regulations, Section 57150
- 5 Title 5, California Code of Regulations, Section 57152
- 6 Title 5, California Code of Regulations, Section 57154
- 7 Title 5, California Code of Regulations, Section 57156
- 8 Title 5, California Code of Regulations, Section 57158
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PART V. CERTIFICATION

I certify by my signature below, under penalty of perjury, that the statements made in this document are true and complete of my own knowledge or information and belief.

Executed on June 23, 2003, at Santa Monica, California by:

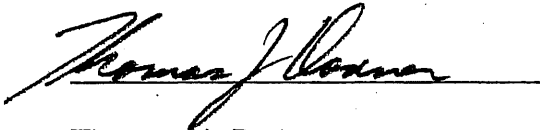


Thomas J. Donner  
Executive Vice President of  
Business and Administration  
Santa Monica Community College District

Voice: (310) 434-4201  
Fax: (310) 434-8200

PART VI. APPOINTMENT OF REPRESENTATIVE

Santa Monica Community College District appoints Keith B. Petersen, SixTen and Associates, as its representative for this test claim.



6-23-03

Thomas J. Donner  
Executive Vice President of  
Business and Administration  
Santa Monica Community College District

Date

STATE OF CALIFORNIA

**CALIFORNIA COMMUNITY COLLEGES  
CHANCELLOR'S OFFICE**

 1102 Q STREET  
 SACRAMENTO, CA 95814-6511  
 (916) 445-8752  
 HTTP://WWW.CCCCO.EDU

**RECEIVED**

MAR 15 2004

**COMMISSION ON  
STATE MANDATES**

March 15, 2004

 Paula Higashi, Executive Director  
 Commission on State Mandates  
 980 Ninth Street, Suite 300  
 Sacramento, CA 95814

 Re: Test Claim: Community College Construction, 02-TC-47

Dear Ms. Higashi:

As an interested state agency, the Chancellor's Office has reviewed the above test claim in light of the following questions that address key issues before the Commission:

- Do the provisions stated in the test claim (Ed. Code, §§ 81663, 81800, 81805, 81807, 81808, 81820, 81821, 81822, 81823, 81836, 81837, and 81839; and California Code of Regulations, title 5, §§ 57001, 57001.5, 57001.7, 57002, 57010, 57011, 57013, 57014, 57015, 57016, 57033.1, 57050, 57051, 57052, 57053, 57054, 57055, 57060, 57061, 57062, 57063, 57150, 57152, 57154, 57156 and 57158) impose a new program or higher level of service within an existing program upon local entities within the meaning of section 6, article XIII B of the California Constitution and costs mandated by the state pursuant to section 17514 of the Government Code?
- Does Government Code section 17556 preclude the Commission from finding that any of the test claim provisions impose costs mandated by the state?
- Have funds been appropriated for this program (e.g., state budget) or are there any other sources of funding available? If so, what is the source?

There are several bases for rejecting the Claim in its entirety, and various challenged sections raise other specific defenses to reimbursement.

**I. BRIEF BACKGROUND.**
**A. The Community College Construction Act**

We have tracked the relevant laws back as far as 1967 (although they may certainly go back farther), when the Junior College Construction Act of 1967 (Act) was enacted. (Former Ed. Code, §§ 20050 et seq.; Stats. 1967, ch. 1550, § 2.) Much of the language in this 1967 enactment has been carried forward to the present day in the statutes and regulations challenged by Claimant. In 1970, the name of the Act was changed to the Community College Construction Act of 1967 (former Ed. Code, §§ 20050 et seq.; Stats. 1970, ch. 102), the responsible party concerning the administrative duties set forth in the Act was changed from the Department of

Education to the to the chancellor, and the responsible party with regard to the rulemaking duties in the Act was changed from the State Board of Education to the Board of Governors (former Ed. Code, § 20054; Stats. 1971, ch. 1525, § 8).

In 1976, former Education Code sections 20050 et seq. were converted into Education Code sections 81800 et seq. in substantially the same form in a major restructuring of the Education Code, pursuant to Statutes 1976, chapter 1010. Section 3 of article 1 of chapter 1 of part 1 of division 1 of title 1 that enactment stated:

"The provisions of this code, insofar as they are substantially the same as existing statutory provisions relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments."

Because the Education Code has been reorganized several times, it is important to trace statutory requirements to their original sources. This is not always an easy undertaking where the Education Code is concerned. Most statutes that concerned public schools were first assembled in the School Code in 1929. Prior to that time, such statutes appeared in various codes. The School Code became the Education Code in 1943. The Education Code was reorganized in 1959 and again in 1976. Some of the challenged statutes, as they appear in today's Education Code or in the legislative history of the challenged regulations, show that they were added in 1976 – which date incorrectly suggests that they came into being after January 1, 1975, a critical date for purposes of finding a state mandate. For many of the challenged sections, the 1976 date merely reflects the 1976 comprehensive reorganization of the Education Code. That 1976 date does not represent the date of initial legislative pronouncement.

A bill updating the name of the chapter to the Community College Construction Act of 1980 made "various changes in connection therewith." (Stats. 1980, ch. 910 (AB 1171).) This bill changed the calculation of the funding formula from the concept of "relative district ability" (former §§ 20081, 20081.1 prior to 1976) to "a community college district's matching share" (former § 81838 prior to Stats. 1990, ch. 1372, § 708 (SB 1854)). In addition to the fact that Claimant's "Part III. Statement of the Claim" does not claim mandated costs as a result of the change of the funding formula, it cannot, as stated below, as actions taken with regard to applications for state funding by the districts, which actions are entirely voluntary, cannot be construed to be a state mandated cost. In addition, as stated above, this formula is part of the statutory, and now regulatory framework (as discussed below) for the minimum standards for community college construction that predates 1975.

#### **B. The Challenged Regulations**

Many of the regulations challenged by Claimant were converted into regulation from the above-discussed Community Construction Act by operation of SB 1854 (Stats. 1990, ch. 1372). Section 708(a) of that bill states, in pertinent part:

"(a) Prior to January 1, 1991, the Board of Governors of the California Community Colleges shall initially adopt and put into effect regulations which incorporate the text of the following Education Code provisions that have been repealed or amended by this act. The text of these sections, as they relate to

community colleges, may be changed when initially adopted as regulations in accordance with the character of the California Community Colleges as a postsecondary education system, as specified in Section 70900 of the Education Code, and the responsibilities assigned to the Board of Governors of the California Community Colleges, as specified in the Education Code, including Sections 66700 and 70901. The changes shall not alter the requirements, rights, responsibilities, conditions or prescriptions contained in these statutes. Permitted initial changes include grammatical or technical changes, renumbering or reordering sections, removal of outdated terms or references to inapplicable or repealed statutory authorities, and the correction of gender references. . . ." (Emphasis added.)

Section 708 of SB 1854 also stated:

"(b) It is the intent of the Legislature that there be no lapse in the requirements, rights, responsibilities, conditions, or prescriptions contained in the statutes. Should the board of governors fail to adopt and put into effect regulations in accordance with subdivision (a), the listed statutes shall remain operative until the effective date of the corresponding board of governors regulations."

Some of the challenged regulations have not been substantively amended since being converted into regulation by the Board of Governors in 1991 from statutes that predate 1975.

In *Barnhart III v. Cabrillo Community College* (1999) 76 Cal.App.4th 818, the court had the opportunity to discuss the special status of statutes converted into regulations under Senate Bill 1854 (Stats. 1990, ch. 1372). The court reasoned that these regulations were adopted by the Board of Governors pursuant to the Legislature's mandate "to keep in effect the 'requirements, rights, responsibilities, conditions, or prescriptions' of an identical repealed statute. Under these peculiar circumstances, [a statute converted into regulation] and [the repealed statute] must be deemed to have equal dignity." (*Barnhart III v. Cabrillo Community College, supra*, 76 Cal.App.4th 818, 825, citing Stats. 1990, ch. 1372, § 708, at p. 6321 ["It is the intent of the Legislature that there be no lapse in the requirements, rights, responsibilities, conditions, or prescriptions contained in the statutes"].)

All of the challenged regulations were promulgated under the Board of Governors' duty and authority to set standards for community college construction under the Act. In a few instances, the challenged regulations are also supported by statutes in other Education Code sections.

"Costs mandated by the state" do not include costs associated with statutes that were enacted prior to January 1, 1975. (Gov. Code, § 17514.) Regulatory requirements that existed before January 1, 1975, cannot be the basis for reimbursement.

### C. State Capital Outlay Funds

The following table illustrates the amount of state general obligation bonds that have been approved and spent or will be spent on community college capital construction projects since

1986, including several projects at Santa Monica CCD.

<u>Statewide General Obligation Bonds</u>	<u>CCC Share</u>
1986 Bond Act, Prop 56	\$133,333,333
1988 Bond Act, Prop 78	\$200,000,000
1990 Bond Act, Prop 143	\$150,000,000
1992 Bond Act, Prop 146	\$300,000,000
1996 Bond Act, Prop 203	\$325,000,000
1998 Bond Act, Prop 1A	\$800,000,000
2002 Bond Act, Prop 47	\$746,000,000
2004 Bond Act, Prop 55	\$920,000,000
<b>TOTAL</b>	<b>\$3,574,333,333</b>

In addition to these amounts, the state has also provided hundreds of millions of dollars of lease revenue bonds for community college capital construction.

**II. MINIMUM STANDARDS ARE NOT ELIGIBLE FOR REIMBURSEMENT IF THEY WERE REQUIRED BY LEGISLATIVE ACTION THAT PREDATED JANUARY 1, 1975.**

It is clear that the Act predates January 1, 1975, and that portions of the Act were converted into regulations and have the same force and effect as the original statutes.

The California Constitution provides that:

"Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse such local government for the costs of such program or increased level of service, except that the Legislature may, but need not, provide subvention of funds for the following mandates: . . .

(c) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975."  
(Cal. Const., art. XIII B, § 6.)

The challenged statutes and regulations identified by Claimant reflect minimum standards for community college construction and conditions for receipt of state aid with regard to the same. These requirements were in statute prior to January 1, 1975. For the most part, herein, the only changes in the challenged statutes and regulations from the original language predating January 1, 1975, concern clarification of these minimum standards by the Legislature or by the Board of Governors, under the authority and mandatory administrative and rulemaking duties provided for in statute since 1967. In many cases, the language in the challenged statutes and regulations is identical to language that was in statute prior to January 1, 1975.

A recent California Attorney General opinion concluded that reimbursement is often unavailable



for minimum standard regulations. The question posed to the Attorney General concerned minimum standards for juvenile justice facilities. The Attorney General concluded that where a statute enacted prior to 1975 required a state body to establish minimum standards, revising those standards does not constitute a new program or increased level of service in an existing program. The Legislature itself can also revise such minimum standards without creating a new program or increased level of service in an existing program within the meaning of article XIII B, section 6 of the California Constitution.

The Attorney General considered a county's claim for reimbursement for bringing a juvenile justice facility into compliance with the minimum standards established by the Board of Corrections. The Attorney General concluded that the Board of Corrections had been required to set minimum standards for suitable juvenile facilities since at least 1915. In our response to this Test Claim, we have tracked statutory language back to at least 1967.

Former Education Code section 20054 stated, in 1967, that

"This chapter shall be administered by the Department of Education, and for purposes of such administration the State Board of Education may adopt all necessary rules and regulations.

For purposes of this chapter, the Department of Education shall assemble statewide data of facility and construction costs, and on the basis thereof formulate cost standards and construction standards. The formulation of standards shall include also the formulation of average ratios of equipment cost to total project costs, unit equipment costs per faculty or other staff measure, and unit costs as related to floor areas." (Emphasis added.)

The only changes to that language since 1967 are technical, and do not change any costs that might be involved in compliance. In 1971 section 20054 was amended, mandating that the administrative duties of the Act be performed by the chancellor, and that the rulemaking duties be performed by the Board of Governors (Stats. 1971, ch. 1525, § 8). The current language can be found in Education Code section 81805, wherein the wording of the provision is identical to the 1967 statute, except that the duties of administration and rulemaking now lie with the Board of Governors of the California Community Colleges. As will be discussed in detail below, setting standards regarding the Act, promulgating rules regarding the submission of materials by the districts with regard to district projects, review of the same by this agency, reporting by the districts, and other duties for which the districts are claiming state-mandated costs have been required by the Act as part of the minimum standards for community college construction which were in statute prior to January 1, 1975.

The Attorney General opined that

"Here, we do not have a 'new program' being imposed by the Legislature upon local governments. Counties have been required to maintain a 'suitable' place for the detention of minors since at least 1915. [Citations omitted.] Setting the minimum standards for what is 'suitable' does not create a 'higher' level of service-

-it has long been the level of service required of local agencies. [Citations omitted.]" (83 Ops.Cal.Atty.Gen. 111 (2000).)

The Attorney General considered the language of Welfare and Institutions Code section 210, which provided: "The Board of Corrections shall adopt minimum standards for the operation and maintenance of juvenile halls for the confinement of minors." The term "suitable" is not part of the charge to the Board of Corrections in setting minimum standards. The term is implied.

Under the theory articulated by the Attorney General in his 2000 opinion, no new programs or higher level of services are established by either legislatively-enacted statutes that set minimum standards, or the Board of Governors' regulations that set minimum standards, if the Legislature required the adoption of those minimum standards prior to 1975. (83 Ops.Cal.Atty.Gen. 111 (2000).) In addition, some of the challenged regulations are merely converted statutes that predate January 1, 1975.

The fact that we are offering the analysis of each of the challenged statutes and regulations below does not change our position that, in accordance with the Attorney General's Opinion discussed above, we believe that changes to the statutes and regulations in accordance with legislative enactments predating 1975 do not constitute a new program or service, and thus no state mandate can be claimed. We will not raise this general defense for each of the challenged statutes and regulations assessed below, but by setting out the defense as to all of the challenged statutes and regulations, we incorporate this defense into each of the following analyses.

**III. IF CLAIMANT HAS COMPLIED WITH THE CHALLENGED PROVISIONS IN ORDER TO RECEIVE STATE AID AND HAS RECEIVED STATE AID, CLAIMANT HAS ALREADY BEEN COMPENSATED FOR COMPLIANCE, AND NO FURTHER REIMBURSEMENT IS WARRANTED.**

Claimant's Statement of Claim concern statutory and regulatory requirements under which the college districts receive state aid for community college construction. Thus these statutes and regulations constitute minimum standards for the receipt of state aid for such projects. If Claimant has not complied with the statutes and regulations, Claimant cannot raise an issue of reimbursement because Claimant has not taken action in response to a claimed mandate. If Claimant has complied with the statutes and regulations so as to collect state aid, Claimant is not eligible for further reimbursement. That is, funds have already been appropriated and paid for any required actions set out in the Claim.

The California Supreme Court recently addressed the conditions for reimbursement of claimed state mandates. (*Department of Finance v. Commission on State Mandates (Kern High School)* (2003) 30 Cal.4th 727, hereinafter referred to as "*Kern High School*." ) The primary focus of the Court's analysis was that districts cannot voluntarily participate in programs, and then claim reimbursement for mandates. This is because there is no mandate under the law if a district has the option of not participating in a program or activity.

The Court in *Kern High School* pointed out that even if costs are incurred, they may be permissibly payable from funds that have already been obtained from the state. (*Id.*, at p. 747.) Claimant can use the funds it has already received from the state to satisfy any costs of

complying with the statutes and regulations that are the subject of this Claim. Claimant is supposed to satisfy the regulations in order to be eligible to collect state funding.

To the extent that Claimant has already received state funding for the purposes of complying with the subject provisions, the Claim should be rejected in its entirety. We will not raise this general defense for each of the statutes and regulations assessed below, but by setting out the defense as to all minimum standards, we incorporate this defense into each of the following analyses.

Santa Monica CCD has received the following state funds for capital construction:

1989-91	Technology Building Addition	\$ 5,046,000
1992	Automotive Technology Remodel	\$ 547,000
1995	Remodel Technology Building, 2nd Floor	\$ 2,848,000
1998	Replace Science Building	\$ 3,107,000
1999-2000	Seismic Retrofit/Library Addition	\$17,016,000
2003	Liberal Arts Replacement	\$ 4,458,000
<b>TOTAL</b>		<b>\$33,022,000</b>

**IV. CLAIMANT IS NOT REQUIRED TO COLLECT STATE AID. TO THE EXTENT CLAIMANT CHOOSES TO DO SO, THAT CHOICE NEGATES THE FINDING OF A STATE MANDATE FOR ACTIVITIES THAT ARE NECESSARY TO MAKE CLAIMANT ELIGIBLE FOR STATE AID.**

As noted above, the California Supreme Court recently confirmed that reimbursement is not authorized where the Claimant voluntarily undertakes an activity. (See *Department of Finance v. Commission on State Mandates*, *supra*, 30 Cal. 4th 727, referred to herein as "*Kern High School*".) In *Kern High School*, the district sought reimbursement from the state for the costs of preparing notices and agenda items related to certain programs it offered. The Supreme Court found that the district chose to participate in the programs, and therefore the costs of the programs were also voluntarily assumed. No mandates exist where a district voluntarily participates in a program.

Although most community college districts seek state aid for construction projects, the districts are not required to do so. In addition, the acquisition of a new college site is not required by law, and is voluntary on the part of a district. To the extent Claimant complies with the statutes and regulations cited herein in order to obtain the state aid that results from compliance, Claimant voluntarily accepts the obligations. (See also, this agency's response to CSM 02-TC-31 (Minimum Conditions for State Aid) with regard to the general oversight of the Board of Governors with regard to minimum conditions for receipt of state aid, and the fact that college districts must meet the requirements of the regulations authorized by Education Code section 70901 in order to receive state funding to operate colleges within the system.)

Under *Kern High School*, Claimant's choice to receive state funding for the purposes of complying with the subject provisions renders the conduct optional. We will not raise this

general defense for each of the statutes and regulations assessed below, but by setting out the defense as to all minimum conditions, we incorporate this defense into each of the following analyses.

V. **Claimant's "Part III. Statement of the Claim. Section 1."**  
**Education Code sections**

A. **Education Code section 81808.** "To transfer any unused project funds appropriates (sic), or authorized for appropriation, when the existing district is incorporated into a newly formed district. . . ."

These requirements have been the same since 1967 (former Ed. Code, § 20057; Stats. 1967, ch. 1550, § 2; Stats. 1970, ch. 102, § 277), and the language in section 81808 is virtually identical to the former statute. Thus these requirements existed prior to January 1, 1975; and "costs mandated by the state" do not include costs associated with statutes that were enacted prior to January 1, 1975. (Gov. Code, § 17514.)

B. **Education Code section 81820.** "To prepare and submit a plan for capital construction to the Board of Governors of the California Community Colleges reflecting the five-year period commencing with the next proposed year of funding. . . . The capital construction plan is subject to annual review by the Board and a report outlining any required modifications or changes must be submitted before the 1st day of February. . . ."

Submission of plans for capital construction has been required since 1967 (former Ed. Code, § 20065; Stats. 1967, ch. 1550, § 2; amended Stats. 1970, ch. 102, § 279; Stats. 1971, ch. 1525, § 12; Stats. 1974, ch. 280, § 1). Before January 1, 1975, the required submission was a 10-year plan. An amendment to the law requiring the submission of 5-year plans rather than 10-year plans was enacted in 1974 (former Ed. Code, § 20065; Stats. 1974, ch. 280, § 1). Annual review and reports outlining any required modifications have been required since 1967 (former Ed. Code, § 20065). Thus all the above-mentioned requirements existed prior to January 1, 1975, and "costs mandated by the state" do not include costs associated with statutes that were enacted prior to January 1, 1975. (Gov. Code, § 17514.)

The date for submission of the plans has changed over the years from November (in 1967), and for subsequent years former section 20065 (Stats. 1967, ch. 1550, § 2) stated that the plans would be submitted "on or before the first day of September"; to "on or before the first day of November" in each year after 1975 (former section 20065 as amended by Stats. 1974, ch. 280, § 1); to "on or before the first day of February" in current law (with possible intervening changes, as we have not researched whether there were changes to the submission date between 1974 and the present). However, such changes are non-substantive, and claimant has not made a Statement of Claim with regard to the change of date.

**Education Code section 81823.** "The capital construction plan is subject to annual review by the Board and a report outlining any required modifications or changes must be submitted before the 1st day of February. . . ."

As discussed above, annual review and reports outlining any required modifications have been required since 1967. Complying with the requirements of section 81823 (former § 81823, similar to the current section, was added by Stats. 1977, ch. 967, § 1; and repealed and added by Stats. 1980, ch. 910, § 2) is voluntary on the part of the districts. Section 81823 states, in pertinent part:

"If a community college district maintains colleges, or one college and one or more educational centers, it may additionally submit the plan required by Section 81820 on the basis of each college or educational center maintained by the district, if either of the following circumstances is present that such students will be better served by evaluating the capital outlay program for the district on that basis: . . . ." (Ed. Code, § 81823(a), emphasis added.)

Giving the districts an optional, alternate means of plan submittals that have been required by statutes that predate January 1, 1975, is not a state-mandated cost. It merely increases district flexibility, and the district can voluntarily decide whether or not to use this option.

**Title 5, California Code of Regulations, section 57014.** See discussion below, under VI(B), below.

C. **Education Code section 81821.** "To set out the estimated capital construction needs of the district in its five-year capital construction plan including: . . ."

1. **Education Code section 81821(a).** "The district's plans concerning its future academic and student services programs, and the effect on estimated construction needs arising from particular courses of instruction, subject matter areas, or student services to be emphasized. . . ."

The requirements have been the same since 1967 (former Ed. Code, § 20066(a); Stats. 1967, ch. 1550, § 2; Stats. 1970, ch. 102, § 280; Stats. 1971, ch. 1525, § 13), except that "student services programs" were added to section 81821(a) by Statutes of 1980, chapter 910, section 2, an urgency measure. This change was merely a clarification by the Legislature of minimum standards statutes enacted prior to January 1, 1975.

2. **Education Code section 81821(b).** "The district's enrollment projections. . . ."

This requirement has been the same since 1967 (former Ed. Code, § 20066(b)); Stats. 1967, ch. 1550, § 2; Stats. 1970, ch. 102, § 280; Stats. 1971, ch. 1525, § 13), except that in the provisions regarding enrollment projections, educational centers were added to section 81821(a) by Statutes of 1980, chapter 910, section 2, an urgency measure. The addition of educational centers does not create a new program or service, since any report of enrollment projections at the districts would necessarily include educational centers. Thus the addition "educational centers" into the law is merely a clarification by the Legislature of minimum standards statutes enacted prior to January 1, 1975. In addition, since there is no requirement in law that college districts create educational centers, and thus the creation of educational centers is voluntary and within the discretion of the districts, the subsequent change in the law did not create a state mandated

program.

3. **Education Code section 81821(c)**. "The district's current enrollment capacity. . .

"

The requirements have been the same since 1967 (former Ed. Code, § 20066(c); Stats. 1967, ch. 1550, § 2; Stats. 1970, ch. 102, § 280; Stats. 1971, ch. 1525, § 13), except that the body adopting "space and utilization standards for . . . classrooms and laboratories" has changed over the years (Board of Education (1967); Board of Governors (1971); Board of Governors in consultation with California Postsecondary Education Commission (changes to section 81821(c) made by Stats. 1981, ch. 981). Changing the body that creates the space and utilization standards does not create a state mandated program, as the districts must comply with section 81821 regardless of a change of the body or bodies that promulgate the standards.

4. **Education Code section 81821(d)**. "The district's office, library and supporting facility capacities. . . ."

See C(3), above with regard to 20066(d) and 81821(d), as the body adopting the "physical plant standards for office, library, and supporting facilities" has also changed over the years.

5. **Education Code section 81821(e)**. "The district's annual inventory of all facilities and land. . . ."

The requirements have been the same since 1967 (former Ed. Code, § 20066(e); Stats. 1967, ch. 1550, § 2; Stats. 1970, ch. 102, § 280; Stats. 1971, ch. 1525, § 13), except that the provision that the inventory includes land was added in 1980 (Stats. 1980, ch. 910, § 2). This amendment does not create a new program or service, and is merely a clarification by the Legislature of minimum standards statutes enacted prior to January 1, 1975.

6. **Education Code section 81821(f)**. "The district's estimate of funds available for capital outlay matching purposes. . . ."

This requirement was added in 1980 (Stats. 1980, ch. 910, § 2); however, matching fund requirements concern voluntary actions of the Districts with regard to the receipt of state funding for elements of its capital construction plan, and thus, no state mandate can be claimed in this regard.

D. **Education Code section 81823**. It is not necessary to reiterate claimant's statement of claim, as the requirements of section 81823 (former § 81823, similar to the current section, was added by Stats. 1977, ch. 967, § 1; and repealed and added by Stats. 1980, ch. 910, § 2) are voluntary. Section 81823 states, in pertinent part:

"If a community college district maintains colleges, or one college and one or more educational centers, it may additionally submit the plan required by Section 8120 on the basis of each college or educational center maintained by the district, if either of the following circumstances is present that such students will be better

served by evaluating the capital outlay program for the district on that basis: . . . ." (Ed. Code, § 81823(a), emphasis added.)

This gives the Districts a voluntary, alternate means of submitting plans required by statutes that predate January 1, 1975, and thus no state-mandated cost can be claimed.

**E. Education Code section 81836.** "To pay to the Board of Governors any reasonable fees charged for the review of proposed new college sites. . . ."

The requirement that the district pay fees to the Board of Governors for its review of proposed new college sites has been in statute since 1974 (former Ed. Code, § 20080.1; Stats. 1974, ch. 30, § 3). When the statute was enacted in 1974, the fees were "twenty-five dollars (\$25) for each 10 acres or fraction thereof of school site reviewed." The same language was converted into Education Code section 81836(a) in major 1976 Education Code conversion (Stats. 1976, ch. 1010). Fees pursuant to current law, "a reasonable fee as determined by the board of governors for each 10 acres or fraction thereof of school site reviewed," are the result of a 1980 amendment to section 81836 (Stats. 1980, ch. 910, § 2.)

First, the Chancellor's Office does not currently charge such fees for the review of new college sites. Second, even if such fees were to be charged, the fact that the districts must pay a reasonable fee for review of proposed new college sites is not a state mandated cost due to the fact that it is voluntary on the part of a district whether or not to seek the acquisition of a new college site, and thus any resultant fees are incurred as a result of that discretionary decision on the part of a district.

Third, the fact that the districts must pay a reasonable fee is an ongoing minimum condition that predates January 1, 1975, and thus cannot be claimed as a state-mandated cost. No "new program" has been created, and no "higher level of service" is involved. "A mere increase in the cost of providing a service which is the result of a requirement mandated by the state is not tantamount to a higher level of service." (*Long Beach Unified Sch. Distr. v. State of California* (1990) 225 Cal.App.3d, 155, 173, citing *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 54-56.)

"State mandate jurisprudence has established that in general, local agencies are not entitled to reimbursement of all increased costs mandated by state law, but only those resulting from a 'new' program or an 'increased level of service' imposed upon them by the state. (*Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835. . . .) A 'program' is defined as a program which carries out the 'governmental function of providing services to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.' (*County of Los Angeles v. State of California, supra*, 43 Cal.3d at p. 56. . . .) A program is 'new' if the local governmental entity had not previously been required to institute it. (*City of San Jose v. State of California, supra*, 45 Cal.App.4th at p. 1812, 53 Cal.Rptr.2d 521.)" (*County of Los Angeles v. Commission on State Mandates* (2003) 110 Cal.App.4th 1176, 1189.)

It is clear that an increase in fees resulting from a program that has been in effect prior to January 1, 1975, cannot be claimed as a state-mandated cost.

F. **Education Code section 81837.** "To submit its capital construction plans for any new college facility, or for any addition to, or alteration of, an existing facility totaling for more than one hundred fifty thousand dollars (\$150,000) to the Board of Governors before contracting for such. . . . No contract is valid, nor will any public money be paid out before the district receives written approval from the Board of Governors. . . ."

These requirements have been the same since 1974 (former Ed. Code, § 20080.2; Stats. 1974, ch. 30, § 4), except that, instead of the current requirement that plans be submitted with regard to "any contract or contracts totaling one hundred fifty thousand dollars (\$150,000), or more" the 1974 requirement was with regard to "any contract or contracts totaling \$10,000) or more." It is unclear to us how the districts would find compliance with the current requirement setting the bar at \$150,000 to create more of a hardship than setting the bar at \$10,000, as it was previously in 1974.

G. **Education Code section 81839.** "The district shall, as may be necessary, include a proposed site in its capital construction plan, and enter into an option contract with the property owner whereby the district pays the consideration for the option. . . ."

These requirements have been essentially the same since 1971 (former Ed. Code, § 20085; Stats. 1971, ch. 373, § 1), and have thus existed in law prior to January 1, 1975, although the law has been clarified through amendments since that time. In addition, the requirements of section 81839 are permissive and voluntary; therefore no state mandate has been created. The law does not say the district "shall," as claimant states. The actual language of the section paraphrased incorrectly by claimant states, in pertinent part, that:

"The governing board of a community college district may include a proposed site in its plans for a project and may enter into agreement with the owner of the property constituting such proposed site whereby the district, for an annual consideration to be borne by the district, is given an option to purchase, or lease with an option to purchase such property at an unspecified future date, as a building site." (Ed. Code, § 81839, emphasis added.)

In addition, taken in context, section 81839 encompasses situations in which the district is voluntarily requesting funding from the state for its project, as section 81839 goes on to state that, "The existence of such an agreement shall in no way affect the determination of the share of the cost of the project to be borne by the state. . . ."

#### No Claim Made

Claimant has listed Education Code sections 81663, 81800, 81806, 81807 and 81822 on the face sheet of this Test Claim, but has not made a Statement of Claim in regard to these statutes. Therefore, they will not be discussed here, except to briefly state:  
Section 81663 – participation is voluntary;



Section 81800 is a general statement of legislative intent "for the state to provide assistance to community college districts for the construction of community college facilities," which is hardly a mandated cost, rather it is financial assistance;

Section 81805 – the language has been essentially the same since 1967, except that the person or entity that administers the Act and the name of the Act itself have changed over the years, which creates no fiscal impact; and,

Section 81807 – the language has been essentially the same since 1967, except that the person or entity that allocates and disburses the funding has been changed over the years, which creates no fiscal impact.

**VI. Claimant's "Part III. Statement of the Claim. Section 1."  
Regulations of the Board of Governors of the California  
Community Colleges contained in  
California Code of Regulations, title 5, division 6**

As discussed in I(B) above, some of the challenged regulations were converted into regulations from statute, and have the force of continuing statutes that predate January 1, 1975. In addition, as discussed in I(A), above, either the Board of Education or the Board of Governors has had the continuing authority to promulgate regulations and set standards in this regard since 1967 (former Ed. Code, § 20054, currently § 81805).

In converting the enumerated statutes into regulation, section 708 of Statutes 1990, chapter 1372 (SB 1854) required that, "Permitted initial changes include grammatical or technical changes, renumbering or reordering sections, removal of outdated terms or references to inapplicable or repealed statutory authorities, and the correction of gender references. . . ." Thus the Board of Governors could only make technical changes to the original statutory language in the original conversion, and many of the challenged provisions have not been amended since their conversion into regulations in 1991 pursuant to SB 1854. In light of the Attorney General opinion discussed above, we believe any changes to these provisions made after 1975 are part of the continuing process of promulgating minimum standards with regard to community college construction and facilities under statutes predating 1975, and thus any resultant alleged costs do not constitute a state mandate. We place this discussion here as for the sake of brevity we will not raise it with regard to each challenged regulation discussed below, although it may be mentioned in passing.

**B. Section 57014<sup>1</sup>.** " The capital construction plan is subject to annual review by the Board and a report outlining any required modifications or changes must be submitted before the 1st day of February. . . ."

This language has been in law since 1967 (former Ed. Code, § 20075; Stats. 1967, ch. 1550, § 2; Stats. 1970, ch. 102, § 282; Stats. 1971, ch. 1525, § 15). Former Education Code section 20075 referred to former Education Code section 20066. These sections were renumbered by Statutes of 1976, chapter 1010 as sections 81830 and 81821, respectively. (See discussion of section 81821 in section V(C), above.) Section 81830 was converted from statute into regulation as title

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<sup>1</sup> All section references in the 50000 series refer to sections in the California Code of Regulations, title 5, division 6, unless otherwise indicated.

5, section 57014 by SB 1854, and has not been amended since its conversion into regulation. Thus these requirements existed prior to January 1, 1975, and "costs mandated by the state" do not include costs associated with statutes that were enacted prior to January 1, 1975. (Gov. Code, § 17514.)

**H. Title 5, section 57001.5.** "To apply, as may be necessary, for project assistance under the Community College Construction Act of 1980, including: . . . ."

Without going into an extensive discussion of the legislative and regulatory history with regard to items H(1) through H(6), and without setting forth the language of each Statement of Claim, it must be noted that it is voluntary on a district's part whether to apply for funding for its projects. Section 57001.5 was formerly Education Code section 20052, was converted into Education Code section 81802 by Statutes 1976, chapter 1010, and into regulation by SB 1854, and has not been amended by the Board of Governors since its conversion into regulation. Thus with regard to the following claims under H:

**1. 57001.5(a).** Some of the language has been in statute since 1967, and as amended prior to January 1, 1975. Any amendments to the definition of the word "project" since 1975 are merely a clarification of the existing law, and thus would not change the meaning of the existing law for the purposes of creating a new program or service. In addition, these changes are with regard to minimum standards that predated 1975.

2. **57001.5(a).** Same as 1, above.
3. **57001.5(a).** The language paraphrased has been the same since 1967.
4. **57001.5(a).** Same as 3, above.
5. **57001.5(a).** Same as 1, above.
6. **57001.5(b).** Same as 1, above.

**I. Section 57010.** "To appeal to the Board of Governors any action of the Chancellor adversely affecting the district, pursuant to title 5, California Code of Regulations Section 57010."

The concept of such appeals has been in statute since 1967 (former Ed. Code, § 20055; Stats. 1967, ch. 1550, § 2; Stats. 1970, ch. 102, § 275; Stats. 1971, ch. 1525, § 9; converted to Ed. Code, § 81806 by Stats. 1976, ch. 1010; converted to regulation by SB 1854, and has not been amended by the Board of Governors since conversion into regulation).

**J. Section 57011.** "To submit to the Chancellor, within 30 days after the closure of the current fiscal year, a final report on all expenditures in connection with the sources of funds expended for completed projects. . . . The district must further submit to any state post-audit review of fund claims for all projects. . . ."

The concept of such reports has been in statute since 1967 (former Ed. Code, § 20058; Stats. 1967, ch. 1550, § 2; Stats. 1970, ch. 102, § 278; Stats. 1971, ch. 1525, § 11; converted to Ed. Code, § 81809 by Stats. 1976, ch. 1010; converted to regulation by SB 1854, and has not been amended by the Board of Governors since conversion into regulation).

The addition of the statutory language with regard to post-audit reviews was made in 1981 (Stats. 1981, ch. 891, § 1), and is merely a clarification of existing law. As this new language concerns a "fund claim," it has to do with conditions for state funding, application for which is voluntary on the part of the districts. In addition, these changes are with regard to minimum standards that predated 1975.

**K. Section 57013.** "To meet with appropriate local government recreation and park authorities to review all possible methods of coordination, planning, design and construction of new facilities and sites or major additions to existing facilities and recreation and part facilities in the community. . . . Any district planning, designing, or constructing new facilities must report to the Chancellor's office on plans to achieve. . . ."

Section 57013 was converted from statute to regulation pursuant to SB 1854, and has not been amended by the Board of Governors since that time. Section 57013 was formerly Education Code section 81821.5 (Stats. 1980; ch. 910, § 2), which was formerly section 81831.5 (Stats. 1979, ch. 797, § 115). The statutes that were converted into title 5, section 57013 must be looked at in context in order to see that they merely clarified pre-existing minimum standards for community college construction pursuant to the Act, rather than imposing a new mandated program or service. Section 1 of Statutes 1979, chapter 797 (AB 1549) stated:

"It is the intent of the Legislature in enacting this act to update and technically clarify provisions of the law which establish powers and duties of the Board of Governors of the California Community Colleges and the Chancellor of the California Community Colleges. This act repeals numerous Education Code provisions relating to the board of governors and the chancellor's office which are outdated or redundant. . . . Finally, it technically amends numerous provisions so as to clarify or make less burdensome various functions of the board of governors and the chancellor's office. In so doing, it is the intent of the Legislature to streamline the statewide governance of community colleges, and thereby to promote the more efficient use of resources within the community college system."

The wording of former Education Code section 81831.5 has been essentially the same since its renumbering to section 81821.5, and through its conversion into regulation pursuant to SB 1854. As this requirement is merely a clarification of law existing prior to January 1, 1975, no state mandated cost can be claimed.

**1. Section 57013(a).** "A greater use of any joint or contiguous recreation and park facilities by the district. . . ."

See discussion above.

**2. Section 57013(b).** "Possible use by the total community of such facilities and sites and recreation and park facilities. . . ."

See discussion above.

**L. Section 57015.** "To include in its capital construction program submission to the Chancellor's office the following to aid in the review and evaluation process. . . ."

**1. Section 57015(a).** "An architectural analysis. . . ."

This requirement that an "architectural analysis" be an element of the review has been in statute since 1967 (former Ed. Code, § 20081; Stats. 1967, ch. 1550, § 2; Stats. 1970, ch. 102, § 288; Stats. 1971, ch. 1525, § 21), converted into Education Code section 81838 (Stats. 1976, ch. 1010), and converted into regulation pursuant to SB 1854, and the original statutory language has not been amended by the Board of Governors since that time.

**2. Section 57015(b).** "A determination of the amount of federal funds available for the project. . . ."

This requirement has been in statute since 1967 (see L(1), above.)

**3. Section 57015(c).** "a determination of the total cost of the project, reducing the total cost by the amount of federal funds available thereof, and determining the remainder thereof to be borne by the state, or if the district has matching funds, by the state and by the district. . . ."

Although the funding formula has changed over the years from "relative district ability" to "matching funds," the requirement of "determining the total cost of the project, reducing the same by the amount of federal funds available," and determining "the respective shares of the project to be borne by the state and the district" has been in statute since 1967 (see L(1), above).

**4. Section 57015(d).** "A determination of the total of funds required for the first phase of the project to be provided on a matching basis by the state and the district. . . ."

Although the funding formula has changed over the years from "relative district ability" to "matching funds," the requirement to determine "the total of funds . . . required for the first phase of the project," including the portion that will be provided by the state "and the funds . . . to be provided to the district," has been in statute since 1967 (see L(1), above).

**M through Q. Sections 57052, 57053, 57055, 57062 and 57063.** Without going into an unnecessary amount of analysis and discussion, these regulations concern voluntary applications for state funding for energy conservation projects. The authority under which the Board of Governors promulgates regulations in this area goes back to 1967, as discussed above with regard to current Education Code section 81805. (See I(A) and VI, first paragraph, above. See also, Ed. Code, §§ 81620 et seq. and 81660 et seq.)

This regulatory scheme was adopted in 1980. The original enactment consisted of sections 57050, 57051, 57052, 57053, 57054 and 57055. The Board of Governors' agenda item with regard to these regulations stated that, "Compliance with the regulations will be required,

however, only if a district requests state funding for an energy related construction project." (Agenda of the Board of Governors, June 26-27, 1980, Item 5, Background; emphasis added.) Thus the requirements of section 57050 to 57055 are triggered by a voluntary action on the part of the districts.

In 1991, nonsubstantive technical changes were made to section 57050 through 57055 in a title 5 review pursuant to AB 1725 (Stats. 1988, ch. 973), and section 57060 to 57062 were converted from statute into regulation, pursuant to SB 1854. The converted statutes, former Education Code sections 17900 through 17903, were added by Statutes 1981, chapter 626, section 1. Section 17900, as enacted, stated that:

"The Legislature finds and declares that it is in the interest of the state and of the people thereof for the state to aid school districts and community college districts in finding cost-effective methods of conserving energy in school buildings maintained by the districts. . . ."

Former Education Code section 17901 began with the words: "(a) . . . community college districts may borrow funds from federal or state regulated financial institutions. . . ." (Emphasis added.)

Thus the requirements of sections 57052, 57053, 57055, 57062 and 57063 concern requirements that are triggered upon a voluntary action by the districts, and no state mandated cost can be claimed.

**M. Section 57052(a).** This regulation states, "For those districts requesting a state supported energy conservation project. . . ." (Emphasis added.)

State aid is being requested, and thus participation is voluntary.

**Section 57052(b).** This regulation states, "A community college district submitting an energy conservation project for state aid under the capital outlay program. . . ." (Emphasis added.)

State aid is being requested, and thus participation is voluntary.

**N. Section 57053(a).** This regulation states, "When the need for state financial assistance for an energy conservation project. . . ." (Emphasis added.)

Participation is voluntary.

**O. Section 57055(b).** "To include in its preliminary plans, for energy related projects. . . ."

Section 57055(b) does not contain this language. Instead, language similar to that paraphrased by Claimant can be found in section 57055(c). However, these requirements are triggered by a voluntary action on the part of the districts.

**P. Section 57062.** "To arrange, to the extent that services are available, for the pre-audit and post-audit of buildings. . . ."

Action on the part of the districts that triggers these requirements – applying for state funding for an energy project – is voluntary.

**Q. Section 57063.** This regulation states, "Community college districts taking action under this article. . . ."

Action on the part of the districts that triggers these requirements – applying for state funding for an energy project – is voluntary.

**R. Section 57154.** "To include complete and accurate take-off of assignable and gross square feet of space, complying with any and all requirements prescribed by the Chancellor in each application for capital construction and approval. . . ."

Section 57154 was adopted in 1980 by the Board of Governors under the authority of Education Code section 81836, with reference to section 81837. Sections 81836 and 81837 predate 1975. Education Code section 81836(b) requires the Board of Governors to "Establish standards for community college facilities." This requirement has been in law since 1974 (former Ed. Code, § 20080.1(b); Stats, 1974, ch. 30, § 3; converted to section 81836 by Stats. 1976, ch. 1010. See also V(E) and (F), above for a discussion of the history of these sections.)

In addition, Education Code section 81805 requires the Board of Governors to administer the Community College Construction Act and to adopt all necessary rules and regulations. This requirement has been in law since 1967 (former Ed. Code, § 20054; Stats. 1967, ch. 1550, § 2; Stats. 1971, ch. 1525, § 8; converted into section 81805 by Stats. 1976, ch. 1010). The only changes in 20054 and 81805 over the years had to do with the body establishing the standards and promulgating the regulations, which has no fiscal impact, and changing the word "may adopt all necessary rules and regulations" to "shall adopt all necessary rules and regulations." This is merely a clarification of existing law, as promulgating regulations is a form of establishment of standards; without the promulgation of regulations, such standards would amount to illegal, "underground" regulations.

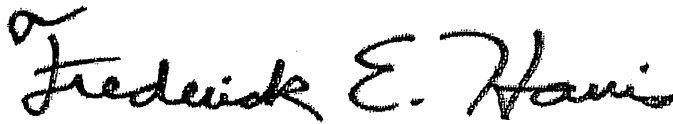
Thus these requirements existed prior to January 1, 1975, and "costs mandated by the state" do not include costs associated with statutes that were enacted prior to January 1, 1975. (Gov. Code, § 17514.)

**No Claim Made**

In addition, claimant has listed California Code of Regulations, title 5, sections 57001, 57001.7, 57002, 57016, 57033.1, 57050, 57051, 57054, 57060, 57061, 57150, 57152, 57156 and 57158 on the face sheet of Test Claim 02-TC-47, but has not made a statement of claim regarding these regulations. Therefore, they will not be discussed separately herein.

We hope that the foregoing information is useful to the Commission.

Sincerely,

A handwritten signature in cursive script that reads "Frederick E. Harris". The signature is written in black ink and is positioned above the printed name.

FREDERICK E. HARRIS, Assistant Vice Chancellor  
College Finance and Facilities Planning





# SixTen and Associates

## Mandate Reimbursement Services

EXHIBIT D

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March 30, 2004

Paula Higashi, Executive Director  
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Sacramento, California 95814

**RECEIVED**

APR 01 2004

**COMMISSION ON  
STATE MANDATES**

Re: Test Claim 02-TC-47  
Santa Monica Community College District  
Community College Construction

Dear Ms. Higashi:

I have received the comments of the Department of Finance ("DOF") dated February 11, 2004, and the comments of the California Community Colleges Chancellor's Office ("CCC") dated March 15, 2004, to which I now respond on behalf of the test claimant.

**A. The Opposition and Comments of the DOF and CCC are Incompetent and Should be Excluded**

Test claimant objects to the comments of the DOF and CCC, in total, as being legally incompetent and move that they be excluded from the record. Title 2, California Code of Regulations, Section 1183.02(d) requires that any:

"...written response, opposition, or recommendations and supporting documentation shall be signed at the end of the document, under penalty of perjury by an authorized representative of the state agency, with the declaration that it is true and complete to the best of the representative's personal knowledge or information or belief."

Furthermore, the test claimant objects to any and all assertions or representations of fact made in the responses (such as the hearsay statement of the DOF that "[I]n fact, the Chancellor's Office has verbally indicated that...") since DOF and CCC have failed to comply with Title 2, California Code of Regulations, Section 1183.02(c)(1) which requires:

"If assertions or representations of fact are made (in a response), they must be supported by documentary evidence which shall be submitted with the state agency's response, opposition, or recommendations. All documentary evidence shall be authenticated by declarations under penalty of perjury signed by persons who are authorized and competent to do so and must be based on the declarant's personal knowledge or information or belief."

The DOF and CCC comments do not comply with these essential requirements. Since the Commission cannot use unsworn comments or comments unsupported by declarations, but must make conclusions based upon an analysis of the statutes and facts supported in the record, test claimant requests that the comments and assertions of the DOF and CCC not be included in the Staff's Analysis.

**B. The Requirements to Obtain State Funding Are, In Fact, Compelled**

DOF and CCC continue to assert the proposition that obtaining state funding to build needed campuses and other school facilities is a discretionary act and, therefore, all downstream activities are also discretionary.

A finding of legal compulsion is not an absolute prerequisite to a finding of a reimbursable mandate. The controlling case law on the subject of nonlegal compulsion is still City of Sacramento v. State of California (1990) 50 Cal.3rd 51 (hereinafter referred to as *Sacramento II*).<sup>1</sup>

(1) Sacramento II Facts:

The adoption of the Social Security Act of 1935 provided for a Federal Unemployment Tax ("FUTA"). FUTA assesses an annual tax on the gross wages paid by covered private employers nationwide. However, employers in a state with a federally "certified" unemployment insurance program receive a "credit" against the federal tax in an amount determined as 90 percent of contributions made to the state system. A "certified" state program also qualifies for federal administrative funds.

California enacted its unemployment insurance system in 1935 and has sought to maintain federal compliance ever since.

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<sup>1</sup> Neither DOF or CCC mention *Sacramento II* in their comments.

In 1976, Congress enacted Public Law number 94-566 which amended FUTA to require, for the first time, that a "certified" state plan include coverage of public employees. States that did not alter their unemployment compensation laws accordingly faced a loss of both the federal tax credit and the administrative subsidy.

In response, the California Legislature adopted Chapter 2, Statutes of 1978 (hereinafter chapter 2/78), to conform to Public Law 94-566, and required the state and all local governments to participate in the state unemployment insurance system on behalf of their employees.

(2) Sacramento I Litigation

The City of Sacramento and the County of Los Angeles filed claims with the State Board of Control seeking state subvention of the costs imposed on them by chapter 2/78. The State Board denied the claim. On mandamus, the Sacramento Superior Court overruled the Board and found the costs to be reimbursable. In City of Sacramento v. State of California (1984) 156 Cal.App.3d 182 (hereinafter *Sacramento I*) the Court of Appeal affirmed concluding, *inter alia*, that chapter 2/78 imposed state-mandated costs reimbursable under section 6 of article XIII B. It also held, however, that the potential loss of federal funds and tax credits did not render Public Law 94-566 so coercive as to constitute a "mandate of the federal government" under Section 9(b).<sup>2</sup>

In other words, *Sacramento I* concluded, *inter alia*, that the loss of federal funds and tax credits did not amount to "compulsion."

(3) Sacramento II Litigation

After remand, the case proceeded through the courts again. In *Sacramento II*, the Supreme Court held that the obligations imposed by chapter 2/78 failed to meet the "program" and "service" standards for mandatory subvention because it imposed no "unique" obligation on local governments, nor did it require them to provide new or increased governmental services to the public. The Court of Appeal decision, finding the expenses reimbursable, was overruled.

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<sup>2</sup> Section 1 of article XIII B limits annual "appropriations". Section 9(b) provides that "appropriations subject to limitation" do not include "appropriations required to comply with mandates of the courts or the federal government which, without discretion, require an expenditure for additional services or which unavoidably make the provision of existing services more costly."

However, the court also overruled that portion of *Sacramento I* which held that the loss of federal funds and tax credits did not amount to "compulsion."

(4) *Sacramento II* "Compulsion" Reasoning

Plaintiffs argued that the test claim legislation required a clear legal compulsion not present in Public Law 94-566. Defendants responded that the consequences of California's failure to comply with the federal "carrot and stick" scheme were so substantial that the state had no realistic "discretion" to refuse.

In disapproving *Sacramento I*, the court explained:

"If California failed to conform its plan to new federal requirements as they arose, its businesses faced a new and serious penalty - full, double unemployment taxation by both state and federal governments." (Opinion, at page 74)

Plaintiffs argued that California was not compelled to comply because it could have chosen to terminate its own unemployment insurance system, leaving the state's employers faced only with the federal tax. The court replied to this suggestion:

"However, we cannot imagine the drafters and adopters of article XIII B intended to force the state to such draconian ends. (¶) ...The alternatives were so far beyond the realm of practical reality that they left the state 'without discretion' to depart from federal standards." (Opinion, at page 74, emphasis supplied)

In other words, terminating its own system was not an acceptable option because it was so far beyond the realm of practical reality so as to be a draconian response, leaving the state without discretion. The only reasonable alternative was to comply with the new legislation, since the state was practically "without discretion" to do otherwise.

The Supreme Court in *Sacramento II* concluded by stating that there is no final test for a determination of "mandatory" versus "optional":

"Given the variety of cooperative federal-state-local programs, we here attempt no final test for 'mandatory' versus 'optional' compliance with federal law. A determination in each case must depend on such factors as the nature and purpose of the federal program; whether its design suggests an intent to coerce; when state and/or local participation began; the penalties, if any, assessed for withdrawal or refusal to participate or comply; and any other legal and practical consequences of

nonparticipation, noncompliance, or withdrawal.” (Opinion, at page 76)

(5) The “Kern” Case Did Not Change the Standard

In *Department of Finance v. Commission on State Mandates* (2003) 30 Cal.4th 727, 736, (“Kern”) the Supreme Court first made it clear that the decision did not hold that legal compulsion was necessary in order to find a reimbursable mandate:

“For the reasons explained below, although we shall analyze the legal compulsion issue, we find it unnecessary in this case to decide whether a finding of legal compulsion is necessary in order to establish a right to reimbursement under article XIII B, section 6, because we conclude that even if there are some circumstances in which a state mandate may be found in the absence of legal compulsion, the circumstances presented in this case do not constitute such a mandate.” (Emphasis in the original, underlining added)

After concluding that the facts in *Kern* did not rise to the standard of nonlegal compulsion, the court reaffirmed that either double taxation or other draconian consequences could result in nonlegal compulsion:

“In sum, the circumstances presented *in the case before us* do not constitute the type of non-legal compulsion that reasonably could constitute, in claimants’ phrasing, a ‘de facto’ reimbursable state mandate. Contrary to the situation that we described in (Sacramento II), a claimant that elects to discontinue participation in one of the programs *here at issue* does not face ‘certain and severe...penalties’ such as ‘double...taxation’ or other ‘draconian’ consequences (citation), but simply must adjust to the withdrawal of grant money along with the lifting of program obligations.” (Opinion, at page 754, emphasis supplied to illustrate holding is limited to facts presented)

The test for determining whether there is a mandate is whether compliance with the test claim legislation is a matter of true choice, that is whether participation is truly voluntary. *Hayes v. Commission on State Mandates* (1992) 11 Cal.App.4th 1564, 1582 State money<sup>3</sup> offered to build needed facilities on the condition of the mandated

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<sup>3</sup> According to the unverified statement of CCC, over 3.5 billion dollars have been allocated to community college districts from the 8 bond acts from 1986 through

activities represents a very large carrot and a very short stick. The commission must determine, whether the "carrot and stick" method of funding community college facilities construction is, in fact, non-legal compulsion under the carrot and stick standards set forth in *Sacramento II*.

**C. Erroneous Conclusions of Law on Specific Statutes**

Test claimant will comment here on some of the erroneous points of fact law made by both DOF and CCC.

(1) Education Code Section 81823 is a post 1975 provision

Education Code Section 81823 was added by Chapter 967, Statutes of 1977, Section 1. It is, therefore, a new program. It only comes into play when (1) students are isolated within a district in terms of the distance from the location of an educational program, or the inadequacy of transportation, and students are unable financially to meet the costs of transportation to an educational program; or when (2) existing colleges and educational centers are unable to meet the unique educational and cultural needs of a significant number of ethnic students. Therefore, it is not an "optional" program unless you can state publically that these students are not required to be served.

(2) Educational Centers are a new Requirement

Education Code Section 81821 sets forth the requirements of the five-year plan for capital construction. Subdivision (b) requires enrollment projections to be made cooperatively by the Department of Finance and the community college district. Prior to 1975, these projections only required the projections of community colleges. The section has subsequently been amended to now include educational centers. Obviously, they are not the same. Therefore, to the extent that additional activities are required to make enrollment projections of educational centers, these are increased levels of mandated activities.

(3) Education Code Section 81836 Allows for Additional Fees

Prior to 1975, the Chancellor was authorized to charge community college districts \$25 for each 10 acres or fraction thereof for the review of potential sites, and one-seventh

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of 1 percent of the estimated cost for review of plans and specifications. (Former Education Code Section 20080.1) Now, its successor statute, section 81836, allows the Board of Governors to charge a "reasonable fee" for site reviews and the review of plans and specifications.<sup>4</sup> To the extent that these "reasonable fees" exceed the former \$25 for each 10 acres or fraction thereof, or one-seventh of 1 percent, these are additional costs mandated by the state for which reimbursement is allowable under the California Constitution, Article XIII B, section 6.

(4) Title 5, California Code of Regulations Section 57001.5 Contains New Activities

The second paragraph of subdivision (b) of Section 57001.5 of Title 5, California Code of Regulations states that a "project" as defined in subdivision (a) on property that conforms to subdivision (b) shall be eligible for state funding. The predecessors to section 57001.5 are sections 20052 (pre-1975) and 81802 (post-1975). Neither of these former sections referred to the subdivision (a) projects of planning, a performing arts facility, a gymnasium, basic outdoor physical education facilities, basic food service facilities, child development centers or the initial furnishing of and initial acquisition of equipment.

Neither do these former sections refer to the subdivision (b) requirements related to "reconstruction or remodeling", the transfer of title, or leasing.

To the extent that these new requirements of Title 5, California Code of Regulations Section 57001.5 exceed those set forth in former Education Code Sections 20052 and 81802, these are new or increased levels of activities.

(5) Title 5, California Code of Regulations Section 57011 Contains New Audit Requirements

Title 5, California Code of Regulations Section 57011 subjects a district to a state post-audit review of fund claims for all projects. The predecessors to section 57011 are sections 20058 (pre-1975) and 81809 (post-1975). Neither of these former sections refers to a state post-audit review of fund claims. These audits are, therefore, new programs.

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<sup>4</sup> The unsworn statement of CCC that "...the Chancellor's Office does not "currently" charge such fees..." (emphasis provided) is totally irrelevant. If the Chancellor's Office continues this policy in the future, annual claimants need not claim the cost.

(6) Title 5, California Code of Regulations Section 57013 is a New Program

Title 5, California Code of Regulations Section 57013, for the first time, requires the governing board of a community college district to meet with appropriate local government recreations and park authorities to review all possible methods of coordinating planning, design, and construction of new facilities and sites or major additions to existing facilities and recreation and park facilities in the community. The comments of DOF that the section does not require more than one meeting is both irrational and irrelevant. A review of "all possible methods" for coordination, planning, design and construction, and the discussion of both new facilities and major additions to existing facilities do not translate into one hearing agenda. CCC traces the section back to former section 81831.5 (added by Chapter 797, Statutes of 1979) and inappropriately concludes that the requirement is merely a clarification of law existing prior to January 1, 1975.

(7) Board Agenda Items are Not Law or Regulations

In response to Title 5, California Code of Regulations Sections 57052, 57053, 57055, 57062 and 57063, CCC refers to a 1980 Board of Governor's agenda item. A board agenda item cannot be elevated to the status of law or regulation. As to the underlying issue of discretionary versus mandatory activities, test claimant refers the reader to Part B, above.

In addition, these sections are part of Subchapter 1.5, the provisions on Energy and Resource Conservation. The subchapter was added on September 25, 1980 and is, therefore, a new program. It is based upon a finding of the Board of Governors that it is in the interest of the state and of the people thereof for the state to aid community college districts in finding cost-effective methods of conserving energy and that the costs involved to become more energy efficient are often prohibitive. Title 5, California Code of Regulations Section 57060

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**D. Sections 57001.5, 57010 and 57011 of the Title 5 Regulations are New Programs**

Title 5, California Code of Regulations Sections 57001.5, 57010 and 57011 have Education Code predecessors:

<u>Former Education Code Sections</u>	<u>Current Title 5 Regulations</u>
81802	57001.5
81806	57010
81809	57011

Former Education Code Sections 81802, 81806 and 81809 were repealed by Sections 563, 567 and 569 of Chapter 1372, Statutes of 1990. In each instance, the statute directed that the section "is repealed." It does not say "may be repealed." It does not say "may be repealed if (a subsequent event occurs)." It says each of those sections "is repealed." These sections were repealed and became inoperative on January 1, 1991.

Section 708 of Chapter 1372/90 directed the Board of Governors of the California Community Colleges to "initially" adopt and put into effect regulations which incorporate the text of the repealed sections. Since an "initial" adoption was anticipated, the section only permitted grammatical or technical changes, renumbering or reordering sections, removal of outdated terms or references to inapplicable or repealed statutory authorities, and the correction of gender references. This "initial" cut-and-paste operation was ordered to be done "[P]rior to January 1, 1991."

While it is recognized that subdivision (2) of Section 708 contains exculpatory language, the "intent" of the legislature cannot undo the clear effect that each of the sections "is repealed."

The Board of Governors did not obey the directive until March 4, 1991 (operative April 3, 1991). Therefore Sections 57001.5, 57010 and 57011 of Title 5, California Code of Regulations are new programs.

CCC's reference to *Barnhart v. Cabrillo Community College*<sup>5</sup> (1999) 76 Cal.App.4th 818

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<sup>5</sup> Pursuant to Title 2, California Code of Regulations, Section 1183.03(2), a copy of *Barnhart v. Cabrillo Community College* is attached hereto as Exhibit "A", since CCC

is factually distinguishable. *Barnhart* is a tort liability case where the sole issue was whether the immunity provisions of Title 5, section 55450 applied to that case. (Opinion, at page 821)

The court discussed the statute-regulation dichotomy at pages 824-825. Plaintiffs argued that the Title 5 regulation should be given a lesser effect than a conflicting Education Code section. After discussing the history of the "code section turned regulation", the court held that the two sections must be deemed to have equal dignity.

What the court did not decide was whether the Education Code section was effective or operational between January 1, 1991 (the date of the statutory repeal) and April 5, 1991 (the operative date of the regulation). In fact, the date of the accident is not even mentioned in the facts as recited by the court.

Simply stated, *Barnhart* does not resolve the question of the viability of a statute, after repeal, but before the effective date of the replacement regulation.

**E. Energy Savings Do Not Prevent a Finding of a Mandate**

In response to the Title 5 regulations relative to the subchapter on Energy and Resource Conservation, DOF cites Government Code Section 17556(e) as purported legal support for its hope that "these projects, by definition, provide offsetting cost savings to districts through reduced energy consumption."

Subdivision (e) of Section 17556 of the Government Code provides that the Commission shall not find costs mandated by the state if:

"...(e) The statute of executive order provides for offsetting savings to local agencies or school districts **which result in no net costs** to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate **in an amount sufficient to fund** the cost of the state mandate." (Emphasis added)

The error of DOF's argument is that it refers to savings from the energy conservation program, whereas, section 17556(e) refers to savings provided in the statute or executive order. The test claim legislation provides absolutely no offsetting savings. Furthermore, there is not one scintilla of evidence before the

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did not do so.

Commission (verified or unverified) that the hoped-for energy savings will **result in no net costs** or be **in an amount sufficient to fund** the cost of the state mandate. This argument of the DOF fails both in law and in fact.

### CERTIFICATION

I certify by my signature below, under penalty of perjury under the laws of the State of California, that the statements made in this document are true and complete to the best of my own personal knowledge or information and belief.

Sincerely,



Keith B. Petersen

C: Per Mailing List Attached

## DECLARATION OF SERVICE

RE: Community College Construction 02-TC-47  
CLAIMANT: Santa Monica Community College District

I declare:

I am employed in the office of SixTen and Associates, which is the appointed representative of the above named claimant(s). I am 18 years of age or older and not a party to the within entitled matter.

On the date indicated below, I served the attached: letter of March 30, 2004, addressed as follows:

Paula Higashi  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814

AND per mailing list attached

FAX: (916) 445-0278

- |  |   |
|--|---|
| <p><input checked="" type="checkbox"/> <b>U.S. MAIL:</b> I am familiar with the business practice at SixTen and Associates for the collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at SixTen and Associates is deposited with the United States Postal Service that same day in the ordinary course of business.</p> | <p><input type="checkbox"/> <b>FACSIMILE TRANSMISSION:</b> On the date below from facsimile machine number (858) 514-8645, I personally transmitted to the above-named person(s) to the facsimile number(s) shown above, pursuant to California Rules of Court 2003-2008. A true copy of the above-described document(s) was(were) transmitted by facsimile transmission and the transmission was reported as complete and without error.</p> |
| <p><input type="checkbox"/> <b>OTHER SERVICE:</b> I caused such envelope(s) to be delivered to the office of the addressee(s) listed above by:</p> <p>_____ (Describe)</p>   | <p><input type="checkbox"/> A copy of the transmission report issued by the transmitting machine is attached to this proof of service.</p> <p><input type="checkbox"/> <b>PERSONAL SERVICE:</b> By causing a true copy of the above-described document(s) to be hand delivered to the office(s) of the addressee(s).</p>  |

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on 3/30/04, at San Diego, California.

  
\_\_\_\_\_  
Diane Bramwell

# Commission on State Mandates

Original List Date: 7/9/2003  
Last Updated: 10/31/2003  
List Print Date: 02/09/2004  
Claim Number: 02-TC-47  
Issue: Community College Construction

Mailing Information: Other

## Mailing List

### TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.2.)

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Office of the Attorney General  
State of California

Opinion No. 79-709

October 5, 1979

THE CHANCELLOR OF THE CALIFORNIA COMMUNITY COLLEGES

THE CHANCELLOR OF THE CALIFORNIA COMMUNITY COLLEGES has requested an opinion on a question that we have rephrased as follows:

What is the scope of review by the Chancellor's Office of the 'plans' for the construction of a community college facility that is subject to Education Code section 81837 but is to be financed entirely by 'local' funds?

CONCLUSION

The plans for construction of a community college school facility, which is subject to Education Code section 81837 but which is to be financed entirely by 'local' funds, are subject to review and approval by the Chancellor only in accordance with such standards as he has established pursuant to Education Code section 81836. Plans for such an entirely locally funded construction project of a community college district are not subject to review or approval by the Chancellor as part of a 'plan for capital construction' that is required of each community college district by Education Code section 81820. Such a construction project is neither subject to the standards of the Board of Governors of the California Community Colleges adopted pursuant to Education Code section 81821 nor to any other provision of Education Code section 81821 except that the construction project must be included in the annual 'building inventory' report to the Chancellor as required by Education Code section 81821, subdivision (e). Such a locally funded construction project is not subject to any cost standards or construction standards formulated by the Chancellor pursuant to Education Code section 81805.

ANALYSIS

A community college district proposes to build a school facility, concededly subject to the provisions of section 81837, using only locally derived public funds. Education Code [FN1] section 81837 reads in full as follows:

'The governing board of each community college district, except districts governed by a city board of education, before letting any contract or contracts totaling twenty thousand dollars (\$20,000) or more, for the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the chancellors office, and obtain the written approval of the plans by the office. No contract for construction made by any governing board of a community college district contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section.'

We are required to harmonize several provisions of the Education Code, relating to the construction of school buildings, that are applicable to community college districts, to the Board of Governors of the California Community Colleges and to the Chancellor's Office of the California Community Colleges.

\*2 The question presented seeks, in effect, to ascertain whether the scope of review by the Chancellor's Office of 'plans' for a construction project that is entirely locally funded is limited to determining whether such plans reveal compliance with 'standards' established by the Chancellor pursuant to section 81836 or whether the review includes any or all of the elements specified in the Community College Construction Act of 1967 as originally enacted and as thereafter amended. (See § 81800 et seq.)

As an aid to following the discussion presented herein, we shall summarize the major conclusions that are to be derived from the applicable statutes. With respect to community college construction, two distinct statutes impose upon the Chancellor the duty to formulate or to adopt standards relating to the construction of community college facilities. By statute, the Chancellor is charged with different duties with respect to reviewing 'plans' for construction in the light of those 'standards' and of approving or disapproving such plans based upon their compliance with such standards, as they may be applicable. These duties serve different purposes and are not necessarily coextensive. The Chancellor is obligated to 'establish standards' pursuant to subdivision (b) of section 81836, which standards each community college district must comply with if the cost of construction is \$20,000 or more. The Chancellor is further obligated to 'formulate standards' pursuant to section 81805, which standards are to be utilized by the Chancellor in reviewing 'plans for construction' of community college districts seeking state financial assistance for paying the costs of such construction. Each community college district need comply with section 81805 standards only as such compliance may be required to obtain any state financial assistance that it makes application for. Further, the Board of Governors of the Community Colleges, not the Chancellor, is charged with adopting other standards, as specified in section 81821, concerning a 'plan for capital construction' required of each community college district. An entirely locally funded construction project is not subject to a condition precedent that it be part of such a plan of capital construction before it may be 'approved' by the Chancellor but such a construction project must be included by a community college district in its report to the Chancellor of its 'annual inventory of all facilities of the district,' as required by subdivision (e) of section 81821.

We start our analysis by stating that the fundamental rule of statutory construction is the determination of and the giving effect to the intent or purpose of the Legislature in adopting the statute. (Great Lakes Properties, Inc. v. City of El Segundo (1977) 19 Cal.3d 152, 163; Select Base Materials v. Board of Equal. (1959) 51 Cal.2d 640, 645.) In ascertaining the legislative intent, the fact that the Legislature has reorganized the Education Code does not give its provisions new meanings. Insofar as such provisions remain substantially the same, they shall be construed as restatements and continuations and not as new enactments. (§ 3.) Further, 'title, division, part, chapter, article, and section heading do not in any manner affect the scope, meaning, or intent of the provisions of [the Education] code.' (§ 5.) (Emphasis added.) (See generally, 4 Ops.Cal.Atty.Gen. 256 (1944) (pertaining to the effect of the repeal in 1943 of the School Code and the enactment of the Education Code of 1943); but see 14 Ops.Cal.Atty.Gen. 220 (1949).)

\*3 Section 81837, *supra*, provides that any contract, totaling \$20,000 or more, for the erection of any new community college facility or for any addition to, or alteration of, an existing community college facility shall not be valid unless the community college district proposing the project has obtained the written approval of the 'plans' for such project from the Chancellor's Office, nor may any public money be spent on such a project until such approval has been obtained.

Section 81836 provides in relevant part that:

'The chancellor shall:

'.....

'(b) Establish standards for community college facilities.

'(c) Review all plans and specifications for all construction in every community college district required to submit plans and specifications therefor to it [sic] for approval.

'.....

'(d) Approve plans and specifications submitted by governing boards of community college districts, and return without approval and with recommendation for changes, any plans not conforming to established



standards.

‘.....

‘(f) Employ experts, and clerical and stenographic assistants as may be required for expediting the checking and approving of plans and specifications.’ (Emphasis added.)

As we shall explain more fully, sections 81836 and 81837 have been applicable to the construction of facilities by community college districts since 1929; their enforcement was within the jurisdiction of the Department of Education until 1974. In 1966 the Legislature enacted a Community College Construction Act and replaced that act in 1967 by the Community College Construction Act of 1967. As enacted, these provisions also were within the jurisdiction of the Department of Education. In 1967, the Legislature created the Board of Governors of the California Community Colleges and it authorized the establishment of the Chancellor's Office. The Legislature, however, did not amend the Community College Construction Act of 1967 until 1971 so as to bring its enforcement within the jurisdiction of the Board of Governors of the Community Colleges and of the Chancellor's Office. Then, in 1974, the Legislature charged the Chancellor's Office with the enforcement of sections 81836 and 81837. However, in transferring in 1974 the authority and responsibilities set forth in sections 81836 and 81837 from the Department of Education to the Chancellor's Office, the Legislature placed these two statutes among the original provisions of the Community College Construction Act of 1967.

Because section 81837 is located in the present Education Code among the provisions that were originally enacted as part of the Community College Construction Act of 1967, it appears to be merely a part of that act. However, careful historical analysis reveals that section 81837 has a significance independent of that act while at the same time it is intended to function in a manner that is compatible with the provisions of that act. Such historical analysis is difficult because of the fact that the education code has undergone four major reorganizations starting with 1929, including in each instance a complete renumbering of all extant provisions, as well as a relocation of many of such provisions within the codes. For convenience, we shall commence our inquiry at the point in time when the Legislature enacted the predecessor provisions of those sections now numbered 81836 and 81837.

\*4 In 1929, the Legislature collected most of the provisions relating to the public schools into one code, called the School Code. Although there was, prior to 1929, a provision regulating the letting of school building construction contracts, it was in 1929 that the Legislature first enacted a statute containing the provisions now found in section 81837, supra. These provisions have remained unchanged for fifty years, except for an occasional increase in the amount of dollars that subjected a school building construction contract to a ‘review of plans’ by a state agency and except for changes as to which public entity should review those plans. As originally enacted in 1929, School Code section 6.61 (Stats. 1929, ch. 172) read as follows:

‘It shall be the duty of the governing board of each school district, except districts governed by a city board of education, before letting any contract or contracts totaling five thousand dollars or more, for the erection of any new school building, or for any addition to, or alteration of, an existing school building, to submit plans therefor to the state department of education, and to obtain the written approval of such plans by the state department of education. No contract for building made by any governing board of a school district prior to the provisions of this section shall be valid, nor shall any public moneys be paid for erecting, adding to, or altering any school building in contravention of the provisions of this section.’

The same legislative enactment (Stats. 1929, ch. 172) established a Division of Schoolhouse Planning in the State Department of Education. Among the duties of the Division of Schoolhouse Planning were the following:

‘School Code § 2.1462. To establish standards for school buildings;

‘School Code § 2.1463. To review plans and specifications of all school buildings, except in districts governed by a city board of education, . . . ;

‘School Code § 2.1464. To approve plans and specifications submitted by governing boards of school districts, and to return without approval and with recommendations for changes, any plans not conforming to established standards;

‘School Code § 2.1465. To make all necessary provisions whereby governing boards of school districts, or arc-

itects engaged by them, may procure by purchase or otherwise, copies of standard specifications, plans and building codes prepared by the department. . . .’

Thus, the scope of review by the Division of Schoolhouse Planning of plans submitted to it by a public school district could be determined by reference to the provisions of the former School Code authorizing the Division to establish standards for school building construction; its duties included rejecting plans not conforming to the standards it established. Further, such review by the Division of Schoolhouse Planning was required irrespective of the source of funding for such school facilities. A comparison of the provisions of former School Code sections 2.2162, 2.1463, 2.1464 and 6.61 with the provisions of present Education Code sections 81836 and 81837 reveals no substantive differences whatsoever as to these specific requirements, thus raising an inference that absent some additional enactment by the Legislature during the succeeding 50 years, no change has in fact occurred with respect to the legislative intent.

\*5 In 1943, the Education Code replaced the School Code. School Code section 6.61, supra, became former Education Code section 18172, a part of article 2, chapter 3, division 9, entitled ‘Plans for Schoolhouses.’ The separate School Code provisions relating to the duties of the Division of Schoolhouse Planning were consolidated into former Education Code section 18102. In 1959, the Legislature reorganized the provisions of the Education Code. Education Code section 18172 became Education Code section 15409. Education Code section 18102 became Education Code section 15302. No change occurred with respect to the context in which these sections were found. The enforcement of these provisions remained with the Department of Education.

The import of these provisions as of 1959 has been stated by the California Legislative Counsel [FN2] to be as follows: ‘We are informed by the Department of Education that . . . Section 15409 of the 1959 code was contemporaneously interpreted to authorize the Department of Education to review and approve plans on the basis of the building and structural designs, which consisted of the plans submitted. It was the department’s interpretation that, as used in Section 15409 of the 1959 code, approval of plans did not include the written approval based upon the department’s evaluation of the necessity or justification for building new facilities or alterations made to existing facilities.’

We assume, for purposes of this opinion, that this statement accurately reflects the administrative interpretation of section 15409 by the Department of Education.

At this point we shall delay further consideration of the history of sections 81836 and 81837 until we have discussed the history of two community college construction acts and related provisions.

In 1965, the Legislature enacted the Junior College Construction Act. (Stats. 1965, ch. 1272.) Former section 20015 defined a ‘project’ as meaning ‘the purpose for which a junior college district has applied for assistance under this chapter . . .’ Former section 20030 provided in part that ‘any junior college district may apply . . . for state assistance not to exceed the amount of entitlement computed for the district . . . to undertake one or more projects.’ Former section 20040 provided that ‘the Legislature shall consider the requests for state assistance for junior college projects as contained in the Governor’s Budget, and shall determine the extent to which state assistance shall be provided.’ Former section 20043 provided in part that ‘each project for which an appropriation is made shall be financed with both local and state funds . . . except that the state’s share shall not exceed the accumulated district entitlement.’ Former section 20025 provided in part that ‘this chapter shall be administered by the Department of Education’ and former section 20026 provided in part that ‘the duties of the department in administering this chapter shall include . . . approving plans and specifications for each project . . .’ Former section 20034 provided in part that ‘the projects transmitted [to the Department of Finance] shall be considered for inclusion in the Governor’s Budget for the [next] fiscal year.’

\*6 During the 1966 First Extraordinary Session, the Legislature created the Capital Outlay Fund for Public Higher Education. (Stats. 1966, 1st Ex. Sess., ch. 155.) Former section 22510 provided in part that ‘a fund in the State Treasury is hereby created, to be known as the Capital Outlay Fund for Public Higher Education . . . All money in the . . . Fund . . . shall be available, when appropriated by the Legislature, for expenditure for capital outlay purposes

relating to public higher education including, but not limited to, acquisition of sites and construction of new institutions of public higher education thereon.' Former section 22512 provided in part that 'for purposes of this chapter 'public higher education' shall consist of (1) all public junior colleges heretofore and hereafter established pursuant to law . . . .'

The Junior College Construction Act, *supra*, (Stats. 1965, ch. 1272; former Ed. Code, § 20010 et seq.) was replaced in 1967 by the Junior College Construction Act of 1967. (Stats. 1967, ch. 1550; former § 20050 et seq. and now denominated the Community College Construction Act of 1967, present § 81200 et seq.) Also in 1967, the Legislature repealed the Capital Outlay Fund for Public Higher Education, *supra*, (Stats. 1967, ch. 1550, § 4, p. 3722) and enacted the Junior College Construction Program Bond Act of 1968 (Stats. 1967, ch. 1555) [FN3] whose purpose was stated in section 2 of said act to 'provide the necessary funds to meet the major building construction, equipment and site acquisition needs of California public junior colleges. (Stats. 1967, ch. 1555, p. 3728). The proceeds of the Junior College Construction Program Bond Act of 1968 were to 'be used for major building construction, acquisition of equipment, and acquisition of sites for California public junior colleges under the Junior College Construction Act (ch. 18 (commencing with § 20010) of div. 14 of the Ed. Code), as it may be amended from time to time, or under any act enacted to succeed the Junior College Construction Act.' (Stats. 1967, ch. 1555, § 2, p. 3728.)

Of further significance, the Legislature in 1967 enacted the provisions creating the Board of Governors of the California Community Colleges and authorizing the establishment of the Chancellor's Office. (Stats. 1967, ch. 1549.) However, the Legislature nevertheless gave administrative responsibility for implementing and enforcing the Junior College Construction Act of 1967 to the State Board of Education and to the State Department of Education. (Stats. 1967, ch. 1550, p. 3717; see former Ed. Code, §§ 20054, 20065, 20066, 20076, 20077 for example.)

The Legislature did not vest jurisdiction with respect to the provisions of the Community College Construction Act of 1967 in the Board of Governors of the California Community Colleges and in the Chancellor's Office until 1971. (Stats. 1971, ch. 1525, p. 3020 et seq.)

In 1976, the Legislature again reorganized the Education Code. The provisions of the Junior College Construction Act of 1967 now appear in the 1976 Reorganized Education Code as the Community College Construction Act of 1967, section 81200 et seq. We shall now examine some of the relevant provisions of the Community College Construction Act of 1967 as they appear in the Reorganized Education Code of 1976.

\*7 Seven of the Key provisions of the Community College Construction Act of 1967 are sections 81802, 81805, 81820, 81821, 81822, 81830 and 81831. For convenience we will start with section 81820 which provides that:

'On or before November 1, 1967, the governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district for the 10-year period commencing with that date. After January 1, 1975, the plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The plan shall be subject to continuing review by the governing board and each year shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of February in each succeeding year, a report outlining the required modification or changes, if any, in the plan.'

Thus, this section: (1) required as of November 1, 1967, the preparation by each community college district of a 10-year plan for capital construction, to be submitted to the chancellor's office; (2) after January 1, 1975, amendment of the plan to reflect capital construction for community college purposes for the five-year period commencing with the next proposed year of funding; (3) each governing board shall continually review the plan and each year the plan shall be extended one year; and (4) in each succeeding year, on or before February 1, the governing board shall submit to the chancellor's office a report outlining the required modifications or changes, if any, in the plan.

Section 81821 provides that:

'The plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

'(a) The plans of the district concerning its future academic programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas to be emphasized.

'(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college within a district shall be made cooperatively by the Department of Finance and the community college district.

'(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors.

'(d) District office, library and supporting facility capacities as derived from the physical plant standards for office, library and supporting facilities adopted by the board of governors.

'(e) An annual inventory of all facilities of the district using standard definitions, forms, and instructions adopted by the board of governors.'

\*8 Some of the relevant factors thus required to be included in the 'plan for capital construction' are (1) a projection of the district's academic programs and subject matter areas to be emphasized in the future and their effect with respect to estimated construction needs; (2) data such as current enrollment capacity and projected enrollment; (3) an annual inventory of all facilities of the district using standard definitions, forms, and instructions adopted by the board of governors of the California Community Colleges; and (4) 'district office, library and supporting facility capacities as derived from the physical plant standards for office, library and supporting facilities adopted by the board of governors of the California Community Colleges.

It is of critical import to note at this point that the obligation to adopt standard definitions, forms, instructions and physical plant standards, as required by section 81821 is imposed upon the Board of Governors of the California Community Colleges and not upon the Chancellor's Office. Whereas, under section 81836 the duty to adopt certain standards is imposed upon the Chancellor's Office.

The next section to be considered, section 81822, does impose an obligation upon the Chancellor's Office. Section 81822 provides that:

'The chancellor shall review, and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and approve the same. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each district maintaining a community college shall be made on or before each succeeding first day of May. The chancellor shall, promptly after such approval, notify the governing board of each community college district of the approved form and content of the district's plan for capital construction.'

Thus, the Chancellor's duty pursuant to section 81822 is to review each district's plan for capital construction in terms of the elements of the capital construction program specified in section 81821, which elements are derived in part from section 81821 itself and from further requirements to be established by the Board of Governors of the California Community Colleges, rather than by the Chancellor.

The next critical section to be considered is section 81830 which provides that:

'Any community college district may submit to the chancellor for review and approval a proposed project. The proposed project shall be an element of the district's plan for capital construction. It shall be in such form and contain such detail, pursuant to rules and regulations of the board of governors, as will permit its evaluation and approval with reference to the elements of the capital construction program specified in Section 81821.'

\*9 A 'project' is defined by section 81802 as follows:

'As used in this chapter, the term 'project' means the purpose for which a community college district has applied for assistance under this chapter for one or more institutions under its authority or for districtwide facilities. A project may include the acquisition and improvement of community college sites, the planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, laboratory, library, related facilities necessary for the instruction of students or for administration of the educational program, maintenance or utility facilities essential to the operation of the foregoing facilities, and the initial acquisition of equipment. A project shall not include the planning or construction of dormitories, student centers other than cafeterias, stadia, the improvement of site for student or staff parking, or single-purpose auditoriums.'

The function of this section is to define what types of projects by community college districts shall be eligible for state financial assistance in paying for the project. However, its broad language, to wit: '. . . the term 'project' means the purpose for which a community college district has applied for assistance under this chapter . . .' suggests that the purpose of the chapter is to establish a satisfactory method by which the Legislature may determine whether to provide state financial assistance to a particular project. We shall advert to this issue again.

In essence, section 81830, supra, authorizes a community college district, within its discretion, to submit a proposed project to the Chancellor for his review and approval. The proposed project 'shall' be an element of the district's plan for capital construction. The proposed project shall be in such form and shall contain such detail, pursuant to rules and regulations of the Board of Governors, as will permit the Chancellor to evaluate it with reference to the elements of the capital construction program specified in section 81821.

A parallel provision, section 81831, states the duty of the Chancellor with respect to a proposed project. Section 81831 provides that:

'The chancellor shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Section 81821, and if approved after review by the Board of Governors of the California Community Colleges, shall transmit the approved proposed project to the Department of Finance not later than April 1, 1968, and May 1st of each year thereafter. A proposed project not approved shall be returned to the governing board of the community college district with recommendations concerning changes deemed necessary by the chancellor.'

Thus, after review by the Chancellor, the proposed project must be reviewed and is subject to the approval of the Board of Governors of the California Community Colleges. If approved, the proposed project is to be transmitted to the State Department of Finance by the dates specified. The duties of the Department of Finance with respect to such a project are specified in section 81832. Sections 81831 and 81832 specify the procedure if the proposed project is not approved by any of the specified reviewing public entities. Several additional procedural time limits for submission of the project and its approval are specified by section 81833.

\*10 In setting forth these provisions, we passed over section 81805 intentionally. Section 81805 provides that:

'This chapter shall be administered by the chancellor, and for purposes of such administration the board of governors may adopt all necessary rules and regulations.

'For purposes of this chapter, the chancellor shall assemble statewide data on facility and construction costs, and on the basis thereof formulate cost standards and construction standards. The formulation of standards shall include also the formulation of average ratios of equipment cost to total project costs, unit equipment costs per faculty or other staff measure, and unit costs as related to floor areas.'

No section requires that a community college district comply with any of the cost standards or construction standards 'formulated' by the Chancellor as contemplated by section 81805. No section states that the Chancellor shall approve a district's construction plans only upon the condition that he determines that they comply with the standards formulated by the Chancellor pursuant to section 81805. Several of the sections of the Community College Construction Act of 1967 specifically condition the Chancellor's approval upon the construction project's meeting the 'elements' spe-

cified in section 81821. Assuming that the Chancellor has formulated such standards, we believe that the intent of the Legislature is that such standards are to be formulated as a basis for evaluating plans for construction for which state financial assistance is requested, not as statewide standards to be required of all school facility construction. The latter function is performed by section 81837 if the cost of construction is \$20,000 or more.

Section 81834 provides that:

'Upon securing approval of a proposed project pursuant to Sections 81831 and 81832, the governing board of a community college may submit to the chancellor for approval preliminary plans for the project. In order that a project shall be eligible for inclusion in the budget and the Budget Bill submitted to the Legislature by the Governor at each regular session of the Legislature, the preliminary plans for the project shall be submitted by the governing board of the district to the chancellor prior to the first day of October each year preceding the commencement of such regular session. . . . In the event that the governing board of a community college district has decided to submit a request for funds for working drawings only, in the first fiscal year, it may submit initial preliminary plans based upon the program for the project . . . ' (Emphasis added.)

Sections 81831 and 81832, referred to in section 81834, supra, are the sections that require: (1) the Chancellor to review and evaluate each proposed project with reference to the elements of the capital construction program specified in section 81821; (2) require approval of the Board of Governors of the California Community Colleges; and (3) require approval of the Department of Finance. We note again that there is no specific mention of section 81805 and the standards formulated by the Chancellor pursuant to its terms.

\*11 Section 81835 provides that the Chancellor shall review and evaluate preliminary plans for a project which, if approved, shall be submitted to the Department of Finance 'not later than the 15th day of November each year.' We assume at this point that the preliminary plans of a proposed project, for which state financial assistance is sought, are subject to evaluation and review by the Chancellor in accordance with both section 81836 standards and section 81805 standards.

Section 81838 specifies that the review and evaluation of preliminary plans for a project by the Chancellor shall include certain fiscal considerations. Section 81839 et seq. provide for a determination of the state and district's share of the cost of the project. Finally, section 81843 provides that:

'Portions of the state's share of any project not appropriated to the community college district pursuant to Section 81841, may be included in the budget and the Budget Bill submitted by the Governor for either or both of the next two succeeding fiscal years, as determined by the Department of Finance.'

Section 81807 provides that:

'Funds appropriated for a project of a community college district for purposes of this chapter shall be allocated and disbursed upon order of the chancellor, and by warrants of the State Controller issued pursuant thereto.'

We believe that the language of these sections makes it clear that the statewide responsibility imposed upon the Chancellor by the provisions of the Community College Construction Act of 1967 is with respect to construction projects for which state financial assistance will be sought.

The major thrust of these provisions is to assure a methodology by which state funds may be distributed fairly and equitably to various community college districts to the extent that they make application for state financial assistance for construction projects. One of the devices utilized by the Legislature was the 10-year (now 5-year) plan for capital construction to be submitted to the Chancellor's Office by each public community college district. We do not believe that the Legislature intended that every modification of a school building costing \$20,000 or more that might be deemed necessary up to five or ten years in the future be set forth in the plan as a condition precedent to making such expenditures, if they were otherwise authorized to be expended. The intent of the Legislature was to assure that state funds not be provided for capital construction except after comprehensive review by the Chancellor's Office, the

Board of Governors and the Department of Finance and then only after an appropriation by the Legislature, it having such approvals before it. We note that section 81802 provides that 'as used in this chapter, the term 'project' means the purpose for which a community college district has applied for assistance under this chapter for one or more institutions under its authority or for districtwide facilities. . . .' (Emphasis added.) The concept of community college purposes as described in section 81802 is echoed in section 81820, to wit: 'On or before November 1, 1967, the governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes . . . for the 10-year period commencing with that date. . . .' (Emphasis added.)

\*12 Compare section 71072, 'the board of governors [of the California Community Colleges] shall administer state support programs, both operational and capital outlay, and those federally supported programs for which the board of governors has responsibility pursuant to state or federal law' and section 71076, 'the board of governors [of the California Community Colleges] shall establish space and utilization standards for facility planning in order to determine eligibility for state funds for construction purposes.' For the full import of these provisions, see sections 71060 and 72280.

We have now set forth some of the legislative history of the Community College Construction Act of 1967 and focused upon some of its key provisions. We shall now return to the historical analysis of sections 81836 and 81837 and resolve the issue of their function in the context in which they are found in the Education Code. We previously stated that present sections 81836 and 81837 were numbered in the 1959 Education Code as sections 15302 and 15409. We further stated that their enforcement was vested in the Department of Education. We turn now to Assembly Bill No. 2398. (Stats. 1974, ch. 30.)

In 1973, Assembly Bill No. 2398 was introduced in the Legislature and was enacted into law in 1974. (Stats. 1974, ch. 30.) The Legislative Counsel's Digest stated:

'AB 2398, as introduced, Vasconcellos (Ed.). Community college facilities.

'Transfers from State Department of Education to the Chancellor of the California Community Colleges, certain responsibilities re the acquisition of school sites and the planning and construction of school facilities.

'Makes related changes.

'Vote: majority. Appropriation: No. Fiscal committee: yes. State-mandated local program: no.'

Assembly Bill No. 2398 amended former sections 15302 and 15409 of the 1959 Education Code to make clear that the provisions of those sections pertained only to elementary and secondary school districts. Assembly Bill No. 2398 added two new sections to the 1959 Education Code, pertaining to community colleges. We shall refer to them momentarily by their section numbers, as they were enacted in 1974. However, these sections are now numbered sections 81836 and 81837, which are the sections at issue in this opinion.

'20080.1. The chancellor shall:

'(a) Advise the governing board of each community college district on the acquisition of new college sites, and, after a review of available plots, give the governing board of the district in writing a list of the approved locations in the order of their merit, considering especially the matters of educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction, and charge the governing board of the community college district a fee of twenty-five dollars (\$25) for each 10 acres or fraction thereof of school site reviewed.

\*13 '(b) Establish standards for community college facilities.

'(c) Review all plans and specifications for all construction in every community college district required to submit plans and specifications therefor to it for approval.

'The chancellor's office shall charge community college districts for the review of plans and specifications, a fee of one-seventh of 1 percent of the estimated cost determined by the chancellor's office except for those projects intended to be funded totally with district funds in which case a fee of one-twentieth of 1 percent will be charged. The minimum fee in any case shall be ten dollars (\$10).

'(d) Approve plans and specifications submitted by governing boards of community college districts, and

return without approval and with recommendation for changes, any plans not conforming to established standards.

'(e) Make, upon the request of the governing board of any community college district, except a city board of education, a survey of the building needs of the district, advise the governing board concerning the building needs, suggest plans for financing a building program to meet the needs, and collect the cost of the survey, exclusive of the salaries of the state employees participating therein, from the district.

'(f) Employ experts, and clerical and stenographic assistants as may be required for expediting the checking and approving of plans and specifications.

'20080.2. The governing board of each community college district, except districts governed by a city board of education, before letting any contract or contracts totaling ten thousand dollars (\$10,000) or more, for the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the chancellor's office, and obtain the written approval of the plans by the office. No contract for construction made by any governing board of a community college district contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section.'

The effect of these enactments was to vest jurisdiction in the Chancellor of the California Community Colleges rather than in the State Board of Education as to community college construction projects costing \$10,000 or more. Section 20080.1 of the 1959 Education Code is now section 81836 of the 1976 Education Code. Section 20080.2 of the 1959 Education Code is now section 81837 of the 1976 Education Code, except that the \$10,000 has become \$20,000.

Assembly Bill No. 2398, supra, also effected a change in the schedule of fees to be charged by the Chancellor's Office, compared with the fee to be charged by the Department of Education, for the review of plans and specifications for construction of facilities. The fee to be charged by the Department of Education remained at one-twentieth of one percent of the estimated cost of the construction project. With respect to the fees to be charged by the Chancellor's Office, subdivision (c) of section 20080.1 (as added by AB 2398) read:

\*14 'The chancellor's office shall charge community college districts for the review of plans and specifications, a fee of one-seventh of 1 percent of the estimated cost determined by the chancellor's office except for those projects intended to be funded totally with district funds in which case a fee of one-twentieth of 1 percent will be charged . . . ' (Emphasis added.)

Further, the Legislature added section 5 of Assembly Bill No. 2398 which read:

'Sec. 5. The Legislature hereby determines that local costs will be increased only for projects on which community college districts request state support from Community College Construction Act bond funds. Because requests for state funding participation are voluntary, the provisions of Section 2164.3 of the Revenue and Taxation Code do not apply to this legislation.'

These revised fee schedules and the language of section 5 of Assembly Bill No. 2398 thus become key elements in ascertaining the legislative intent with respect to the issues presented.

First, the Legislature expressly distinguished between projects that are fully locally funded and those seeking state financial assistance. As to those projects fully locally funded, it made no change in the amount of fees to be imposed for plans and specifications review by the Chancellor's Office than were to be charged by the Department of Education for its plans and specifications review of construction projects within the elementary and secondary school system. The Legislature provided for an additional amount to be collected when the project was not intended to be funded totally with district funds. In section 5 of Assembly Bill No. 2398, the Legislature acknowledged that this act would cause an increase in local costs but only as to projects which involved a request for state financial support. Since such requests for state financial support were deemed 'voluntary,' no additional local costs were mandated by the state so as to require the application of section 2164.3 of the Revenue and Taxation Code.

Sections 81836 and 81837 were applicable to community colleges before Assembly Bill No. 2398 was enacted but



under the jurisdiction of the State Department of Education and numbered 15302 and 15409. The Legislative Counsel's Digest states that Assembly Bill No. 2398 transfers the specified duties from the Department of Education to the Chancellor's Office. The Legislature was adding some new duties to the Chancellor's Office with respect to the standards applicable to construction plans and, further, it was not making any change as to an entirely locally funded construction project, the exact point at issue in this opinion.

Thus, the provisions of the Community College Construction Act of 1967 and the provisions of former section 15409 (now § 81836) were not viewed as coextensive. That is, some additional authority and responsibility was transferred to the Chancellor's Office from the Department of Education by the Legislature. Thus, we conclude that the duties and responsibilities thereby transferred to the Chancellor's Office were not previously vested in it by the provisions of the Community College Construction Act of 1967.

\*15 It may be recalled that we quoted section 81836 at the start of this analysis and underscored the phrase 'required to submit plans' that is contained in subdivision (c) of section 81836. It is apparent that the plans specified in section 81836 are not the plans specified in section 81820 et seq. The plans referred to in section 81836 are the building plans and specifications relating to the construction project. The plans referred to in section 81820 et seq. are the plans for future capital construction which are to be updated every five years and reported on every year to the Chancellor's Office. The 'requirement' that 'plans' be submitted, mentioned in section 81836, is the requirement imposed by section 81837, to wit, where the construction cost amounts to \$20,000 or more.

Thus, the basic statutory review function of the Chancellor's Office includes: (1) review of the 'plan for capital construction,' section 81822; (2) review of a proposed project for which state financial assistance is sought, sections 81805 and 81831; (3) review of 'preliminary plans' for a project for which state financial support is sought, sections 81805, 81835, and 81836; and (4) review of 'plans and specifications,' irrespective of the source of funding, with respect to construction of facilities costing \$20,000 or more, sections 81836 and 81837.

As a pragmatic matter, the requirement of a five-year plan, with annual reports suggests there is no requirement of approval of each project as a condition precedent to construction of the project. By requiring annual reporting of entirely locally funded construction, the Legislature reasonably assures that the Chancellor has the required data so as adequately to evaluate any construction that requires state financial assistance. Thus, districts seeking state financial assistance for some projects must satisfy the Chancellor that a project is deserving of state financial support in the light of the district's overall needs. A district that elects to build a totally locally funded project may bear some risk that the construction of that project may adversely affect the Chancellor's decision with respect to a project needing state funds. However, the decision to build with local funds is that of the district, not that of the Chancellor, with the consequences of such a decision to be considered by the district as one of the factors pertinent to a decision to build some buildings only with local funds and to seek state assistance with respect to other construction. In any case, no basis appears from which to infer that the Legislature intended that the Chancellor have, in effect, a power to approve (and disapprove) all local decisions concerning the building needs of each district. We believe that such a policy judgment should be reflected by express statutory language rather than by inference. We emphasize, however, that all such construction, costing \$20,000 or more, is subject to the standards adopted by the Chancellor in implementation of sections 81836 and 81837.

\*16 It is not our function to rewrite statutes in the guise of statutory interpretation. If there are problems arising from any lack of cohesion between these various statutes, the Legislature is the proper forum in which to change the statutes once the problems have been brought to its attention.

The language of these statutes is clear. We have now resolved the issue concerning the effect of their particular location in the Education Code. We conclude that the duties imposed upon the Chancellor's Office by section 81836 and the duties imposed upon the Board of Governors and the Chancellor's Office by sections 81800 through 81845 are different duties. The 'standards' referred to in section 81821 are not the same 'standards' referred to in section 81836. The former are to be adopted by the Board of Governors, the latter are to be adopted by the Chancellor. The 'standards'

referred to in section 81805 are not necessarily the same 'standards' referred to in section 81836. Although the Chancellor has the duty of 'formulating' the former and of 'establishing' the latter, these standards serve different legislative purposes and may or may not be the same standards. Whether they are or not, a construction project that does not require state funds is subject only to those standards implementing section 81836.

In summary, our conclusion with respect to the question presented is that the plans for construction of a community college school facility, which is subject to Education Code section 81837 but which is to be financed entirely by 'local' funds, are subject to review and approval by the Chancellor only in accordance with such standards as he has established pursuant to Education Code section 81836. Plans for such an entirely locally funded construction project of a community college district are not subject to review or approval by the Chancellor as part of a 'plan for capital construction' that is required of each community college district by Education Code section 81820. Such a construction project is neither subject to the standards of the Board of Governors of the California Community Colleges adopted pursuant to Education Code section 81821 nor to any other provision of Education Code section 81821 except that the construction project must be included in the annual 'building inventory' report to the Chancellor as required by Education Code section 81821, subdivision (e). Such a locally funded construction project is not subject to any cost standards or construction standards formulated by the Chancellor pursuant to Education Code section 81805.

GEORGE DEUKMEJIAN  
Attorney General

EDMUND E. WHITE  
Deputy Attorney General

[FN1]. All unidentified section references are to the version of the Education Code as it existed at the various times referred to in this opinion.

[FN2]. Opinion of the Legislative Counsel, No. 13499, dated July 31, 1979, page 4. As we have noted, the language of former section 15409 has existed virtually unchanged since 1929 so that there is some question whether the department's interpretation as of 1959 could be considered as a 'contemporaneous' interpretation. The concept of contemporaneous administration construction generally applies to the implementation of a statute immediately subsequent to the enactment of the statute by the Legislature rather than at a time of a subsequent recodification of the code. However, a consistent administrative interpretation of a statute for 45 years is entitled to great weight in determining legislative intent.

[FN3]. Statutes of 1972, chapter 937, the Community College Construction Program Bond Act of 1972, authorizing a maximum of \$160 million for the purposes of the Community College Construction Act of 1967, was adopted by the people at the general election held November 7, 1972. A subsequent bond authorizing act (Stats. 1975, ch. 1066) authorizing \$150 million for the same purposes, was rejected by the people at the primary election held June 8, 1976.

62 Ops. Cal. Atty. Gen. 568, 1979 WL 29277 (Cal.A.G.)

END OF DOCUMENT

Commencing on February 1, 1968, the public junior colleges shall, notwithstanding the preceding provisions of this section, be represented exclusively by two members of the Board of Governors of the California Community Colleges chosen annually by the board, and the chief executive officer of the California Community Colleges; provided that, the member of the State Board of Education or the board's executive officer, the member of the local junior college governing board, and the public junior college administrator (to be replaced by the chief executive officer of the California Community Colleges) shall continue to serve until the successors are designated and qualify to serve. The representatives of the public junior colleges shall serve for one-year terms. One alternate member may be designated by the Board of Governors of the California Community Colleges.

SEC. 3. The Co-ordinating Council for Higher Education, as soon as this act becomes effective, shall undertake a study of all of the duties, powers, responsibilities, and jurisdiction in the management, administration, and control of the junior colleges and shall report to the Governor and to the Legislature on or before December 1, 1968, on the appropriate functions which should be performed (a) by local school boards maintaining junior colleges and (b) by the Board of Governors of the California Community Colleges.

SEC. 4. There is hereby appropriated from the General Fund for the support of the Board of Governors of the California Community Colleges the sum of ten thousand dollars (\$10,000), or so much thereof as may be necessary, to be expended for expenses incurred by the board pursuant to Chapter 1.5 (commencing with Section 175) of Division 2 of the Education Code, including planning for the uninterrupted performance of the functions and duties transferred to the board

#### CHAPTER 1550

*An act to add Chapter 19 (commencing with Section 20050) to Division 14 of, and to add Sections 20047 and 20755 to, the Education Code, and to repeal Section 10 of Chapter 129 of the Statutes of 1966 (First Extraordinary Session), relating to junior college district capital outlay.*

[Approved by Governor August 30, 1967 Filed with  
Secretary of State August 30, 1967]

*The people of the State of California do enact as follows:*

SECTION 1. Section 20047 is added to the Education Code, to read:

20047. This chapter shall remain in effect until July 1, 1968, and thereafter shall have no force and effect.

SEC. 2. Chapter 19 (commencing with Section 20050) is added to Division 14 of the Education Code, to read:

## CHAPTER 19. JUNIOR COLLEGE CONSTRUCTION ACT OF 1967

## Article 1. Definitions and General Provisions

20050. This chapter may be cited as the Junior College Construction Act of 1967.

20051. As used in the chapter, the term "junior college" shall mean grades 13 and 14 of a junior college school; and the term "junior college district" shall mean any district authorized by law to maintain a junior college.

20052. As used in this chapter, the term "project" means the purpose for which a junior college district has applied for assistance under this chapter for one or more institutions under its authority or for districtwide facilities. A project may include the acquisition and improvement of junior college sites, the planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, laboratory, library, related facilities necessary for the instruction of students or for administration of the educational program, maintenance or utility facilities essential to the operation of the foregoing facilities, and the initial acquisition of equipment. A project shall not include the planning or construction of dormitories, student centers other than cafeterias, stadia, the improvement of site for student or staff parking, or single-purpose auditoriums.

20053. As used in this chapter, the term "weekly student contact hours" means the product of the number of students and the scheduled class periods in which they are enrolled, in graded junior college classes in grades 13 and 14 convened prior to 4:30 o'clock p.m. during a census week. A class period is not less than 50 minutes and not more than 60 minutes.

20054. This chapter shall be administered by the Department of Education, and for purposes of such administration the State Board of Education may adopt all necessary rules and regulations.

For purposes of this chapter, the Department of Education shall assemble statewide data on facility and construction costs, and on the basis thereof formulate cost standards and construction standards. The formulation of standards shall include also the formulation of average ratios of equipment cost to total project costs, unit equipment costs per faculty or other staff measure, and unit costs as related to floor areas.

20055. Any action of the Department of Education in administering this chapter may be appealed to the State Board of Education by the governing board of an affected junior college district. The appeal shall be made through the executive officer of the State Board of Education and shall be placed on the agenda of the board in accordance with the general agenda practices of the board. The decision of the board on such appeals shall be final.

20056. Funds appropriated for a project of a junior college district for purposes of this chapter shall be allocated and disbursed upon order of the Department of Education, and by warrants of the State Controller issued pursuant thereto.

20057. In the event an existing junior college district is included in a newly formed junior college district, any unused funds appropriated or authorized to be appropriated for a finally approved project of the included district pursuant to this chapter shall be transferred to the newly formed or including junior college district on the date that such district is effective for all purposes, or prior to such effective date where the governing boards of the districts agree to such earlier transfer.

20058. Upon completion of a project the governing board of the junior college district shall submit to the Department of Education a final report on all expenditures in connection with the project and the sources of the funds expended.

#### Article 2. Plans for Capital Construction

20065. On or before November 1, 1967, the governing board of each junior college district shall prepare and submit to the State Department of Education a plan for capital construction for junior college purposes of the district for the 10-year period commencing with that date. The plan shall be subject to continuing review by the governing board and each year shall be extended one year, and there shall be submitted to the Department of Education, on or before the first day of September in each succeeding year, a report outlining the required modifications or changes, if any, in the plan.

20066. The plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college within a district shall be made cooperatively by the Department of Finance and the junior college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for junior college classrooms and laboratories adopted by the State Board of Education.

(d) District office, library and supporting facility capacities as derived from the physical plant standards for office, library and supporting facilities adopted by the State Board of Education.

(e) An annual inventory of all facilities of the district using standard definitions, forms, and instructions adopted by the State Board of Education.

20067. The Department of Education shall, on or before March 1, 1968, review, and evaluate the plan for capital construction submitted by the governing board of each junior college district in terms of the elements of the capital construction program specified in Section 20066, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and approve the same. A similar review and evaluation of continuing 10-year plans for capital construction submitted by the governing board of each district maintaining a junior college shall be made on or before each succeeding first day of December. The department shall, promptly after such approval, notify the governing board of each junior college district of the approved form and content of the district's plan for capital construction.

### Article 3. Project Proposals and Approvals

20075. Any junior college district may submit to the Department of Education for review and approval a proposed project. The proposed project shall be an element of the district's plan for capital construction. It shall be in such form and contain such detail, pursuant to rules and regulations of the State Board of Education, as will permit its evaluation and approval with reference to the elements of the capital construction program specified in Section 20066.

20076. The Department of Education shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Section 20066, and if it approves the same, shall transmit the approved proposed project to the Department of Finance not later than April 1, 1968, and April 1st of each year thereafter. A proposed project not approved shall be returned to the governing board of the junior college district with recommendations concerning changes deemed necessary by the department.

20077. The Department of Finance shall review, evaluate, and approve proposed project submitted to it by the Department of Education. The review and evaluation shall be directed particularly to ascertaining whether the proposed project is of appropriate size, is appropriately timed and is justified in terms of the elements of the capital construction program specified in Section 20066. Any proposed project which is not approved shall be returned to the governing board of the junior college district with recommendations deemed necessary by the department.

20078. A proposed project submitted by the governing board of a junior college district to the Department of Education pursuant to Section 20075 prior to the first day of January, 1968, and of each year thereafter, shall be finally acted upon by the department pursuant to Section 20076 on or be-

fore the next succeeding first day of April, 1968, and each year thereafter. A proposed project submitted to the Department of Finance pursuant to Section 20076, shall be finally acted upon by the department pursuant to Section 20077 on or before the first day of July, 1968, and each year thereafter.

20079. Upon securing approval of a proposed project pursuant to Sections 20076 and 20077, the governing board of a junior college may submit to the Department of Education for approval preliminary plans for the project. In order that a project shall be eligible for inclusion in the budget and the Budget Bill submitted to the Legislature by the Governor at each regular session of the Legislature, the preliminary plans for the project shall be submitted by the governing board of the district to the Department of Education prior to the first day of October, 1968, and each year thereafter, preceding the commencement of such regular session.

Preliminary plans for a project shall include detailed plans, specifications, and drawings, and all other data and information necessary to determine detailed estimates of cost.

20080. The Department of Education shall review and evaluate preliminary plans for a project and shall either finally approve or disapprove the same on or before the 15th day of November, 1968, and each year thereafter, following the date of their submission by the governing board of the district. Following the review and evaluation, approved preliminary plans for a project shall be transmitted to the Department of Finance not later than the 15th day of November, 1968, and the 15th day of November of each succeeding year thereafter. Preliminary plans not receiving approval may be returned to the governing board of the junior college submitting them.

For purposes of this section, the Department of Education shall have the authority to confer with and advise the governing board of a junior college district or the representatives of such board and to effect modifications and alterations in preliminary plans for a project.

20081. The review and evaluation of preliminary plans for a project by the Department of Education shall include the following elements:

(a) An architectural analysis to determine costs of the various phases of the project, with particular attention to be directed to the type of construction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area.

(b) Determining the amount of federal funds available for the project, and taking appropriate measures to ensure that the project will qualify for the maximum amounts of federal funds practicable under the circumstances.

"Federal funds" means any construction and equipment moneys provided by the federal government to a junior college district for the project or any part of the project, which are or will be available to the district for the project.

(c) Determining the total cost of the project, reducing the same by the amount of federal funds available therefor, and determining the respective shares of the remainder thereof to be borne by the state and by the district. The determination of the respective shares of the project to be borne by the state and the district shall be made on the basis of the relative district ability. If the relative district ability is one (1), the state and the district shall share the cost equally; if the relative district ability is less than one (1) the state shall bear more of the cost than the district; and if the relative district ability is greater than one (1), the state shall bear less of the cost than the district.

“Relative district ability” is the quotient obtained by dividing (1) the assessed valuation of the district for the academic year in which an application for a project is submitted to the Department of Education, divided by the annual average weekly student contact hours in the district for the same academic year, by (2) the total of assessed valuation for all junior college districts in the state for the same academic year, divided by the total annual average weekly student contact hours in all junior college districts of the state for the same academic year.

(d) Determining the total of funds immediately required for the first phase of the project to be provided by the state by appropriation, and the funds immediately required to be provided by the district.

20082. The Department of Finance shall review preliminary plans for a project approved and submitted to it by the Department of Education, and the estimated state and district shares in the funding thereof determined by the Department of Education. If the Department of Finance approves the preliminary plans, the state's share of the funding thereof for the first fiscal year shall be included in the budget and the Budget Bill submitted to the Legislature at the next ensuing regular session of the Legislature, so that such state funds as may be appropriated therefor by the Legislature shall be available to the junior college district as soon as practicable after the commencement of the next ensuing fiscal year.

20083. Portions of the state's share of any project not appropriated to the junior college district pursuant to Section 20082, may be included in the budget and the Budget Bill submitted by the Governor for either or both of the next two succeeding fiscal years, as determined by the Department of Finance.

Sec. 3. Section 20755 is added to the Education Code, to read:

20755. Notwithstanding the provisions of this article or any other provisions of law to the contrary, the governing board of a district maintaining a junior college may each year have levied and collected school district taxes, for that year, without limitation as to rate, for purposes of providing funds for the annual district share of any project approved pursuant



to Chapter 19 (commencing with Section 20050) of Division 14, including any funds required to obtain federal funds for such project or any part of the project.

SEC. 4. Section 10 of Chapter 129 of the Statutes of 1966 (First Extraordinary Session) is repealed.

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CHAPTER 1551

*An act to add Sections 264.1, 286.1, and 288b to the Penal Code, relating to forcible sex offenses.*

[Approved by Governor August 30, 1967 Filed with  
Secretary of State August 30, 1967 ]

*The people of the State of California do enact as follows:*

SECTION 1. Section 264.1 is added to the Penal Code, to read:

264.1. The provisions of Section 264 notwithstanding, in any case in which defendant, voluntarily acting in concert with another person, by force or violence and against the will of the victim, committed the rape, either personally or by aiding and abetting such other person, such fact shall be charged in the indictment or information and if found to be true by the jury, upon a jury trial, or if found to be true by the court, upon a court trial, or if admitted by the defendant, defendant shall suffer confinement in the state prison from five years to life.

SEC. 2. Section 286.1 is added to the Penal Code, to read:

286.1. The provisions of Section 286 notwithstanding, in any case in which defendant, voluntarily acting in concert with another person, by force or violence and against the will of the victim committed sodomy upon a human being, either personally or by aiding and abetting such other person, such fact shall be charged in the indictment or information and if found to be true by the jury, upon a jury trial, or if found to be true by the court, upon a court trial, or if admitted by the defendant, defendant shall suffer confinement in the state prison from five years to life.

SEC. 3. Section 288b is added to the Penal Code, to read:

288b. The provisions of Section 288a notwithstanding, in any case in which defendant, voluntarily acting in concert with another person, by force or violence and against the will of the victim participated in an act of oral copulation, either personally or by aiding and abetting such other person, such fact shall be charged in the indictment or information and if found to be true by the jury, upon a jury trial, or if found to be true by the court, upon a court trial, or if admitted by the defendant, defendant shall suffer confinement in the state prison from five years to life.

## CHAPTER 102

*An act to amend Sections 185, 187, 196, 197, 198, 200.1, 200.2, 200.3, 200.4, 200.5, 200.6, 200.8, 200.9, 200.11, 200.12, 200.14, 200.21, 256, 321, 321.5, 554, 557, 601.1, 814, 893, 897, 911, 935, 962, 963, 964, 969, 1003, 1003.5, 1010, 1010.1, 1010.2, 1010.3, 1010.4, 1010.12, 1044, 1070, 1102, 1111.6, 1127, 1224, 1226, 1227, 1228, 1310, 1311, 1332, 1426, 1603, 1604, 1796, 1824.5, 1828.5, 1976, 1977, 1991, 1992, 2021, 2093, 2099, 2100, 2191, 2192, 2193, 2194, 2197, 2198, 2302, 2361, 2362, 2370, 2391, 2392, 2393, 2394, 3205, 3254, 3257.6, 3257.7, 3259.5, 3293.2, 3301.5, 5014, 5031, 5103, 5552, 5652, 5656.5, 5664, 5701, 5716, 5718, 5985, 5991, 6070, 6071, 6076, 6268.4, 6268.6, 6268.8, 6307, 6401, 6402, 6403, 6481.6, 7451.7, 7560, 9255, 10201, 10301, 10602, 10800, 10953, 11102, 11103, 11475, 11476, 11477, 11478, 11479.5, 11481, 11482, 11483 as added by Chapter 716 of the Statutes of 1969, 11483 as added by Chapter 1009 of the Statutes of 1969, 12253, 13132, 13187, 13190, 13192, 13193, 13194, 13197.15, 13197.2, 13197.55, 13197.6, 13199, 13220, 13220.1, 13220.2, 13220.3, 13220.4, 13220.5, 13220.6, 13220.7, 13220.8, 13220.9, 13220.10, 13220.11, 13220.12, 13220.13, 13220.14, 13220.18, 13220.19, 13250 as added by Chapter 1453 of the Statutes of 1969, 13250.8, 13264, 13286, 13287, 13289, 13294, 13318, 13319, 13321, 13328.5, 13331.1, 13337.5, 13458.5, 13460.5, 13465, 13465.1, 13503, 13511, 13521, 13565, 13708.2, 14503, 14694.1, 14694.5, 14694.8, 14694.9, 14696.2, 15452, 15503.2, 15516, 15707, 15717.5, 15812, 16151, 16205, 16221, 16231, 16232, 16236, 16301, 16523, 16851, 16866, 16951, 16956, 17200, 17301, 17301.3, 17303.5, 17304, 17402, 17405, 17407, 17411.1, 17451, 17452, 17453, 17454, 17456, 17461, 17503, 17505, 17522.5, 17555, 17556, 17601, 17601.1, 17603.5, 17609, 17609.1, 17609.2, 17611, 17617, 17666.2, 17666.3, 17667, 17851, 17904, 17906.2, 17923, 17940, 17951, 17970, 18055, 18056, 18057, 18102.2, 18102.4, 18102.6, 18451, 18452, 18455, 18903, 19402, 19420, 19553, 20050, 20051, 20052, 20053, 20055, 20056, 20057, 20058, 20065, 20066, 20067, 20075, 20076, 20077, 20078, 20079, 20080, 20081, 20081.1, 20082, 20083, 20201, 20201.1, 20202, 20204, 20205, 20205.1, 20205.2, 20206, 20207, 20211, 20211.1, 20751, 20755, 20801, 20804.1, 20804.2, 20910, 21116, 21117, 21301, 21351, 21703, 21707, 22504.5, 22505, 22508, 22509, 22512, 22635, 22650, 22651, 22700, 22757.5, 23054, 23756, 25410, 25411, 25411.5, 25411.6, 25412, 25412.6, 25413, 25413.1, 25413.2, 25413.3, 25413.4, 25413.45, 25413.5, 25414.5, 25414.6, 25415, 25415.5, 25416, 25420, 25422, 25422.5, 25423, 25423.5, 25424, 25425, 25431, 25431.1, 25431.5, 25432, 25432.5, 25433, 25433.5, 25434, 25435, 25436, 25437, 25437.5, 25438, 25439.5, 25440, 25440.5, 25442, 25443, 25443.5, 25444, 25444.5, 25445, 25445.5, 25450, 25450.1, 25450.2, 25450.25, 25450.3, 25450.35, 25450.4, 25450.5, 25451, 25451.3, 25451.5, 25451.7, 25451.9, 25452, 25452.1, 25452.2, 25452.3, 25452.4, 25452.5, 25457,*

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*amend the heading of Article 2 (commencing with Section 25515) of Chapter 3 of Division 18.5, to amend the heading of Article 3 (commencing with Section 25522) of Chapter 3 of Division 18.5, to amend the heading of Chapter 4 (commencing with Section 25530) of Division 18.5, to amend the heading of Article 2 (commencing with Section 25545) of Chapter 5 of Division 18.5, and to amend the heading of Chapter 7 (commencing with Section 25546.01) of Division 18.5 of, to add Section 52 to, and to repeal Sections 25413.6 and 25546.16 of, the Education Code; to amend Sections 35004, 54920, and 54927 of the Government Code; to amend Sections 500, 500.1, 501, 502, 504, 505, 506, 507, 508, 510, 511, 512, 515, 516, 517, 518, 519, and 520.1 of the Military and Veterans Code; and to amend Sections 172.1, 415.5, 602.10, 626, 626.2, 626.4, 626.6, and 1463.2 of the Penal Code, relating to community colleges.*

[Approved by Governor May 12, 1970 Filed with  
Secretary of State May 12, 1970 ]

*The people of the State of California do enact as follows:*

SECTION 1. Section 52 is added to the Education Code, to read:

52. Any reference to junior colleges or junior college districts in any law shall be deemed to refer to community colleges and community college districts, respectively.

SEC. 1.5. Section 185 of the Education Code is amended to read:

185. There is in the state government a Board of Governors of the California Community Colleges, consisting of 15 members, who are appointed by the Governor with the advice and consent of two-thirds of the Senate.

The first members of the board shall be appointed by the Governor on or before January 15, 1968, and the Governor shall designate the date of the first meeting of the board. At least seven of the initial members shall have served as members of local community college governing boards in this state prior to their appointment to the Board of Governors of the California Community Colleges. Any such member must resign from the local community college governing board before his appointment if he is serving on a local community college governing board at the time of his appointment.

SEC. 2. Section 187 of the Education Code is amended to read:

187. Members of the board shall be selected from outstanding lay citizens of California who have a strong interest in the further development and improvement of the public community colleges.

SEC. 3. Section 196 of the Education Code is amended to read:

196. It is the intent of the Legislature that the Board of Governors of the California Community Colleges shall provide

SEC. 270. The heading of Chapter 19 (commencing with Section 20050) of Division 14 of the Education Code is amended to read:

CHAPTER 19. COMMUNITY COLLEGE CONSTRUCTION  
ACT OF 1967

SEC. 271. Section 20050 of the Education Code is amended to read:

20050. This chapter may be cited as the Community College Construction Act of 1967.

SEC. 272. Section 20051 of the Education Code is amended to read:

20051. As used in this chapter, the term "community college" shall mean grades 13 and 14 of a community college; and the term "community college district" shall mean any district authorized by law to maintain a community college.

SEC. 273. Section 20052 of the Education Code is amended to read:

20052. As used in this chapter, the term "project" means the purpose for which a community college district has applied for assistance under this chapter for one or more institutions under its authority or for districtwide facilities. A project may include the acquisition and improvement of community college sites, the planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, laboratory, library, related facilities necessary for the instruction of students or for administration of the educational program, maintenance or utility facilities essential to the operation of the foregoing facilities, and the initial acquisition of equipment. A project shall not include the planning or construction of dormitories, student centers other than cafeterias, stadia, the improvement of site for student or staff parking, or single-purpose auditoriums.

SEC. 274. Section 20053 of the Education Code is amended to read:

20053. As used in this chapter, the term "weekly student contact hours" means the product of the number of students and the scheduled class periods in which they are enrolled, in graded community college classes in grades 13 and 14 convened prior to 4:30 o'clock p.m. during a census week. A class period is not less than 50 minutes and not more than 60 minutes.

SEC. 275. Section 20055 of the Education Code is amended to read:

20055. Any action of the Department of Education in administering this chapter may be appealed to the State Board of Education by the governing board of an affected community college district. The appeal shall be made through the executive officer of the State Board of Education and shall be placed on the agenda of the board in accordance with the general agenda

practices of the board. The decision of the board on such appeals shall be final.

SEC. 276. Section 20056 of the Education Code is amended to read:

20056. Funds appropriated for a project of a community college district for purposes of this chapter shall be allocated and disbursed upon order of the Department of Education, and by warrants of the State Controller issued pursuant thereto.

SEC. 277. Section 20057 of the Education Code is amended to read:

20057. In the event an existing community college district is included in a newly formed community college district, any unused funds appropriated or authorized to be appropriated for a finally approved project of the included district pursuant to this chapter shall be transferred to the newly formed or including community college district on the date that such district is effective for all purposes, or prior to such effective date where the governing boards of the districts agree to such earlier transfer.

SEC. 278. Section 20058 of the Education Code is amended to read:

20058. Upon completion of a project the governing board of the community college district shall submit to the Department of Education a final report on all expenditures in connection with the project and the sources of the funds expended.

SEC. 279. Section 20065 of the Education Code is amended to read:

20065. On or before November 1, 1967, the governing board of each community college district shall prepare and submit to the State Department of Education a plan for capital construction for community college purposes of the district for the 10-year period commencing with that date. The plan shall be subject to continuing review by the governing board and each year shall be extended one year, and there shall be submitted to the Department of Education, on or before the first day of September in each succeeding year, a report outlining the required modifications or changes, if any, in the plan.

SEC. 280. Section 20066 of the Education Code is amended to read:

20066. The plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college within a district shall be made cooperatively

by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the State Board of Education.

(d) District office, library and supporting facility capacities as derived from the physical plant standards for office, library and supporting facilities adopted by the State Board of Education.

(e) An annual inventory of all facilities of the district using standard definitions, forms, and instructions adopted by the State Board of Education.

SEC. 281. Section 20067 of the Education Code is amended to read:

20067. The Department of Education shall, on or before March 1, 1968, review, and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 20066, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and approve the same. A similar review and evaluation of continuing 10-year plans for capital construction submitted by the governing board of each district maintaining a community college shall be made on or before each succeeding first day of December. The department shall, promptly after such approval, notify the governing board of each community college district of the approved form and content of the district's plan for capital construction.

SEC. 282. Section 20075 of the Education Code is amended to read:

20075. Any community college district may submit to the Department of Education for review and approval a proposed project. The proposed project shall be an element of the district's plan for capital construction. It shall be in such form and contain such detail, pursuant to rules and regulations of the State Board of Education, as will permit its evaluation and approval with reference to the elements of the capital construction program specified in Section 20066.

SEC. 283. Section 20076 of the Education Code is amended to read:

20076. The Department of Education shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Section 20066, and if it approves the same, shall transmit the approved proposed project to the Department of Finance not later than April 1, 1968, and April 1st of each year thereafter. A proposed project not approved shall be returned to the governing board of the community college district with recommendations concerning changes deemed necessary by the department.

SEC. 284. Section 20077 of the Education Code is amended to read:

20077. The Department of Finance shall review, evaluate, and approve proposed project submitted to it by the Department of Education. The review and evaluation shall be directed particularly to ascertaining whether the proposed project is of appropriate size, is appropriately timed and is justified in terms of the elements of the capital construction program specified in Section 20066. Any proposed project which is not approved shall be returned to the governing board of the community college district with recommendations deemed necessary by the department.

SEC. 285. Section 20078 of the Education Code is amended to read:

20078. A proposed project submitted by the governing board of a community college district to the Department of Education pursuant to Section 20075 prior to the first day of January, 1968, and of each year thereafter, shall be finally acted upon by the department pursuant to Section 20076 on or before the next succeeding first day of April, 1968, and each year thereafter. A proposed project submitted to the Department of Finance pursuant to Section 20076, shall be finally acted upon by the department pursuant to Section 20077 on or before the first day of July, 1968, and each year thereafter.

SEC. 286. Section 20079 of the Education Code is amended to read:

20079. Upon securing approval of a proposed project pursuant to Sections 20076 and 20077, the governing board of a community college may submit to the Department of Education for approval preliminary plans for the project. In order that a project shall be eligible for inclusion in the budget and the Budget Bill submitted to the Legislature by the Governor at each regular session of the Legislature, the preliminary plans for the project shall be submitted by the governing board of the district to the Department of Education prior to the first day of October, 1968, and each year thereafter, preceding the commencement of such regular session.

Preliminary plans for a project shall include detailed plans, specifications, and drawings, and all other data and information necessary to determine detailed estimates of cost.

SEC. 287. Section 20080 of the Education Code is amended to read:

20080. The Department of Education shall review and evaluate preliminary plans for a project and shall either finally approve or disapprove the same on or before the 15th day of November, 1968, and each year thereafter, following the date of their submission by the governing board of the district. Following the review and evaluation, approved preliminary plans for a project shall be transmitted to the Department of Finance not later than the 15th day of November, 1968, and the 15th day of November of each succeeding year thereafter.



Preliminary plans not receiving approval may be returned to the governing board of the community college submitting them.

For purposes of this section, the Department of Education shall have the authority to confer with and advise the governing board of a community college district or the representatives of such board and to effect modifications and alterations in preliminary plans for a project.

SEC. 288. Section 20081 of the Education Code is amended to read:

20081. The review and evaluation of preliminary plans for a project by the Department of Education shall include the following elements:

(a) An architectural analysis to determine costs of the various phases of the project, with particular attention to be directed to the type of construction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area.

(b) Determining the amount of federal funds available for the project, and taking appropriate measures to ensure that the project will qualify for the maximum amounts of federal funds practicable under the circumstances.

“Federal funds” means any construction and equipment moneys provided by the federal government to a community college district for the project or any part of the project, which are or will be available to the district for the project.

(c) Determining the total cost of the project, reducing the same by the amount of federal funds available therefor, and determining the respective shares of the remainder thereof to be borne by the state and by the district. The determination of the respective shares of the project to be borne by the state and the district shall be made on the basis of the relative district ability. If the relative district ability is one (1), the state and district shall share the cost equally; if the relative district ability is less than one (1) the state shall bear more of the cost than the district; and if the relative district ability is greater than one (1), the state shall bear less of the cost than the district.

“Relative district ability” is the quotient obtained by dividing (1) the assessed valuation of the district for the academic year in which an application for a project is submitted to the Department of Education, divided by the annual average weekly student contact hours in the district for the same academic year, by (2) the total of assessed valuation for all community college districts in the state for the same academic year, divided by the total annual average weekly student contact hours in all community college districts of the state for the same academic year.

(d) Determining the total of funds immediately required for the first phase of the project to be provided by the state by appropriation, and the funds immediately required to be provided by the district.

SEC. 289. Section 20081.1 of the Education Code is amended to read:

20081.1. Notwithstanding Section 20081, the relative district ability of a community college district formed after June 30, 1964, from territory other than that which included a unified or high school district which maintained a community college, or a community college district, shall be computed according to one of the following: (1) for a district which became effective for all purposes between June 30, 1964, and June 30, 1967, by dividing the 1968-1969 assessed valuation of the district by the 1974-1975 projected resident weekly student contact hours of the district, or (2) for a district which became effective for all purposes between July 1, 1967, inclusive, and June 30, 1969, the lesser dividend of the 1968-1969 assessed valuation of the district divided by the 1975-1976 projected resident weekly student contact hours of the district, or the projected resident weekly student contact hours of the district five years from the semester or quarter during which day classes are first offered, or (3) for a district which becomes effective for all purposes after June 30, 1969, by dividing the assessed valuation of the district for the fiscal year prior to the year the district becomes effective for all purposes by the projected resident weekly student contact hours of the district five years from the semester or quarter during which day classes are first offered.

Relative district ability shall be computed pursuant to Section 20081 for fiscal year 1975-1976 and each year thereafter for a district which became effective for all purposes between June 30, 1964, and June 30, 1967, and for the sixth fiscal year after day classes are first offered and each year thereafter for a district which became effective for all purposes on July 1, 1967, inclusive and thereafter.

The projected resident weekly student contact hours for purposes of this section shall be determined by the Department of Finance in cooperation with the Board of Governors of the California Community Colleges and the community college district affected.

Expenditures made by a district during the 1969-1970 fiscal year for projects approved or approvable pursuant to Chapter 19 (commencing with Section 20050) of Division 14 which exceeds that required for local expenditure for such projects by the matching ratio established by provisions of this section shall be allowed as local matching funds for projects approved for the fiscal years 1970-1971 to 1975-1976, inclusive.

SEC. 290. Section 20082 of the Education Code is amended to read:

20082. The Department of Finance shall review preliminary plans for a project approved and submitted to it by the Department of Education, and the estimated state and district shares in the funding thereof determined by the Department of Education. If the Department of Finance approves the preliminary plans, the state's share of the funding thereof

for the first fiscal year shall be included in the budget and the Budget Bill submitted to the Legislature at the next ensuing regular session of the Legislature, so that such state funds as may be appropriated therefor by the Legislature shall be available to the community college district as soon as practicable after the commencement of the next ensuing fiscal year.

SEC. 291. Section 20083 of the Education Code is amended to read:

20083. Portions of the state's share of any project not appropriated to the community college district pursuant to Section 20082, may be included in the budget and the Budget Bill submitted by the Governor for either or both of the next two succeeding fiscal years, as determined by the Department of Finance.

SEC. 291.5. The heading of Article 3 (commencing with Section 20201) of Chapter 1 of Division 15 of the Education Code is amended to read:

### Article 3. Community College Tuition Fund

SEC. 292. Section 20201 of the Education Code is amended to read:

20201. Not later than August 8th of each year, the superintendent of schools of each county in which there is not a county community college shall certify the following items to the board of supervisors and to the county auditor of the county in accordance with the rules and regulations of the Superintendent of Public Instruction, which he is hereby authorized to adopt:

(a) The total current expense of education, exclusive of the expense for transportation of students, during the next preceding fiscal year of all nondistrict resident community college students, as defined in Sections 25505 and 25505.1, less state basic aid and federal apportionments received during the next preceding fiscal year for such community college students.

(b) The actual expense of transportation of such students not reimbursed by the state

(c) An amount equal to three hundred dollars (\$300) per unit of average daily attendance of such students during the preceding fiscal year for the use of buildings and equipment.

(d) The estimated amount needed as specified in subdivisions (a), (b), and (c) of this section for the current year.

The Superintendent of Public Instruction shall define, for the purposes of this section, the term "current total expense of education" and the term "actual expense of transportation."

If during any fiscal year the county superintendent of schools determines that an amount of at least one hundred dollars (\$100) more or an amount at least one hundred dollars (\$100) less than was required under either subsection (a), (b), or (c) of this section was certified to the board of super-

## CHAPTER 102

*An act to amend Sections 185, 187, 196, 197, 198, 200.1, 200.2, 200.3, 200.4, 200.5, 200.6, 200.8, 200.9, 200.11, 200.12, 200.14, 200.21, 256, 321, 321.5, 554, 557, 601.1, 814, 893, 897, 911, 935, 962, 963, 964, 969, 1003, 1003.5, 1010, 1010.1, 1010.2, 1010.3, 1010.4, 1010.12, 1044, 1070, 1102, 1111.6, 1127, 1224, 1226, 1227, 1228, 1310, 1311, 1332, 1426, 1603, 1604, 1796, 1824.5, 1828.5, 1976, 1977, 1991, 1992, 2021, 2093, 2099, 2100, 2191, 2192, 2193, 2194, 2197, 2198, 2302, 2361, 2362, 2370, 2391, 2392, 2393, 2394, 3205, 3254, 3257.6, 3257.7, 3259.5, 3293.2, 3301.5, 5014, 5031, 5103, 5552, 5652, 5656.5, 5664, 5701, 5716, 5718, 5985, 5991, 6070, 6071, 6076, 6268.4, 6268.6, 6268.8, 6307, 6401, 6402, 6403, 6481.6, 7451.7, 7560, 9255, 10201, 10301, 10602, 10800, 10953, 11102, 11103, 11175, 11476, 11477, 11478, 11479.5, 11481, 11482, 11483 as added by Chapter 716 of the Statutes of 1969, 11483 as added by Chapter 1009 of the Statutes of 1969, 12253, 13132, 13187, 13190, 13192, 13193, 13194, 13197.15, 13197.2, 13197.55, 13197.6, 13199, 13220, 13220.1, 13220.2, 13220.3, 13220.4, 13220.5, 13220.6, 13220.7, 13220.8, 13220.9, 13220.10, 13220.11, 13220.12, 13220.13, 13220.14, 13220.18, 13220.19, 13250 as added by Chapter 1453 of the Statutes of 1969, 13250.8, 13264, 13286, 13287, 13289, 13294, 13318, 13319, 13321, 13328.5, 13331.1, 13337.5, 13458.5, 13460.5, 13465, 13465.1, 13503, 13511, 13521, 13565, 13708.2, 14503, 14694.1, 14694.5, 14694.8, 14694.9, 14696.2, 15452, 15503.2, 15516, 15707, 15717.5, 15812, 16151, 16205, 16221, 16231, 16232, 16236, 16301, 16523, 16851, 16866, 16951, 16956, 17200, 17301, 17301.3, 17303.5, 17304, 17402, 17405, 17407, 17411.1, 17451, 17452, 17453, 17454, 17456, 17461, 17503, 17505, 17522.5, 17555, 17556, 17601, 17601.1, 17603.5, 17609, 17609.1, 17609.2, 17611, 17617, 17666.2, 17666.3, 17667, 17851, 17904, 17906.2, 17923, 17940, 17951, 17970, 18055, 18056, 18057, 18102.2, 18102.4, 18102.6, 18451, 18452, 18455, 18903, 19402, 19420, 19553, 20050, 20051, 20052, 20053, 20055, 20056, 20057, 20058, 20065, 20066, 20067, 20075, 20076, 20077, 20078, 20079, 20080, 20081, 20081.1, 20082, 20083, 20201, 20201.1, 20202, 20204, 20205, 20205.1, 20205.2, 20206, 20207, 20211, 20211.1, 20751, 20755, 20801, 20804.1, 20804.2, 20910, 21116, 21117, 21301, 21351, 21703, 21707, 22504.5, 22505, 22508, 22509, 22512, 22635, 22650, 22651, 22700, 22757.5, 23054, 23756, 25410, 25411, 25411.5, 25411.6, 25412, 25412.6, 25413, 25413.1, 25413.2, 25413.3, 25413.4, 25413.45, 25413.5, 25414.5, 25414.6, 25415, 25415.5, 25416, 25420, 25422, 25422.5, 25423, 25423.5, 25424, 25425, 25431, 25431.1, 25431.5, 25432, 25432.5, 25433, 25433.5, 25434, 25435, 25436, 25437, 25437.5, 25438, 25439.5, 25440, 25440.5, 25442, 25443, 25443.5, 25444, 25444.5, 25445, 25445.5, 25450, 25450.1, 25450.2, 25450.25, 25450.3, 25450.35, 25450.4, 25450.5, 25451, 25451.3, 25451.5, 25451.7, 25451.9, 25452, 25452.1, 25452.2, 25452.3, 25452.4, 25452.5, 25457,*

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*amend the heading of Article 2 (commencing with Section 25515) of Chapter 3 of Division 18.5, to amend the heading of Article 3 (commencing with Section 25522) of Chapter 3 of Division 18.5, to amend the heading of Chapter 4 (commencing with Section 25530) of Division 18.5, to amend the heading of Article 2 (commencing with Section 25545) of Chapter 5 of Division 18.5, and to amend the heading of Chapter 7 (commencing with Section 25546.01) of Division 18.5 of, to add Section 52 to, and to repeal Sections 25413.6 and 25546.16 of, the Education Code; to amend Sections 35004, 54920, and 54927 of the Government Code; to amend Sections 500, 500.1, 501, 502, 504, 505, 506, 507, 508, 510, 511, 512, 515, 516, 517, 518, 519, and 520.1 of the Military and Veterans Code; and to amend Sections 172.1, 415.5, 602.10, 626, 626.2, 626.4, 626.6, and 1463.2 of the Pcnal Code, relating to community colleges.*

[Approved by Governor May 12, 1970. Filed with Secretary of State May 12, 1970.]

*The people of the State of California do enact as follows:*

SECTION 1. Section 52 is added to the Education Code, to read:

52. Any reference to junior colleges or junior college districts in any law shall be deemed to refer to community colleges and community college districts, respectively.

SEC. 1.5. Section 185 of the Education Code is amended to read:

185. There is in the state government a Board of Governors of the California Community Colleges, consisting of 15 members, who are appointed by the Governor with the advice and consent of two-thirds of the Senate.

The first members of the board shall be appointed by the Governor on or before January 15, 1968, and the Governor shall designate the date of the first meeting of the board. At least seven of the initial members shall have served as members of local community college governing boards in this state prior to their appointment to the Board of Governors of the California Community Colleges. Any such member must resign from the local community college governing board before his appointment if he is serving on a local community college governing board at the time of his appointment.

SEC. 2. Section 187 of the Education Code is amended to read:

187. Members of the board shall be selected from outstanding lay citizens of California who have a strong interest in the further development and improvement of the public community colleges.

SEC. 3. Section 196 of the Education Code is amended to read:

196. It is the intent of the Legislature that the Board of Governors of the California Community Colleges shall provide

SEC. 270. The heading of Chapter 19 (commencing with Section 20050) of Division 14 of the Education Code is amended to read:

CHAPTER 19. COMMUNITY COLLEGE CONSTRUCTION  
ACT OF 1967

SEC. 271. Section 20050 of the Education Code is amended to read:

20050. This chapter may be cited as the Community College Construction Act of 1967.

SEC. 272. Section 20051 of the Education Code is amended to read:

20051. As used in this chapter, the term "community college" shall mean grades 13 and 14 of a community college; and the term "community college district" shall mean any district authorized by law to maintain a community college.

SEC. 273. Section 20052 of the Education Code is amended to read:

20052. As used in this chapter, the term "project" means the purpose for which a community college district has applied for assistance under this chapter for one or more institutions under its authority or for districtwide facilities. A project may include the acquisition and improvement of community college sites, the planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, laboratory, library, related facilities necessary for the instruction of students or for administration of the educational program, maintenance or utility facilities essential to the operation of the foregoing facilities, and the initial acquisition of equipment. A project shall not include the planning or construction of dormitories, student centers other than cafeterias, stadia, the improvement of site for student or staff parking, or single-purpose auditoriums.

SEC. 274. Section 20053 of the Education Code is amended to read:

20053. As used in this chapter, the term "weekly student contact hours" means the product of the number of students and the scheduled class periods in which they are enrolled, in graded community college classes in grades 13 and 14 convened prior to 4:30 o'clock p.m. during a census week. A class period is not less than 50 minutes and not more than 60 minutes.

SEC. 275. Section 20055 of the Education Code is amended to read:

20055. Any action of the Department of Education in administering this chapter may be appealed to the State Board of Education by the governing board of an affected community college district. The appeal shall be made through the executive officer of the State Board of Education and shall be placed on the agenda of the board in accordance with the general agenda



practices of the board. The decision of the board on such appeals shall be final.

SEC. 276. Section 20056 of the Education Code is amended to read:

20056. Funds appropriated for a project of a community college district for purposes of this chapter shall be allocated and disbursed upon order of the Department of Education, and by warrants of the State Controller issued pursuant thereto.

SEC. 277. Section 20057 of the Education Code is amended to read:

20057. In the event an existing community college district is included in a newly formed community college district, any unused funds appropriated or authorized to be appropriated for a finally approved project of the included district pursuant to this chapter shall be transferred to the newly formed or including community college district on the date that such district is effective for all purposes, or prior to such effective date where the governing boards of the districts agree to such earlier transfer.

SEC. 278. Section 20058 of the Education Code is amended to read:

20058. Upon completion of a project the governing board of the community college district shall submit to the Department of Education a final report on all expenditures in connection with the project and the sources of the funds expended.

SEC. 279. Section 20065 of the Education Code is amended to read:

20065. On or before November 1, 1967, the governing board of each community college district shall prepare and submit to the State Department of Education a plan for capital construction for community college purposes of the district for the 10-year period commencing with that date. The plan shall be subject to continuing review by the governing board and each year shall be extended one year, and there shall be submitted to the Department of Education, on or before the first day of September in each succeeding year, a report outlining the required modifications or changes, if any, in the plan.

SEC. 280. Section 20066 of the Education Code is amended to read:

20066. The plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college within a district shall be made cooperatively

by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the State Board of Education.

(d) District office, library and supporting facility capacities as derived from the physical plant standards for office, library and supporting facilities adopted by the State Board of Education.

(e) An annual inventory of all facilities of the district using standard definitions, forms, and instructions adopted by the State Board of Education.

SEC. 281. Section 20067 of the Education Code is amended to read:

20067. The Department of Education shall, on or before March 1, 1968, review, and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 20066, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and approve the same. A similar review and evaluation of continuing 10-year plans for capital construction submitted by the governing board of each district maintaining a community college shall be made on or before each succeeding first day of December. The department shall, promptly after such approval, notify the governing board of each community college district of the approved form and content of the district's plan for capital construction.

SEC. 282. Section 20075 of the Education Code is amended to read:

20075. Any community college district may submit to the Department of Education for review and approval a proposed project. The proposed project shall be an element of the district's plan for capital construction. It shall be in such form and contain such detail, pursuant to rules and regulations of the State Board of Education, as will permit its evaluation and approval with reference to the elements of the capital construction program specified in Section 20066.

SEC. 283. Section 20076 of the Education Code is amended to read:

20076. The Department of Education shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Section 20066, and if it approves the same, shall transmit the approved proposed project to the Department of Finance not later than April 1, 1968, and April 1st of each year thereafter. A proposed project not approved shall be returned to the governing board of the community college district with recommendations concerning changes deemed necessary by the department.

SEC. 284. Section 20077 of the Education Code is amended to read:

20077. The Department of Finance shall review, evaluate, and approve proposed project submitted to it by the Department of Education. The review and evaluation shall be directed particularly to ascertaining whether the proposed project is of appropriate size, is appropriately timed and is justified in terms of the elements of the capital construction program specified in Section 20066. Any proposed project which is not approved shall be returned to the governing board of the community college district with recommendations deemed necessary by the department.

SEC. 285. Section 20078 of the Education Code is amended to read:

20078. A proposed project submitted by the governing board of a community college district to the Department of Education pursuant to Section 20075 prior to the first day of January, 1968, and of each year thereafter, shall be finally acted upon by the department pursuant to Section 20076 on or before the next succeeding first day of April, 1968, and each year thereafter. A proposed project submitted to the Department of Finance pursuant to Section 20076, shall be finally acted upon by the department pursuant to Section 20077 on or before the first day of July, 1968, and each year thereafter.

SEC. 286. Section 20079 of the Education Code is amended to read:

20079. Upon securing approval of a proposed project pursuant to Sections 20076 and 20077, the governing board of a community college may submit to the Department of Education for approval preliminary plans for the project. In order that a project shall be eligible for inclusion in the budget and the Budget Bill submitted to the Legislature by the Governor at each regular session of the Legislature, the preliminary plans for the project shall be submitted by the governing board of the district to the Department of Education prior to the first day of October, 1968, and each year thereafter, preceding the commencement of such regular session.

Preliminary plans for a project shall include detailed plans, specifications, and drawings, and all other data and information necessary to determine detailed estimates of cost.

SEC. 287. Section 20080 of the Education Code is amended to read:

20080. The Department of Education shall review and evaluate preliminary plans for a project and shall either finally approve or disapprove the same on or before the 15th day of November, 1968, and each year thereafter, following the date of their submission by the governing board of the district. Following the review and evaluation, approved preliminary plans for a project shall be transmitted to the Department of Finance not later than the 15th day of November, 1968, and the 15th day of November of each succeeding year thereafter.

Preliminary plans not receiving approval may be returned to the governing board of the community college submitting them.

For purposes of this section, the Department of Education shall have the authority to confer with and advise the governing board of a community college district or the representatives of such board and to effect modifications and alterations in preliminary plans for a project.

SEC. 20081. Section 20081 of the Education Code is amended to read:

20081. The review and evaluation of preliminary plans for a project by the Department of Education shall include the following elements:

(a) An architectural analysis to determine costs of the various phases of the project, with particular attention to be directed to the type of construction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area.

(b) Determining the amount of federal funds available for the project, and taking appropriate measures to ensure that the project will qualify for the maximum amounts of federal funds practicable under the circumstances.

“Federal funds” means any construction and equipment moneys provided by the federal government to a community college district for the project or any part of the project, which are or will be available to the district for the project.

(c) Determining the total cost of the project, reducing the same by the amount of federal funds available therefor, and determining the respective shares of the remainder thereof to be borne by the state and by the district. The determination of the respective shares of the project to be borne by the state and the district shall be made on the basis of the relative district ability. If the relative district ability is one (1), the state and district shall share the cost equally; if the relative district ability is less than one (1) the state shall bear more of the cost than the district; and if the relative district ability is greater than one (1), the state shall bear less of the cost than the district.

“Relative district ability” is the quotient obtained by dividing (1) the assessed valuation of the district for the academic year in which an application for a project is submitted to the Department of Education, divided by the annual average weekly student contact hours in the district for the same academic year, by (2) the total of assessed valuation for all community college districts in the state for the same academic year, divided by the total annual average weekly student contact hours in all community college districts of the state for the same academic year.

(d) Determining the total of funds immediately required for the first phase of the project to be provided by the state by appropriation, and the funds immediately required to be provided by the district.

SEC. 289. Section 20081.1 of the Education Code is amended to read:

20081.1. Notwithstanding Section 20081, the relative district ability of a community college district formed after June 30, 1964, from territory other than that which included a unified or high school district which maintained a community college, or a community college district, shall be computed according to one of the following: (1) for a district which became effective for all purposes between June 30, 1964, and June 30, 1967, by dividing the 1968-1969 assessed valuation of the district by the 1974-1975 projected resident weekly student contact hours of the district, or (2) for a district which became effective for all purposes between July 1, 1967, inclusive, and June 30, 1969, the lesser dividend of the 1968-1969 assessed valuation of the district divided by the 1975-1976 projected resident weekly student contact hours of the district, or the projected resident weekly student contact hours of the district five years from the semester or quarter during which day classes are first offered, or (3) for a district which becomes effective for all purposes after June 30, 1969, by dividing the assessed valuation of the district for the fiscal year prior to the year the district becomes effective for all purposes by the projected resident weekly student contact hours of the district five years from the semester or quarter during which day classes are first offered.

Relative district ability shall be computed pursuant to Section 20081 for fiscal year 1975-1976 and each year thereafter for a district which became effective for all purposes between June 30, 1964, and June 30, 1967, and for the sixth fiscal year after day classes are first offered and each year thereafter for a district which became effective for all purposes on July 1, 1967, inclusive and thereafter.

The projected resident weekly student contact hours for purposes of this section shall be determined by the Department of Finance in cooperation with the Board of Governors of the California Community Colleges and the community college district affected.

Expenditures made by a district during the 1969-1970 fiscal year for projects approved or approvable pursuant to Chapter 19 (commencing with Section 20050) of Division 14 which exceeds that required for local expenditure for such projects by the matching ratio established by provisions of this section shall be allowed as local matching funds for projects approved for the fiscal years 1970-1971 to 1975-1976, inclusive.

SEC. 290. Section 20082 of the Education Code is amended to read:

20082. The Department of Finance shall review preliminary plans for a project approved and submitted to it by the Department of Education, and the estimated state and district shares in the funding thereof determined by the Department of Education. If the Department of Finance approves the preliminary plans, the state's share of the funding thereof

for the first fiscal year shall be included in the budget and the Budget Bill submitted to the Legislature at the next ensuing regular session of the Legislature, so that such state funds as may be appropriated therefor by the Legislature shall be available to the community college district as soon as practicable after the commencement of the next ensuing fiscal year.

SEC. 291. Section 20083 of the Education Code is amended to read:

20083. Portions of the state's share of any project not appropriated to the community college district pursuant to Section 20082, may be included in the budget and the Budget Bill submitted by the Governor for either or both of the next two succeeding fiscal years, as determined by the Department of Finance.

SEC. 291.5. The heading of Article 3 (commencing with Section 20201) of Chapter 1 of Division 15 of the Education Code is amended to read:

### Article 3. Community College Tuition Fund

SEC. 292. Section 20201 of the Education Code is amended to read:

20201. Not later than August 8th of each year, the superintendent of schools of each county in which there is not a county community college shall certify the following items to the board of supervisors and to the county auditor of the county in accordance with the rules and regulations of the Superintendent of Public Instruction, which he is hereby authorized to adopt:

(a) The total current expense of education, exclusive of the expense for transportation of students, during the next preceding fiscal year of all nondistrict resident community college students, as defined in Sections 25505 and 25505.1, less state basic aid and federal apportionments received during the next preceding fiscal year for such community college students.

(b) The actual expense of transportation of such students not reimbursed by the state

(c) An amount equal to three hundred dollars (\$300) per unit of average daily attendance of such students during the preceding fiscal year for the use of buildings and equipment.

(d) The estimated amount needed as specified in subdivisions (a), (b), and (c) of this section for the current year.

The Superintendent of Public Instruction shall define, for the purposes of this section, the term "current total expense of education" and the term "actual expense of transportation."

If during any fiscal year the county superintendent of schools determines that an amount of at least one hundred dollars (\$100) more or an amount at least one hundred dollars (\$100) less than was required under either subsection (a), (b), or (c) of this section was certified to the board of super-

## CHAPTER 372

*An act to add Section 32920 to the Agricultural Code,  
relating to milk and milk products.*

[Approved by Governor July 23, 1971. Filed with  
Secretary of State July 23, 1971.]

*The people of the State of California do enact as follows:*

SECTION 1. Section 32920 is added to the Agricultural Code, to read:

32920. The labeling requirements of this division shall not apply to milk or milk products processed or manufactured and packaged for sale and delivery outside the state.

## CHAPTER 373

*An act to add Section 20085 to the Education Code,  
relating to community college districts.*

[Approved by Governor July 23, 1971. Filed with  
Secretary of State July 23, 1971.]

*The people of the State of California do enact as follows:*

SECTION 1. Section 20085 is added to the Education Code, to read:

20085. The governing board of a community college district may include a proposed site in its plans for a project and may enter into an agreement with the owner of property constituting such proposed site whereby the district, for an annual consideration to be borne by the district, is given an option to purchase, or a lease with an option to purchase such property at an unspecified future date, as a building site.

The existence of such an agreement shall in no way affect the determination of the share of the cost of the project to be borne by the state under this chapter, and the consideration paid by the district for such option or lease shall not be considered part of the cost of the project in determining the state's share of the funding thereof.

Such option or lease agreement shall constitute an obligation of the district and shall not be construed as in any way creating an obligation on the part of the state.

ing or trial to the end that any such action shall be quickly heard and determined. If an action for declaratory relief is not filed and served within such 120-day period, the right to bring such action is waived and the provisions of subdivision (a) shall not apply. When a declaratory relief action, with respect to such property being sought for highway purposes, or for public utility route or structure purposes, may not be brought pursuant to this subdivision, the provisions of subdivision (a) of this section shall not apply.

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CHAPTER 1525

*An act to amend Sections 190, 5719, 20054, 20055, 20056, 20058, 20065, 20066, 20067, 20075, 20076, 20077, 20078, 20079, 20080, 20081, 20082, 20084, 20210, 20211, 20755, and 25515.5 of, to add Sections 192.5, 6079, 20053.5, and 25543 to, to repeal Section 200.10 of, and to repeal Article 1.5 (commencing with Section 25543) of Chapter 5 of Division 18.5 of, the Education Code, and to add Section 16352.5 to the Government Code, relating to community colleges, and making an appropriation therefor.*

[Approved by Governor November 16, 1971 Filed with  
Secretary of State November 16, 1971 ]

*The people of the State of California do enact as follows:*

SECTION 1. Section 190 of the Education Code is amended to read:

190. The board shall appoint a chief executive officer, to be known as the Chancellor of the California Community Colleges, and fix his salary.

SEC. 2. Section 192.5 is added to the Education Code, to read:

192.5. The chancellor, subject to such additional conditions as the board of governors may establish, may purchase annuity contracts for permanent employees of the board of governors and shall reduce the salary of an employee for whom such contract is purchased by the amount of the cost thereof provided that all of the following conditions are met:

(a) The annuity contract is under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of 1954 and Section 17512 of the Revenue and Taxation Code.

(b) The employee makes application to the chancellor for such purchase and reduction of salary.

(c) All provisions of the Insurance Code and the Government Code applicable to the purchase of such annuities are satisfied.

SEC. 3. Section 200.10 of the Education Code is repealed.

SEC. 4. Section 5719 of the Education Code is amended to read:

5719. No state funds shall be apportioned to any districts on account of the attendance of students enrolled in adult schools unless the courses have been approved by the State



Department of Education or the Board of Governors of the California Community Colleges, as appropriate. Approval of courses for grades 13 and 14 shall be given in accordance with the provisions of Section 25515.5.

SEC. 5. Section 6079 is added to the Education Code, to read:

6079. For the purposes of English language centers maintained by a community college district, the board of governors shall exercise the authority given in the provisions of this article to the Department of Education and the Board of Education, including the allocation of funds except as may be prohibited by the "single state agency" requirement of federal law.

SEC. 6. Section 20053.5 is added to the Education Code, to read:

20053.5. As used in this chapter, "Chancellor" means the Chancellor of the California Community Colleges.

SEC. 8. Section 20054 of the Education Code is amended to read:

20054. This chapter shall be administered by the chancellor, and for purposes of such administration the Board of Governors may adopt all necessary rules and regulations.

For purposes of this chapter, the chancellor shall assemble statewide data on facility and construction costs, and on the basis thereof formulate cost standards and construction standards. The formulation of standards shall include also the formulation of average ratios of equipment cost to total project costs, unit equipment costs per faculty or other staff measure, and unit costs as related to floor areas.

SEC. 9. Section 20055 of the Education Code is amended to read:

20055. Any action of the chancellor in administering this chapter may be appealed to the Board of Governors of the California Community Colleges by the governing board of an affected community college district. The appeal shall be placed on the agenda of the board in accordance with the general agenda practices of the board. The decision of the board on such appeals shall be final.

SEC. 10. Section 20056 of the Education Code is amended to read:

20056. Funds appropriated for a project of a community college district for purposes of this chapter shall be allocated and disbursed upon order of the chancellor, and by warrants of the State Controller issued pursuant thereto.

SEC. 11. Section 20058 of the Education Code is amended to read:

20058. Upon completion of a project the governing board of the community college district shall submit to the chancellor a final report on all expenditures in connection with the project and the sources of the funds expended.

SEC. 12. Section 20065 of the Education Code is amended to read:

20065. On or before November 1, 1967, the governing board of each community college district shall prepare and submit to

the chancellor a plan for capital construction for community college purposes of the district for the 10-year period commencing with that date. The plan shall be subject to continuing review by the governing board and each year shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of November in each succeeding year, a report outlining the required modifications or changes, if any, in the plan.

SEC. 13. Section 20066 of the Education Code is amended to read:

20066. The plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors.

(d) District office, library and supporting facility capacities as derived from the physical plant standards for office, library and supporting facilities adopted by the board of governors.

(e) An annual inventory of all facilities of the district using standard definitions, forms, and instructions adopted by the board of governors.

SEC. 14. Section 20067 of the Education Code is amended to read:

20067. The chancellor shall, on or before March 1, 1968, review, and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 20066, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and approve the same. A similar review and evaluation of continuing 10-year plans for capital construction submitted by the governing board of each district maintaining a community college shall be made on or before each succeeding first day of December. The chancellor shall, promptly after such approval, notify the governing board of each community college district of the approved form and content of the district's plan for capital construction.

SEC. 15. Section 20075 of the Education Code is amended to read:

20075. Any community college district may submit to the chancellor for review and approval a proposed project. The

proposed project shall be an element of the district's plan for capital construction. It shall be in such form and contain such detail, pursuant to rules and regulations of the board of governors, as will permit its evaluation and approval with reference to the elements of the capital construction program specified in Section 20066.

SEC. 16. Section 20076 of the Education Code is amended to read:

20076. The chancellor shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Section 20066, and if it approves the same, shall transmit the approved proposed project to the Department of Finance not later than April 1, 1968, and April 1st of each year thereafter. A proposed project not approved shall be returned to the governing board of the community college district with recommendations concerning changes deemed necessary by the chancellor.

SEC. 17. Section 20077 of the Education Code is amended to read:

20077. The Department of Finance shall review, evaluate, and approve proposed project submitted to it by the chancellor. The review and evaluation shall be directed particularly to ascertaining whether the proposed project is of appropriate size, is appropriately timed and is justified in terms of the elements of the capital construction program specified in Section 20066. Any proposed project which is not approved shall be returned to the governing board of the community college district with recommendations deemed necessary by the Department of Finance.

SEC. 18. Section 20078 of the Education Code is amended to read:

20078. A proposed project submitted by the governing board of a community college district to the chancellor pursuant to Section 20075 prior to the 15th day of January 1968, and of each year thereafter, shall be finally acted upon by the chancellor pursuant to Section 20076 on or before the next succeeding first day of April 1968, and each year thereafter. A proposed project submitted to the Department of Finance pursuant to Section 20076, shall be finally acted upon by the department pursuant to Section 20077 on or before the first day of July 1968, and each year thereafter.

SEC. 19. Section 20079 of the Education Code is amended to read:

20079. Upon securing approval of a proposed project pursuant to Sections 20076 and 20077, the governing board of a community college may submit to the chancellor for approval preliminary plans for the project. In order that a project shall be eligible for inclusion in the budget and the Budget Bill submitted to the Legislature by the Governor at each regular session of the Legislature, the preliminary plans for the project shall be submitted by the governing board of the district to the chancellor prior to the first day of October 1968, and each year thereafter, preceding the commencement of such regular session.

Preliminary plans for a project shall include detailed plans, specifications, and drawings, and all other data and information necessary to determine detailed estimates of cost.

SEC. 20. Section 20080 of the Education Code is amended to read:

20080. The chancellor shall review and evaluate preliminary plans for a project and shall either finally approve or disapprove the same on or before the 15th day of November 1968, and each year thereafter, following the date of their submission by the governing board of the district. Following the review and evaluation, approved preliminary plans for a project shall be transmitted to the Department of Finance not later than the 15th day of November 1968, and the 15th day of November of each succeeding year thereafter. Preliminary plans not receiving approval may be returned to the governing board of the community college submitting them.

For purposes of this section, the chancellor shall have the authority to confer with and advise the governing board of a community college district or the representatives of such board and to effect modifications and alterations in preliminary plans for a project.

SEC. 21. Section 20081 of the Education Code is amended to read:

20081. The review and evaluation of preliminary plans for a project by the chancellor shall include the following elements:

(a) An architectural analysis to determine costs of the various phases of the project, with particular attention to be directed to the type of construction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area.

(b) Determining the amount of federal funds available for the project, and taking appropriate measures to ensure that the project will qualify for the maximum amounts of federal funds practicable under the circumstances.

"Federal funds" means any construction and equipment moneys provided by the federal government to a community college district for the project or any part of the project, which are or will be available to the district for the project.

(c) Determining the total cost of the project, reducing the same by the amount of federal funds available therefor, and determining the respective shares of the remainder thereof to be borne by the state and by the district. The determination of the respective shares of the project to be borne by the state and the district shall be made on the basis of the relative district ability. If the relative district ability is one (1), the state and district shall share the cost equally; if the relative district ability is less than one (1) the state shall bear more of the cost than the district; and if the relative district ability is greater than one (1), the state shall bear less of the cost than the district.

"Relative district ability" is the quotient obtained by dividing (1) the assessed valuation of the district for the academic year in which an application for a project is submitted

to the chancellor, divided by the annual average weekly student contact hours in the district for the same academic year, by (2) the total of assessed valuation for all community college districts in the state for the same academic year, divided by the total annual average weekly student contact hours in all community college districts of the state for the same academic year.

(d) Determining the total of funds immediately required for the first phase of the project to be provided by the state by appropriation, and the funds immediately required to be provided by the district.

SEC. 22. Section 20082 of the Education Code is amended to read:

20082. The Department of Finance shall review preliminary plans for a project approved and submitted to it by the chancellor, and the estimated state and district shares in the funding thereof determined by the chancellor. If the Department of Finance approves the preliminary plans, the state's share of the funding thereof for the first fiscal year shall be included in the budget and the Budget Bill submitted to the Legislature at the next ensuing regular session of the Legislature, so that such state funds as may be appropriated therefor by the Legislature shall be available to the community college district as soon as practicable after the commencement of the next ensuing fiscal year.

SEC. 23. Section 20084 of the Education Code is amended to read:

20084. A community college district may begin work on, or receive or award bids for, any portion of an approved project prior to the appropriation by the Legislature of the state's share of the funding thereof pursuant to Section 20082, if such district has demonstrated both of the following facts to the satisfaction of the Board of Governors of the California Community Colleges and the Department of Finance:

(a) The capital construction program of the district and the construction dates contained therein support the need of the district to begin work on, or award bids for, the project before the appropriation is made.

(b) The district has the financial capability to complete the work begun before the appropriation is made in the event the Legislature fails to appropriate the necessary state funding.

For the purposes of this section, an "approved project" is a project which has been approved by the chancellor pursuant to Section 20081, and approved by the Department of Finance pursuant to Section 20082 after April 1, 1971.

SEC. 24. Section 20210 of the Education Code is amended to read:

20210. The Board of Governors of the California Community Colleges shall furnish the forms and prescribe the procedures required of the school districts and county superintendent of schools under this article.

SEC. 25. Section 20211 of the Education Code is amended to read:

20211. The special tax required by Section 20202 to be levied shall not be levied upon taxable property in any territory included in a newly formed community college district, during the first fiscal year for which the district is effective for all purposes, or in a unified district during the first fiscal year in which a community college is operated by the district or in any territory annexed to a community college district, during the first fiscal year for which the annexation is effective for all purposes, if the rate of community college district tax levied upon taxable property in such territory during such year for all community college purposes exclusive of bond interest and redemption, equals or exceeds the rate of tax which would be levied on taxable property in such territory under Section 20202 if this section were not in existence. The county auditor shall, on or before September 25th of such year, determine and report to the county superintendent of schools the amount which would be raised if the tax prescribed by Section 20202 were levied in such territory during such year. The county superintendent of schools shall forthwith report the amount to the Board of Governors of the California Community Colleges, who shall forthwith certify such amount to the State Controller. The State Controller shall, on or before November 25th of such year, draw his warrant upon the General Fund, in the amount certified, payable to the county treasurer from the money appropriated by this section for such year. The county treasurer shall deposit the amount in the community college tuition fund, and the amount shall be apportioned under this article in the same manner as if it were the proceeds of the tax levied under Section 20202.

If the rate of the community college district tax levied upon taxable property in such territory during such year for all community college purposes, exclusive of bond interest and redemption, is less than the rate of tax which would be levied on taxable property in such territory in such year under Section 20202 if this section were not in existence, the board of supervisors at the time of levying the tax prescribed by Section 20202, shall levy in such territory, in lieu of the special tax prescribed by Section 20202, a special tax at a rate equal to the difference between the rate of tax levied under Section 20202 and the rate of district tax levied in the territory for all community college purposes, exclusive of bond interest and redemption. When collected the tax shall be paid into the county treasury and placed in the community college tuition fund. The county auditor shall, on or before September 25th of such year, determine and report to the county superintendent of schools the difference between the amount which would have been raised in such territory in such year if a special tax had been levied in such territory pursuant to Section 20202, and the amount which actually was or will be raised in such year from the levy of the special tax required by this paragraph. The county superintendent of schools shall forthwith report the amount to the Superintendent of Public Instruction, who shall forthwith certify such amount to the State Controller. The State Controller shall, on or before November

25th of such year, draw his warrant upon the General Fund, in the amount certified, payable to the county treasurer from the money appropriated by this section for such year. The county treasurer shall deposit the amount in the community college tuition fund and the amount shall be apportioned under this article in the same manner as if it were the proceeds of the tax levied under Section 20202.

There is hereby appropriated from the General Fund each year, commencing with the 1959-1960 fiscal year, to the Board of Governors of the California Community Colleges, the total of the amounts reported to him by each county superintendent of schools pursuant to this section, to be expended pursuant to this section.

SEC. 26. Section 20755 of the Education Code is amended to read:

20755. Notwithstanding the provisions of this article or any other provisions of law to the contrary, the governing board of a district maintaining a community college may have levied and collected school district taxes, over a period of three years, without limitation as to rate, for purposes of providing funds for the annual district share of any project approved pursuant to Chapter 19 (commencing with Section 20050) of Division 14, including any funds required to obtain federal funds for such project or any part of the project and such state funds as are allocated pursuant to Section 16352.5 of the Government Code. If at the end of any fiscal year there remains an unencumbered balance derived from the revenue of the tax rate hereby provided, such balance shall be used exclusively for the purpose of providing funds for the district matching share of any project approved pursuant to Chapter 19 (commencing with Section 20050) of Division 14.

SEC. 27. Section 25515.5 of the Education Code is amended to read:

25515.5. Courses of instruction and educational programs shall be prepared under the direction of the governing board of each community college district. Such educational programs shall be submitted to the board of governors for approval. Courses of instruction which are not offered in approved educational programs shall be submitted to the board of governors for approval. The district governing board shall establish policies for, and approve, individual courses which are offered in approved educational programs without referral to the board of governors.

The board of governors shall review, and may approve, all educational programs and all courses which are required by this section to be submitted to it for approval.

For the purposes of this section, "course of instruction" means an instructional unit of an area or field of organized knowledge, usually provided on a quarter, semester, year, or prescribed length-of-time basis.

For the purposes of this section, "educational program" is an organized sequence of courses leading to a degree, a certificate, a diploma, a license, or transfer to another institution of higher education.

*The people of the State of California do enact as follows.*

SECTION 1. Section 832.5 is added to the Penal Code, to read:  
832.5. Each sheriff's department and each city police department in this state shall establish a procedure to investigate citizens' complaints against the personnel of such departments, and shall make a written description of the procedure available to the public.

SEC. 2. No appropriation is made by this act, nor is any obligation created thereby under Section 2164.3 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any services required to be carried on or performed by it by this act because duties, obligations, or responsibilities imposed on local governmental entities by this act are such that related costs are incurred as a part of their normal operating procedures.

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CHAPTER 30

*An act to amend Sections 15302 and 15409 of, and to add Sections 20080.1 and 20080.2 to, the Education Code, relating to community colleges.*

[Approved by Governor February 22, 1974 Filed with  
Secretary of State February 22, 1974 ]

*The people of the State of California do enact as follows:*

SECTION 1. Section 15302 of the Education Code is amended to read:

15302. The Department of Education shall:

(a) Advise the governing board of each elementary, high school, and unified school district on the acquisition of new school sites, and after a review of available plots give the governing board of the district in writing a list of the approved locations in the order of their merit considering especially the matters of educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction and charge the governing board of the school district a fee of twenty-five dollars (\$25) for each 10 acres or fraction thereof of school site reviewed.

(b) Establish standards for school buildings.

(c) Review all plans and specifications for buildings in every district required to submit plans and specifications therefor to it for approval. The department may, upon the request of the governing board of any other district, review plans and specifications for buildings in such district.

The department shall charge governing boards of school districts for the review of plans and specifications, a fee of one-twentieth of



1 percent of the estimated cost determined by the Division of Architecture. The minimum fee in any case shall be ten dollars (\$10).

(d) Approve plans and specifications submitted by governing boards of school districts, and return without approval and with recommendation for changes, any plans not conforming to established standards.

(e) Make all necessary provisions by which governing boards of school districts, or architects engaged by them, may procure by purchase or otherwise, copies of standard specifications, plans, and building codes prepared by the department.

(f) Make, upon the request of the governing board of any school district, except a city board of education, a survey of the building needs of the district, advise the governing board concerning the building needs, suggest plans for financing a building program to meet the needs, and collect the cost of the survey, exclusive of the salaries of the state employees participating therein, from the district.

(g) Employ experts, and clerical, and stenographic assistants as may be required for expediting the checking and approving of plans and specifications.

SEC. 2. Section 15409 of the Education Code is amended to read:

15409. The governing board of each elementary, high school, and unified school district, except districts governed by a city board of education, or any regional occupational center or program created by or authorized to act by an agreement under joint exercise of power before letting any contract or contracts totaling seven thousand five hundred dollars (\$7,500) or more, for the erection of any new school building, or for any addition to, or alteration of, an existing school building, shall submit plans therefor to the State Department of Education, and obtain the written approval of the plans by the department. No contract for building made contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to, or altering any school building in contravention of this section.

SEC. 3. Section 20080.1 is added to the Education Code, to read:

20080.1. The chancellor shall:

(a) Advise the governing board of each community college district on the acquisition of new college sites, and, after a review of available plots, give the governing board of the district in writing a list of the approved locations in the order of their merit, considering especially the matters of educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction, and charge the governing board of the community college district a fee of twenty-five dollars (\$25) for each 10 acres or fraction thereof of school site reviewed.

(b) Establish standards for community college facilities.

(c) Review all plans and specifications for all construction in every community college district required to submit plans and

specifications therefor to it for approval.

The chancellor's office shall charge community college districts for the review of plans and specifications, a fee of one-seventh of 1 percent of the estimated cost determined by the chancellor's office except for those projects intended to be funded totally with district funds in which case a fee of one-twentieth of 1 percent will be charged. The minimum fee in any case shall be ten dollars (\$10).

(d) Approve plans and specifications submitted by governing boards of community college districts, and return without approval and with recommendation for changes, any plans not conforming to established standards.

(e) Make, upon the request of the governing board of any community college district, except a city board of education, a survey of the building needs of the district, advise the governing board concerning the building needs, suggest plans for financing a building program to meet the needs, and collect the cost of the survey, exclusive of the salaries of the state employees participating therein, from the district.

(f) Employ experts, and clerical and stenographic assistants as may be required for expediting the checking and approving of plans and specifications.

SEC. 4. Section 20080.2 is added to the Education Code, to read:  
20080.2. The governing board of each community college district, except districts governed by a city board of education, before letting any contract or contracts totaling ten thousand dollars (\$10,000) or more, for the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the chancellor's office, and obtain the written approval of the plans by the office. No contract for construction made by any governing board of a community college district contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section.

SEC. 5. The Legislature hereby determines that local costs will be increased only for projects on which community college districts request state support from Community College Construction Act bond funds. Because requests for state funding participation are voluntary, the provisions of Section 2164.3 of the Revenue and Taxation Code do not apply to this legislation

Community College Revenue Bond Act of 1961 (Article 2 (commencing with Section 25545) of Chapter 5 of this division) or with district funds may elect to be exempted from the provisions of Section 25505.8 until January 1, 1980, provided that such governing board shall charge a nonresident tuition fee equal to the statewide average current expenditure for education in the preceding fiscal year. The same per unit rate shall be charged all nonresident students attending any summer sessions maintained by the community college district.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that certain necessary small community college districts may elect to exempt nonresident students from the general nonresident tuition fee if student dormitories financed with certain specified funds are being constructed or operated, on or before the commencement of the 1974-75 school year, it is essential that this act take immediate effect.

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#### CHAPTER 280

*An act to amend Sections 20065 and 20067 of the Education Code, relating to community colleges.*

[Approved by Governor May 28, 1974 Filed with  
Secretary of State May 28, 1974 ]

*The people of the State of California do enact as follows:*

SECTION 1. Section 20065 of the Education Code is amended to read:

20065. On or before November 1, 1967, the governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district for the 10-year period commencing with that date. After January 1, 1975, the plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The plan shall be subject to continuing review by the governing board and each year shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of November in each succeeding year, a report outlining the required modifications or changes, if any, in the plan.

SEC. 2. Section 20067 of the Education Code is amended to read:

20067. The chancellor shall, on or before March 1, 1968, review, and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the

elements of the capital construction program specified in Section 20066, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and approve the same. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each district maintaining a community college shall be made on or before each succeeding first day of December. The chancellor shall, promptly after such approval, notify the governing board of each community college district of the approved form and content of the district's plan for capital construction.

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## CHAPTER 281

*An act to amend Section 1013 of the Code of Civil Procedure, relating to service by mail.*

[Approved by Governor May 28, 1974 Filed with  
Secretary of State May 28, 1974]

*The people of the State of California do enact as follows:*

SECTION 1. Section 1013 of the Code of Civil Procedure is amended to read:

1013. In case of service by mail, the notice or other paper must be deposited in a post office, mailbox, sub-post office, substation, or mail chute, or other like facility regularly maintained by the United States Postal Service, in a sealed envelope, with postage paid, addressed to the person on whom it is to be served, at his office address as last given by him on any document which he has filed in the cause and served on the party making service by mail; otherwise at his place of residence. The service is complete at the time of the deposit, but if, within a given number of days after such service, a right may be exercised, or an act is to be done by the adverse party, the time within which such right may be exercised or act be done, is extended five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States, but such extension shall not apply to extend the time for filing notice of intention to move for new trial, notice of intention to move to vacate judgment pursuant to Section 663a of this code or notice of appeal.

SEC. 2. Section 1013 of the Code of Civil Procedure is amended to read:

1013. (a) In case of service by mail, the notice or other paper must be deposited in a post office, mailbox, sub-post office, substation, or mail chute, or other like facility regularly maintained by the United States Postal Service, in a sealed envelope, with postage paid, addressed to the person on whom it is to be served, at

portion of such campus is located.

The board of trustees of any district within which the fire department is established pursuant to this section may enter into mutual aid agreements with other governmental agencies providing fire protection, and may contract with owners or occupants of property within the vicinity of the campus on which such department is located for fire protection service, but only during such time as such property is not within the territory of any city, fire protection district or other local agency which provides fire protection service.

Any fire department established pursuant to this section may be continued notwithstanding the subsequent annexation of any portion of the campus on which it is located to any city, fire protection district or other local agency providing fire protection service. As used in this section, the operation of a fire department shall be deemed to include the maintenance and operation of ambulances and rescue and first aid services.

During the time any department is operated pursuant to this section, the board may on behalf of its fire department maintain membership in any local, state or national group or association organized or operated for the promotion or the preservation of life and property from the hazards of fire and panic.

81678. The governing board of any community college district in the City and County of San Francisco may lease buildings and other facilities in the City and County of San Francisco which meet the requirements of Article 8 (commencing with Section 81160) of Chapter 1 of this part, relating to the examination of the structural conditions of such buildings or facilities, for a period of not to exceed 12 years, and with an option to renew such lease for a period of not to exceed 12 years.

#### CHAPTER 4. COMMUNITY COLLEGE CONSTRUCTION ACT OF 1967

##### Article 1. Definitions and General Provisions

81800. This chapter may be cited as the Community College Construction Act of 1967.

81801. As used in this chapter, the term "community college" shall mean grades 13 and 14 of a community college; and the term "community college district" shall mean any community college district.

81802. As used in this chapter, the term "project" means the purpose for which a community college district has applied for assistance under this chapter for one or more institutions under its authority or for districtwide facilities. A project may include the acquisition and improvement of community college sites, the planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, laboratory, library, related facilities necessary for the instruction of students or

for administration of the educational program, maintenance or utility facilities essential to the operation of the foregoing facilities, and the initial acquisition of equipment. A project shall not include the planning or construction of dormitories, student centers other than cafeterias, stadia, the improvement of site for student or staff parking, or single-purpose auditoriums.

81803. As used in this chapter, the term "weekly student contact hours" means the product of the number of students and the scheduled class periods in which they are enrolled, in graded and ungraded community college classes convened prior to 10 o'clock p.m. during a census week. A class period is not less than 50 minutes and not more than 60 minutes.

81804. As used in this chapter, "chancellor" means the Chancellor of the California Community Colleges.

81805. This chapter shall be administered by the chancellor, and for purposes of such administration the board of governors may adopt all necessary rules and regulations.

For purposes of this chapter, the chancellor shall assemble statewide data on facility and construction costs, and on the basis thereof formulate cost standards and construction standards. The formulation of standards shall include also the formulation of average ratios of equipment cost to total project costs, unit equipment costs per faculty or other staff measure, and unit costs as related to floor areas.

81806. Any action of the chancellor in administering this chapter may be appealed to the Board of Governors of the California Community Colleges by the governing board of an affected community college district. The appeal shall be placed on the agenda of the board in accordance with the general agenda practices of the board. The decision of the board on such appeals shall be final.

81807. Funds appropriated for a project of a community college district for purposes of this chapter shall be allocated and disbursed upon order of the chancellor, and by warrants of the State Controller issued pursuant thereto.

81808. In the event an existing community college district is included in a newly formed community college district, any unused funds appropriated or authorized to be appropriated for a finally approved project of the included district pursuant to this chapter shall be transferred to the newly formed or including community college district on the date that such district is effective for all purposes, or prior to such effective date where the governing boards of the districts agree to such earlier transfer.

81809. Upon completion of a project the governing board of the community college district shall submit to the chancellor a final report on all expenditures in connection with the project and the sources of the funds expended.

## Article 2. Plans for Capital Construction

81820. On or before November 1, 1967, the governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district for the 10-year period commencing with that date. After January 1, 1975, the plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The plan shall be subject to continuing review by the governing board and each year shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of November in each succeeding year, a report outlining the required modifications or changes, if any, in the plan.

81821. The plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

(a) The plans of the district concerning its future academic programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors.

(d) District office, library and supporting facility capacities as derived from the physical plant standards for office, library and supporting facilities adopted by the board of governors.

(e) An annual inventory of all facilities of the district using standard definitions, forms, and instructions adopted by the board of governors.

81822. The chancellor shall, on or before March 1, 1968, review, and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and approve the same. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each district maintaining a community college shall be made on or before each succeeding first day of December. The chancellor shall, promptly after such approval, notify the governing board of each community college district of the approved form and content of the district's plan for capital construction.

## Article 3. Project Proposals and Approvals

81830. Any community college district may submit to the chancellor for review and approval a proposed project. The proposed project shall be an element of the district's plan for capital construction. It shall be in such form and contain such detail, pursuant to rules and regulations of the board of governors, as will permit its evaluation and approval with reference to the elements of the capital construction program specified in Section 81821.

81831. The chancellor shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Section 81821, and if he approves the same, shall transmit the approved proposed project to the Department of Finance not later than April 1, 1968, and April 1st of each year thereafter. A proposed project not approved shall be returned to the governing board of the community college district with recommendations concerning changes deemed necessary by the chancellor.

81832. The Department of Finance shall review, evaluate, and approve proposed project submitted to it by the chancellor. The review and evaluation shall be directed particularly to ascertaining whether the proposed project is of appropriate size, is appropriately timed and is justified in terms of the elements of the capital construction program specified in Section 81821. Any proposed project which is not approved shall be returned to the governing board of the community college district with recommendations deemed necessary by the Department of Finance.

81833. A proposed project submitted by the governing board of a community college district to the chancellor pursuant to Section 81830 prior to the 15th day of January 1968, and of each year thereafter, shall be finally acted upon by the chancellor pursuant to Section 81831 on or before the next succeeding first day of April 1968, and each year thereafter. A proposed project submitted to the Department of Finance pursuant to Section 81831, shall be finally acted upon by the department pursuant to Section 81832 on or before the first day of July 1968, and each year thereafter.

81834. Upon securing approval of a proposed project pursuant to Sections 81831 and 81832, the governing board of a community college may submit to the chancellor for approval preliminary plans for the project. In order that a project shall be eligible for inclusion in the budget and the Budget Bill submitted to the Legislature by the Governor at each regular session of the Legislature, the preliminary plans for the project shall be submitted by the governing board of the district to the chancellor prior to the first day of October each year preceding the commencement of such regular session.

Preliminary plans for a project shall include outline specifications, and drawings, and all other data and information necessary to determine detailed estimates of cost.

In the event that the governing board of a community college



district has decided to submit a request for funds for working drawings only, in the first fiscal year, it may submit initial preliminary plans based upon the program for the project and include drawings and all other data necessary to show location, function, scope, and approximate cost.

81835. The chancellor shall review and evaluate preliminary plans for a project and shall either finally approve or disapprove the same on or before the 15th day of November each year following the date of their submission by the governing board of the district. Following the review and evaluation, approved preliminary plans for a project shall be transmitted to the Department of Finance not later than the 15th day of November each year. Preliminary plans not receiving approval may be returned to the governing board of the community college submitting them.

For purposes of this section, the chancellor shall have the authority to confer with and advise the governing board of a community college district or the representatives of such board and to effect modifications and alterations in preliminary plans for a project.

81836. The chancellor shall:

(a) Advise the governing board of each community college district on the acquisition of new college sites, and, after a review of available plots, give the governing board of the district in writing a list of the approved locations in the order of their merit, considering especially the matters of educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction, and charge the governing board of the community college district a fee of twenty-five dollars (\$25) for each 10 acres or fraction thereof of school site reviewed.

(b) Establish standards for community college facilities.

(c) Review all plans and specifications for all construction in every community college district required to submit plans and specifications therefor to it for approval.

The chancellor's office shall charge community college districts for the review of plans and specifications, a fee of one-seventh of 1 percent of the estimated cost determined by the chancellor's office except for those projects intended to be funded totally with district funds in which case a fee of one-twentieth of 1 percent will be charged. The minimum fee in any case shall be ten dollars (\$10).

(d) Approve plans and specifications submitted by governing boards of community college districts, and return without approval and with recommendation for changes, any plans not conforming to established standards.

(e) Make, upon the request of the governing board of any community college district, except a city board of education, a survey of the building needs of the district, advise the governing board concerning the building needs, suggest plans for financing a building program to meet the needs, and collect the cost of the survey, exclusive of the salaries of the state employees participating therein,

from the district.

(f) Employ experts, and clerical and stenographic assistants as may be required for expediting the checking and approving of plans and specifications.

81837. The governing board of each community college district, except districts governed by a city board of education, before letting any contract or contracts totaling ten thousand dollars (\$10,000) or more, for the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the chancellor's office, and obtain the written approval of the plans by the office. No contract for construction made by any governing board of a community college district contrary to the provisions of this section is valid, nor shall any public money be paid for erecting, adding to, or altering any facility in contravention of this section.

81838. The review and evaluation of preliminary plans for a project by the chancellor shall include the following elements:

(a) An architectural analysis to determine costs of the various phases of the project, with particular attention to be directed to the type of construction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area.

(b) Determining the amount of federal funds available for the project, and taking appropriate measures to ensure that the project will qualify for the maximum amounts of federal funds practicable under the circumstances.

"Federal funds" means any construction and equipment moneys provided by the federal government to a community college district for the project or any part of the project, which are or will be available to the district for the project.

(c) Determining the total cost of the project, reducing the same by the amount of federal funds available therefor, and determining the respective shares of the remainder thereof to be borne by the state and by the district. The determination of the respective shares of the project to be borne by the state and the district shall be made on the basis of the relative district ability. If the relative district ability is one (1), the state and district shall share the cost equally; if the relative district ability is less than one (1) the state shall bear more of the cost than the district; and if the relative district ability is greater than one (1), the state shall bear less of the cost than the district.

"Relative district ability" is the quotient obtained by dividing (1) the assessed valuation of the district for the academic year in which an application for a project is submitted to the chancellor, divided by the annual average weekly student contact hours in the district for the same academic year, by (2) the total of assessed valuation for all community college districts in the state for the same academic year, divided by the total annual average weekly student contact hours in all community college districts of the state for the same academic year.

(d) Determining the total of funds immediately required for the first phase of the project to be provided by the state by appropriation, and the funds immediately required to be provided by the district.

81839. Notwithstanding Section 81838, the relative district ability of a community college district formed after June 30, 1964, from territory other than that which included a unified or high school district which maintained a community college, or a community college district, shall be computed according to one of the following: (1) for a district which became effective for all purposes between June 30, 1964, and June 30, 1967, by dividing the 1968-1969 assessed valuation of the district by the 1974-1975 projected enrolled weekly student contact hours of the district, or (2) for a district which became effective for all purposes between July 1, 1967, inclusive, and June 30, 1969, the lesser dividend of the 1968-1969 assessed valuation of the district divided by the 1975-1976 projected enrolled weekly student contact hours of the district, or the projected enrolled weekly student contact hours of the district five years from the semester or quarter during which day classes are first offered, or (3) for a district which becomes effective for all purposes after June 30, 1969, by dividing the assessed valuation of the district by the projected enrolled weekly student contact hours of the district five years from the semester or quarter during which day classes are first offered.

Relative district ability shall be computed pursuant to Section 20081 for fiscal year 1975-1976 and each year thereafter for a district which became effective for all purposes between June 30, 1964, and June 30, 1967, and for the sixth fiscal year after day classes are first offered and each year thereafter for a district which became effective for all purposes on July 1, 1967, inclusive and thereafter.

The projected enrolled weekly student contact hours for purposes of this section shall be determined by the Department of Finance in cooperation with the Board of Governors of the California Community Colleges and the community college district affected.

Expenditures made by a district during the 1969-1970 fiscal year for projects approved or approvable pursuant to Chapter 4 (commencing with Section 81800) of this part which exceeds that required for local expenditure for such projects by the matching ratio established by provisions of this section shall be allowed as local matching funds for projects approved for the fiscal years 1970-1971 to 1975-1976, inclusive.

81840. Community college districts which become eligible under the provisions of Section 81839 shall remain eligible beyond the termination date specified in Section 81839 until the district has received a combination of state and district funds in the amount of two hundred fifty-three dollars (\$253) per weekly student contact hour. The number of weekly student contact hours used for the purpose of this section shall be the number used in computing the district relative district ability factor pursuant to Section 81839.

81841. The Department of Finance shall review preliminary plans for a project approved and submitted to it by the chancellor, and the estimated state and district shares in the funding thereof determined by the chancellor. If the Department of Finance approves the preliminary plans, the state's share of the funding thereof for the first fiscal year shall be included in the budget and the Budget Bill submitted to the Legislature at the next ensuing regular session of the Legislature, so that such state funds as may be appropriated therefor by the Legislature shall be available to the community college district as soon as practicable after the commencement of the next ensuing fiscal year.

81842. The capacity of a project or portion of a project for which an aviation maintenance technician school certificate has been received from the Federal Aviation Administration, shall be determined by using, as a component in the formula for space standards, 510 square feet per station.

81843. Portions of the state's share of any project not appropriated to the community college district pursuant to Section 81841, may be included in the budget and the Budget Bill submitted by the Governor for either or both of the next two succeeding fiscal years, as determined by the Department of Finance.

81844. A community college district may begin work on, or receive or award bids for, any portion of an approved project prior to the appropriation by the Legislature of the state's share of the funding thereof pursuant to Section 81841, if such district has demonstrated both of the following facts to the satisfaction of the Board of Governors of the California Community Colleges and the Department of Finance:

(a) The capital construction program of the district and the construction dates contained therein support the need of the district to begin work on, or award bids for, the project before the appropriation is made.

(b) The district has the financial capability to complete the work begun before the appropriation is made in the event the Legislature fails to appropriate the necessary state funding.

For the purposes of this section, an "approved project" is a project which has been approved by the chancellor pursuant to Section 81838, and approved by the Department of Finance pursuant to Section 81841 after April 1, 1971.

The Department of Finance shall review preliminary plans for the 1975-76 Capital Outlay Program for a project approved and submitted to it by the chancellor, and the estimated state and district shares in the funding thereof determined by the chancellor. If the Department of Finance approves the preliminary plans, such approval shall not preclude reimbursement of the district by future state funding pursuant to Section 81841, nor shall preferential consideration be granted because of such approval.

81845. The governing board of a community college district may include a proposed site in its plans for a project and may enter into

an agreement with the owner of property constituting such proposed site whereby the district, for an annual consideration to be borne by the district, is given an option to purchase, or a lease with an option to purchase such property at an unspecified future date, as a building site.

The existence of such an agreement shall in no way affect the determination of the share of the cost of the project to be borne by the state under this chapter, and the consideration paid by the district for such option or lease shall not be considered part of the cost of the project in determining the state's share of the funding thereof.

Such option or lease agreement shall constitute an obligation of the district and shall not be construed as in any way creating an obligation on the part of the state.

#### CHAPTER 5. COMMUNITY COLLEGE REVENUE BOND ACT OF 1961

81900. This chapter may be cited as "the Community College Revenue Bond Act of 1961."

81901. The governing board of any community college district may issue revenue bonds pursuant to this chapter.

81902. The following terms wherever used or referred to in this chapter, or in any indenture entered into pursuant hereto, shall have the following meanings, respectively, unless a different meaning appears from the context:

(a) "Board" means the governing board of a community college district.

(b) "Community college" means a community college maintained by the district issuing bonds under this article.

(c) The term "project" means any one or more dormitories or other housing facilities, boarding facilities, student union or activity facilities, vehicle parking facilities or any other auxiliary or supplementary facilities for individual or group accommodation, owned or operated or authorized to be acquired, constructed, furnished, equipped and operated by the board for use by students, faculty members or other employees of any one or more community colleges, or a combination of such facilities, which may include facilities already completed and facilities authorized for future completion, designated by the board as a project in providing for the issuance of revenue bonds.

(d) The term "bonds" or "revenue bonds" means the written evidence of any obligation issued by the board, payment of which is secured by a pledge of revenues or any part of revenues, as provided in this article, in order to obtain funds with which to carry out the purposes of this chapter, irrespective of the form of such obligations.

(e) The term "revenues" means and includes any and all fees, rates, rentals and other charges received or receivable in connection with, and any and all other incomes and receipts of whatever kind

**SEC. 326.** Section 81602 of the Education Code as enacted by Chapter 1010 of the Statutes of 1976 is amended to read:

**81602.** The governing board of a community college district may, by resolution, establish a fund or funds for losses, including but not limited to, district property, any liability, and workers' compensation, in the county treasury for the purpose of covering the deductible amount under deductible types of insurance policies or losses due to noninsured perils. In the fund or funds shall be placed such sums, to be provided in the budget of the district, as will create an amount which, together with investments made from the fund or funds, will be sufficient in the judgment of the governing board to protect the district from such losses on the deductible amount under deductible types of insurance policies or losses due to noninsured perils. Nothing in this section shall be construed as prohibiting the governing board from providing protection against such losses to district property partly by means of the fund or funds and partly by means of insurance written by acceptable insurers as provided in Section 81601. A district may contract for claims adjustment and related services. The cost of such services is an appropriate charge against the appropriate fund.

The fund or funds shall be considered as separate and apart from all other funds of the district, and the balance therein shall not be considered as being part of the working cash of the district in compiling annual budgets.

Warrants shall not be drawn on or transfers made from the fund or funds so created, except to reimburse or indemnify the community college district for losses as herein specified, and only upon resolution duly adopted by the board of education.

The cash placed in the fund or funds may be invested and reinvested by the county treasurer, with the advice and consent of the governing board of the district, in securities which are legal investments for surplus county funds in this state. The income derived from such investments, together with interest earned on uninvested funds, shall be considered revenue of and be deposited in the fund.

**SEC. 327.** Section 81651 of the Education Code as enacted by Chapter 1010 of the Statutes of 1976 is amended to read:

**81651.** The governing board of any community college district may purchase supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, or periodicals in any amount needed for the operation of the schools of the district without taking estimates or advertising for bids.

**SEC. 328.** Section 81820 of the Education Code as enacted by Chapter 1010 of the Statutes of 1976 is amended to read:

**81820.** On or before November 1, 1967, the governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district for the 10-year period commencing with that date. After January 1, 1975, the plan shall reflect capital construction

for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The plan shall be subject to continuing review by the governing board and each year shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the plan.

The report to be submitted to the chancellor shall include the five-year construction plan and project planning guides covering projects requested for the first year of the five-year construction plan. A copy of the proposed project planning guides shall be transmitted at that time to the Department of Finance and the Joint Legislative Audit Committee for informational purposes.

SEC. 329. Section 81822 of the Education Code as enacted by Chapter 1010 of the Statutes of 1976 is amended to read:

81822. The chancellor shall review, and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821, and shall, on the basis of such review and evaluation, make such revision and changes therein as are appropriate, and approve the same. A similar review and evaluation of continuing five-year plans for capital construction submitted by the governing board of each district maintaining a community college shall be made on or before each succeeding first day of May. The chancellor shall, promptly after such approval, notify the governing board of each community college district of the approved form and content of the district's plan for capital construction.

SEC. 330. Section 81831 of the Education Code as enacted by Chapter 1010 of the Statutes of 1976 is amended to read:

81831. The chancellor shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Section 81821, and if approved after review by the Board of Governors of the California Community Colleges, shall transmit the approved proposed project to the Department of Finance not later than April 1, 1968, and May 1st of each year thereafter. A proposed project not approved shall be returned to the governing board of the community college district with recommendations concerning changes deemed necessary by the chancellor.

SEC. 331. Section 81833 of the Education Code as enacted by Chapter 1010 of the Statutes of 1976 is amended to read:

81833. A proposed project submitted by the governing board of a community college district to the chancellor pursuant to Section 81830 prior to February 1st of each year shall be finally acted upon by the chancellor pursuant to Section 81831 on or before the next succeeding first day of April 1968, and May 1st of each year thereafter. A proposed project submitted to the Department of Finance pursuant to Section 81831, shall be finally acted upon by the

of establishing resource centers shall be expended for capital outlay, including acquisition and improvement of fixed assets and purchase and replacement of equipment.

SEC. 2. From funds appropriated specifically therefor by the Legislature, the Superintendent of Public Instruction shall make allocations as follows:

(a) For the purposes of Article 1 (commencing with Section 44670) of Chapter 3.1 of Part 25 of the Education Code, four dollars (\$4) per unit of average daily attendance at each school with an approved local staff development program application.

(b) For the purposes of Article 2 (commencing with Section 44680) of Chapter 3.1 of Part 25 of the Education Code:

- 1978-79 ..... No fewer than 5 resource centers
- 1979-80 ..... No fewer than 7 resource centers
- 1980-81 ..... No fewer than 9 resource centers
- 1981-82 ..... No fewer than 10 resource centers
- 1982-83 ..... No fewer than 12 resource centers

CHAPTER 967

An act to add Sections 81823 and 81824 to the Education Code, relating to community colleges.

[Approved by Governor September 21, 1977 Filed with Secretary of State September 21, 1977 ]

*The people of the State of California do enact as follows:*

SECTION 1. Section 81823 is added to the Education Code, to read:

81823. (a) If a community college district maintains colleges, or one college and one or more educational centers, it may additionally submit the plan required by Section 81820 on the basis of each college or educational center maintained by the district, if either of the following circumstances is present such that students will be better served by evaluating the capital outlay program for the district on that basis: (1) the isolation of students within a district in terms of the distance of students from the location of an educational program, or inadequacy of transportation, and student financial inability to meet costs of transportation to an educational program, or (2) the inability of existing colleges and educational centers in the district to meet the unique educational and cultural needs of a significant number of ethnic students.

(b) If a district elects to submit such a plan, it shall include therewith justification and documentation for so doing.

(c) When a district so elects, the evaluation of the plan pursuant to Section 81822 shall include an evaluation of:

- (1) The justification and documentation for so doing, including



enrollment projections for individual campuses and centers; and

(2) The plan as thus submitted.

(d) The board of governors shall adopt rules and regulations to implement the provisions of subdivision (a) of this section.

SEC. 2. Section 81824 is added to the Education Code, to read:

81824. As used in Section 81823, an "educational center" is an off-campus location established and administered by an existing college or district which: (1) is scheduled to operate for three or more years; (2) is estimated to have enrolled an average daily attendance of 500 or more students by the third year of operation; (3) has on-site administrative personnel; and (4) offers courses in programs leading to certificates or degrees to be conferred by the parent institution.

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#### CHAPTER 968

An act to amend Section 7170 of, to add Section 7153.9 to, and to repeal Section 7153.9 of, the Financial Code, relating to savings and loan associations.

[Approved by Governor September 21, 1977 Filed with  
Secretary of State September 21, 1977.]

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares that there exists in the State of California a housing crisis that increasingly threatens to prevent a wide range of low- or middle-income persons from enjoying the benefits of home ownership, thereby adversely affecting the stability of the family and the democratic principle of widespread home ownership for all economic classes.

The Legislature further finds that one of the causes of the housing crisis is alleged to be the form of mortgage instrument presently in use by lenders providing for a fixed-rate and a fixed-term for a long-term maturity, which does not take into consideration the various needs and the financial capabilities of different classes of borrowers. The Legislature further finds that the initiation and development by experimentation of new and different types of mortgage payment instruments is necessary upon an experimental basis to determine which of such forms of mortgage instruments will aid in alleviating the housing crisis and in reducing the problems of borrowers of low- or middle-income in acquiring homes and in adjusting their payment schedules in conformity with their financial condition.

SEC. 2. Section 7153.9 is added to the Financial Code, to read:

7153.9. (a) Notwithstanding anything provided to the contrary in this division, the commissioner is empowered to prescribe such rules and regulations as will permit an association, upon the security

## CHAPTER 797

An act to amend Sections 1243, 1244, 1245, 1604, 1710, 4312, 4320, 8007, 8100, 14042, 15701, 15704, 15705, 15706, 15711, 15712, 15713, 15719, 15721, 15723, 15724, 15727, 15737, 15746, 15749, 16002, 16003, 16007, 16009, 16014, 16022, 16023, 16029, 16034, 16036, 16042, 16044, 16051, 16051.5, 16067, 16082, 16314, 16319, 16330.5, 16331, 16335, 16336, 66804, 71001, 71026, 71027, 71041, 71091, 71092, 72233, 72409, 72640, 74015, 76140, 76160, 76320, 76321, 78005, 78010, 78011, 78409, 78442, 78920, 79010, 79013, 81005, 81363, 81400, 81820, 81831, 81833, 84327, 84330, 84384, 84385, 85241, 85260, 87200, 87214, 87228, 87408, 87412, 87422, and 87768 of, to amend and renumber Section 85264 of, to add Sections 81800.1 and 81831.5 to, to repeal Sections 8035, 10405, 16055, 71029, 71030, 71031, 71032, 71035, 71036, 71037, 71043, 71065, 71067, 71074, 71077, 72293, 72305, 76310, 76332, 76342, 76442, 76455, 78220, 78221, 78270, 81004, 81101, 81102, 81145, 84032, 84321, 84323, 84326, 84333, 84341, 84503, 84532, 85261, 85262, 85263, 87216, 87270, 87294, 87332, 87425, 87433, 87434, 87710, and 87713 of, and to repeal Chapter 3 (commencing with Section 10200) of Part 7 of, Article 10 (commencing with Section 16380) of Chapter 8 of Part 10 of, Article 8 (commencing with Section 78310) of Chapter 2 of Part 48 of, Chapter 4 (commencing with Section 78600) of Part 48 of, Chapter 5 (commencing with Section 78700) of Part 48 of, Chapter 6 (commencing with Section 78800) of Part 48 of, Article 3 (commencing with Section 79140) of Chapter 9 of Part 48 of, Article 4 (commencing with Section 79150) of Chapter 9 of Part 48 of, Article 3 (commencing with Section 81050) of Chapter 1 of Part 49 of, Chapter 6 (commencing with Section 82100) of Part 49 of, Article 4 (commencing with Section 84560) of Chapter 4 of Part 50 of, Article 6 (commencing with Section 84781) of Chapter 5 of Part 50 of, Article 9 (commencing with Section 84810) of Chapter 5 of Part 50 of, Article 10 (commencing with Section 84830) of Chapter 5 of Part 50 of, Article 12 (commencing with Section 84860) of Chapter 5 of Part 50 of, and Article 9 (commencing with Section 87860) of Chapter 3 of Part 51 of, the Education Code, relating to community colleges.

[Approved by Governor September 19, 1979 Filed with  
Secretary of State September 19, 1979]

*The people of the State of California do enact as follows:*

**SECTION 1.** It is the intent of the Legislature in enacting this act to update and technically clarify provisions of law which establish powers and duties of the Board of Governors of the California Community Colleges and the Chancellor of the California Community Colleges. This act repeals numerous Education Code provisions relating to the board of governors and the chancellor's office which are outdated or redundant. It also repeals certain Education Code provisions which were mistakenly made applicable

to the community colleges when the Education Code was reorganized in 1976. Finally, it technically amends numerous provisions so as to clarify or make less burdensome various functions of the board of governors and chancellor's office. In so doing, it is the intent of the Legislature to streamline the statewide governance of community colleges, and thereby to promote the more efficient use of resources within the community college system.

**SEC. 15.** Section 1243 of the Education Code is amended to read:

1243. The county superintendent of schools shall make reports, when directed by the Superintendent of Public Instruction, showing such matters relating to the public schools in his county as may be required of him.

If he fails to make full and correct report as required under the provisions of this section at the time fixed by the Superintendent of Public Instruction, he shall forfeit one hundred dollars (\$100) of his salary; and the county auditor whose duty it is to draw the warrant for the salary of the superintendent of schools shall deduct this amount from the warrant on receiving notice from the Superintendent of Public Instruction to the effect that the superintendent of schools has failed to make the report as directed.

**SEC 2.** Section 1244 of the Education Code is amended to read:

1244 Each county superintendent of schools shall annually, at such time as is required by the Superintendent of Public Instruction but not later than July 15th, submit to the Superintendent of Public Instruction a complete report of the attendance credited to the public schools of the county for the school year closing June 30th immediately preceding July 15th. Forms for the reports shall be furnished by the Superintendent of Public Instruction. Reports shall contain and be accompanied by such other information and reports relating to the computation of state apportionments as may be required by the Superintendent of Public Instruction.

**SEC 3** Section 1245 of the Education Code is amended to read:

1245. Each county superintendent of schools shall submit such reports as may from time to time be required by the Superintendent of Public Instruction or the Board of Governors of the California Community Colleges. It shall be the duty of each school district and community college district to furnish to the county superintendent of schools any records, reports, documents, maps or other data pertaining to reports required by the Superintendent of Public Instruction or the Board of Governors of the California Community Colleges

**SEC. 4** Section 1604 of the Education Code is amended to read:

1604 No moneys shall be expended from the county school service fund for any purpose in excess of the latest proposed expenditures for such purpose as approved by the Superintendent of Public Instruction under Section 14050, without the approval of the Superintendent of Public Instruction.

It shall be the duty of the county auditor to approve warrants drawn on the county school service fund for expenses approved in

SEC 106. Article 3 (commencing with Section 81050) of Chapter 1 of Part 49 of the Education Code is repealed.

SEC. 107. Section 81101 of the Education Code is repealed.

SEC 108 Section 81102 of the Education Code is repealed.

SEC 109 Section 81145 of the Education Code is repealed

SEC. 110 Section 81363 of the Education Code is amended to read

81363. The funds derived from the sale or from a lease with an option to purchase shall be used for capital outlay, provided, however, that the proceeds of property sold or leased in accordance with subdivision (a) or (b) of Section 81363.5 may be deposited in the general fund of the district if, prior to such sale or lease, the community college district governing board has determined that the district has no anticipated need for additional sites or building construction for the five-year period following such sale or lease.

SEC. 111. Section 81400 of the Education Code is amended to read

81400 After considering all proposals submitted, the governing board of the community college district shall have the authority, subject to the provisions of Section 81401, to select the plan or proposal which best meets the needs of the district and to enter into a contract incorporating that plan or proposal either as submitted or as revised by the district's governing board.

The governing board shall require any person, firm or corporation with whom it enters into a lease or agreement pursuant to this article to file a bond, executed by either two or more good and sufficient sureties or by a corporate surety, for the performance of such lease or agreement.

SEC 112. Section 81800.1 is added to the Education Code, to read:

81800.1. The Legislature hereby declares that it is in the interest of the state and of the people thereof for the state to provide assistance to community college districts for the construction of community college facilities. The community college system is of general concern and interest to all the people of the state and the education of community college students is a joint obligation and function of both the state and community college districts.

In adopting this chapter, the Legislature considers that the greatest need is to provide community college facilities that will be required to house the great increase of community college students resulting from growth in population and from legislative policies expressed through implementation of the Master Plan for Higher Education.

SEC. 113 Section 81820 of the Education Code is amended to read:

81820. The governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of

funding The plan shall be subject to continuing review by the governing board and each year shall be extended one year, and there shall be submitted to the chancellor, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the plan.

The report to be submitted to the chancellor shall include the five-year construction plan and project planning guides covering projects requested for the first year of the five-year construction plan. A copy of the proposed project planning guides shall be transmitted at that time to the Department of Finance and the Joint Legislative Audit Committee for informational purposes.

SEC 114. Section 81831 of the Education Code is amended to read

81831 The chancellor shall review and evaluate each proposed project with reference to the elements of the capital construction program specified in Section 81821, and if approved after review by the Board of Governors of the California Community Colleges, shall transmit the approved proposed project to the Department of Finance not later than May 1st of each year. A proposed project not approved shall be returned to the governing board of the community college district with recommendations concerning changes deemed necessary by the chancellor.

SEC 115. Section 81831.5 is added to the Education Code, to read.

81831.5 The governing board of any community college district shall meet with appropriate local government recreation and park authorities to review all possible methods of coordinating planning, design, and construction of new facilities and sites or major additions to existing facilities and recreation and park facilities in the community. Any community college district planning, designing, or constructing new facilities and sites or major additions to existing facilities shall report to the chancellor's office on plans to achieve (a) a greater use of any joint or contiguous recreation and park facilities by the district and (b) possible use by the total community of such facilities and sites and recreation and park facilities.

SEC 116. Section 81833 of the Education Code is amended to read

81833 A proposed project submitted by the governing board of a community college district to the chancellor pursuant to Section 81830 prior to February 1st of each year shall be finally acted upon by the chancellor pursuant to Section 81831 on or before the next succeeding May 1st of each year. A proposed project submitted to the Department of Finance pursuant to Section 81831, shall be finally acted upon by the department pursuant to Section 81832 on or before the first day of July each year.

SEC 117. Chapter 6 (commencing with Section 82100) of Part 49 of the Education Code is repealed.

SEC 118. Section 84032 of the Education Code is repealed.

SEC 119. Section 84321 of the Education Code is repealed.

SEC. 120. Section 84323 of the Education Code is repealed.

SEC. 121. Section 84326 of the Education Code is repealed.

SEC. 122. Section 84327 of the Education Code is amended to read:

84327. The chancellor shall withhold from the apportionment to a community college district, as a part of the first principal apportionment and second principal apportionment, the amount allowed the district for the average daily attendance in grades 13 and 14 by reason of the operation of Section 84726 and Article 4.5 (commencing with Section 84764) of Chapter 5 of this part of students residing in the district who were in attendance at a community college in another district. The amount withheld per unit of average daily attendance shall be determined by dividing the total amount of basic state aid and state equalization aid computed for the district of residence of such students by the total resident average daily attendance of the district.

The chancellor shall add the amount withheld to the apportionment required to be made to the community college district maintaining the community college at which the students were in attendance

SEC. 123. Section 84330 of the Education Code is amended to read:

84330. If during any fiscal year there is apportioned to a community college district or to any fund from Section B of the State School Fund at least one hundred dollars (\$100) more or at least one hundred dollars (\$100) less than the amount to which the district or fund was entitled, the chancellor, not later than the third succeeding fiscal year shall withhold from, or add to, the apportionment made during such fiscal year, the amount of such excess or deficiency, as the case may be. Notwithstanding, any other provision of this code to the contrary, excesses withheld or deficiencies added by the chancellor under this section shall be added to or allowed from any portion of Section B of the State School Fund except that portion reserved as allowances for basic state aid.

SEC. 124. Section 84333 of the Education Code is repealed.

SEC. 125. Section 84341 of the Education Code is repealed.

SEC. 126. Section 84384 of the Education Code is amended to read:

84384 There is hereby transferred from the General Fund to the Community College Fund for Instructional Improvement the sum of fifty thousand dollars (\$50,000) for use by the Board of Governors of the California Community Colleges, for the 1977-78 fiscal year, to establish fund priorities, develop and implement application and review procedures and criteria, and review project applications for 1978-79 project funding.

Beginning with the 1978-79 fiscal year eight hundred thousand dollars (\$800,000), or one-half of 1 percent of the total state apportionments made to community college districts in the preceding fiscal year, whichever is the lesser, of the amount

**EXHIBIT A**  
**BARNHART V. CABRILLO COMMUNITY COLLEGE**  
**76 Cal.App.4th 818; 90 Cal.Rptr.2d 709**

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[No. H019287. Sixth Dist. Dec. 2, 1999.]

ROY DEWEY BARNHART III et al., Plaintiffs and Appellants, v.  
CABRILLO COMMUNITY COLLEGE et al., Defendants and  
Respondents.

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### SUMMARY

Three members of a community college soccer team brought an action against the college and their coach for personal injuries suffered in an automobile accident that occurred when the coach, a college employee, was driving plaintiffs from the college to a game in a van owned by the college. The trial court granted summary judgment for defendants on the basis of immunity pursuant to an administrative regulation providing immunity for injuries occurring during a field trip or excursion (Cal. Code Regs, tit. 5, § 55450). (Superior Court of Santa Cruz County, No. 133273, Samuel S. Stevens, Judge.)

The Court of Appeal affirmed. The court held that the trial court properly granted summary judgment for defendants on the basis of Cal. Code Regs, tit. 5, § 55450. Although Ed. Code, § 87706, reaffirms the general statutory rule of vicarious liability for accidents occurring to students where the community college district provides transportation to and from the school premises for an off-premises school-sponsored activity, the regulation overrides the general statutory rule of vicarious liability and immunizes a community college district from liability for accidents occurring during field trips or excursions; thus, the regulation controlled in this case. First, the disputed facts about the voluntary or involuntary nature of plaintiffs' participation on the soccer team were immaterial. Further, the regulation and Ed. Code, § 87706, can easily be harmonized. There is a difference between a field trip or excursion and a school-sponsored activity. A field trip or excursion is simply a narrowly defined type of the more broadly defined school-sponsored activity. Plaintiffs' trip clearly fell within the broad category of a school-sponsored activity given that participation in an extracurricular sports program is part of the school curriculum. Also, by its own terms, the regulation places trips in connection with extracurricular sports programs into the narrowly defined field trip or excursion type of school-sponsored activity. Thus, plaintiffs were on a field trip or excursion, and Cal.



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Code Regs, tit. 5, § 55450, the special or specific immunity statute, applied. (Opinion by Premo, J., with Cottle, P. J., and Elia, J., concurring.)

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## HEADNOTES

Classified to California Digest of Official Reports

- (1) **Appellate Review § 145—Scope of Review—Construction of Statutes.**—The meaning and effect of statutory provisions is a matter for the appellate court's independent review.
- (2) **Statutes § 37—Construction—Giving Effect to Statute—Sustaining Validity.**—In the interpretation of a statute, where the language is clear, its plain meaning should be followed. Generally, a statute should be construed so as to harmonize, if possible, with other laws relating to the same subject. To harmonize two statutes relating to the same subject, a particular or specific statute will take precedence over a conflicting general statute. Also, significance should be attributed to every word and phrase of a statute, and a construction making some words surplusage should be avoided.
- (3) **Government Tort Liability § 4—Grounds for Relief—As Dependent on Liability of Employee.**—A public entity, as an employer, is generally liable for the torts of an employee committed within the scope of employment if the employee is liable. Under Gov. Code, § 820, subd. (a), except as otherwise provided by statute, a public employee is liable for an injury caused by his or her act or omission to the same extent as a private person. Thus, the general rule is that an employee of a public entity is liable for his or her torts to the same extent as a private person, and the public entity is vicariously liable for any injury that its employee causes to the same extent as a private employer.
- (4a, 4b) **Government Tort Liability § 15—Grounds for Relief—Liability Arising From Governmental Activities—Community Colleges—Supervision of Students—Field Trips or Excursions—Immunity.**—In an action brought by three members of a community college soccer team against the college and their coach for personal injuries suffered in an automobile accident that occurred when the coach, a college employee, was driving plaintiffs from the college to a game in a van owned by the college, the trial court properly granted summary judgment for defendants. Defendants were immune from liability pursuant to Cal. Code Regs, tit. 5, § 55450, an administrative regulation

providing immunity for injuries occurring during a field trip or excursion. Although Ed. Code, § 87706, reaffirms the general statutory rule of vicarious liability for accidents occurring to students where the community college district provides transportation to and from the school premises for an off-premises, school-sponsored activity, the regulation overrides the general statutory rule of vicarious liability and immunizes a community college district from liability for accidents occurring during field trips or excursions; thus, the regulation controlled in this case. First, the disputed facts about the voluntary or involuntary nature of plaintiffs' participation on the soccer team were immaterial. Further, the regulation and Ed. Code, § 87706, can easily be harmonized. There is a difference between a field trip or excursion and a school-sponsored activity. A field trip or excursion is simply a narrowly defined type of the more broadly defined school-sponsored activity. Plaintiffs' trip clearly fell within the broad category of a school-sponsored activity given that participation in an extracurricular sports program is part of the school curriculum. Also, by its own terms, the regulation places trips in connection with extracurricular sports programs into the narrowly defined field trip or excursion type of school-sponsored activity. Thus, plaintiffs were on a field trip or excursion, and Cal. Code Regs, tit. 5, § 55450, the special or specific immunity statute, applied.

[See 5 Witkin, Summary of Cal. Law (9th ed. 1988) Torts, § 155.]

- (5) **Government Tort Liability § 2—As Governed by Statute—Regulation Providing Immunity for Injuries Occurring During Field Trips or Excursions.**—Cal. Code Regs, tit. 5, § 55450, an administrative regulation providing community college districts with immunity for injuries occurring during or by reason of a field trip or excursion, is no mere administrative regulation but, rather, is a regulation adopted pursuant to the Legislature's intent to keep in effect the requirements, rights, responsibilities, conditions, or prescriptions of an identical repealed statute. Thus, the regulation and Ed. Code, § 87706, which reaffirms the general statutory rule of vicarious liability for accidents occurring to students where the community college district provides transportation to and from the school premises for an off-premises, school-sponsored activity, must be deemed to have equal dignity.

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#### COUNSEL

Gary Haraldsen for Plaintiffs and Appellants.

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Burton, Volkmann & Schmal, Timothy R. Volkmann and Karen E. Lintott  
for Defendants and Respondents.

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### OPINION

**PREMO, J.**—Plaintiffs Roy Dewey Barnhart III, Masao Drexel, and Robert Zamora sued defendants Cabrillo Community College and Jason Rene Larrieu for personal injuries suffered in an automobile accident. The accident occurred while Cabrillo's employee, Larrieu, was driving plaintiffs from the college to Fresno City College to play an intercollegiate soccer match. The trial court granted defendants' motion for summary judgment on the basis of immunity pursuant to title 5, California Code of Regulations, section 55450 (hereafter, title 5, section 55450). On appeal, plaintiffs contend that Education Code section 87706 (hereafter, section 87706) applies to this case and allows them to prove liability. We disagree and affirm the judgment.

### SCOPE OF REVIEW

The parties do not dispute the material facts. The issue is simply whether title 5, section 55450 immunity applies to this case. (1) "The meaning and effect of statutory provisions is a matter for our independent review." (*Service Employees Internat. Union v. Board of Trustees* (1996) 47 Cal.App.4th 1661, 1665 [55 Cal.Rptr.2d 484].)

(2) "It is axiomatic that in the interpretation of a statute where the language is clear, its plain meaning should be followed." (*Great Lakes Properties, Inc. v. City of El Segundo* (1977) 19 Cal.3d 152, 155 [137 Cal.Rptr. 154, 561 P.2d 244].) Generally, a statute should be construed so as to harmonize, if possible, with other laws relating to the same subject. (*Isobe v. Unemployment Ins. Appeals Bd.* (1974) 12 Cal.3d 584, 590-591 [116 Cal.Rptr. 376, 526 P.2d 528].) To harmonize two statutes relating to the same subject, a particular or specific statute will take precedence over a conflicting general statute. (Code Civ. Proc., § 1859.) And significance should be attributed to every word and phrase of a statute, and a construction making some words surplusage should be avoided. (*Moyer v. Workmen's Comp. Appeals Bd.* (1973) 10 Cal.3d 222, 230 [110 Cal.Rptr. 144, 514 P.2d 1224].)

### UNDISPUTED MATERIAL FACTS

Plaintiffs were members of the men's soccer team; Larrieu was the assistant coach. An away game was scheduled in Fresno. Larrieu drove

plaintiffs and other players to the game in a van owned by Cabrillo. On southbound Highway 99, one of the tires blew out. Larrieu lost control of the van. The van traveled across two lanes of traffic, overturning several times.

#### LEGAL BACKGROUND

Under the California Tort Claims Act, "Except as otherwise provided by statute: [¶] (a) A public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person." (Gov. Code, § 815, subd. (a).)

Government Code section 815.2, subdivision (a), is one such statute. It provides: "A public entity is liable for injury proximately caused by an act or omission of an employee of the public entity within the scope of his employment if the act or omission would, apart from this section, have given rise to a cause of action against that employee . . . ."

(3) "Through this section, the California Tort Claims Act expressly makes the doctrine of respondeat superior applicable to public employers. [Citation.] 'A public entity, as the employer, is generally liable for the torts of an employee committed within the scope of employment if the employee is liable. [Citations.]' [Citation.] Under [Government Code] section 820, subdivision (a), '[e]xcept as otherwise provided by statute . . . , a public employee is liable for injury caused by his act or omission to the same extent as a private person.' Thus, 'the general rule is that an employee of a public entity is liable for his torts to the same extent as a private person [citation] and the public entity is vicariously liable for any injury which its employee causes [citation] to the same extent as a private employer [citation].' [Citation.]" (*Hoff v. Vacaville Unified School Dist.* (1998) 19 Cal.4th 925, 932 [80 Cal.Rptr.2d 811, 968 P.2d 522].)

Section 87706 states that "Notwithstanding any other provision of this code, no community college district, or any officer or employee of such district or board shall be responsible or in any way liable for the conduct or safety of any student of the public schools at any time when such student is not in school property, unless such district has undertaken to provide transportation for such student to and from the school premises, has undertaken a school-sponsored activity off the premises of such school, has otherwise specifically assumed such responsibility or liability or has failed to exercise reasonable care under the circumstances. [¶] In the event of such a specific undertaking, the district shall be liable or responsible for the conduct or safety of any student only while such student is or should be under the immediate and direct supervision of an employee of such district or board."

On the other hand, title 5, section 55450, subdivision (a), provides that the governing board of a community college district may conduct "field trips or excursions in connection with courses of instruction or school-related social, educational, cultural, athletic, or college band activities to and from places . . . ." But subdivision (d), states, in pertinent part: "All persons making the field trip or excursion shall be deemed to have waived all claims against the district or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion."

#### DISCUSSION

(4a) A plain reading of section 87706 is that the section reaffirms the general statutory rule of vicarious liability for accidents occurring to students where the community college district provides transportation to and from the school premises for an off-premises school-sponsored activity (or otherwise affirmatively assumes responsibility for student safety) and the accident occurs while the student is or should be under the supervision of an employee.

A plain reading of title 5, section 55450 is that the section overrides the general statutory rule of vicarious liability and immunizes a community college district from liability for accidents occurring during field trips or excursions to participants thereof.

Plaintiffs' position is that section 87706 applies to this case so as to make operative against defendants the general statutory rule of vicarious liability. They point out that section 87706 contemplates transportation to a "school-sponsored activity." They urge that their trip to the soccer match fits within this definition. They conclude that section 87706 is a specific statute applicable to the circumstances. They further contend that title 5, section 55450 is a mere regulation that cannot alter or impair the scope of a statute. (*Bowman v. City of Petaluma* (1986) 185 Cal.App.3d 1065, 1081 [230 Cal.Rptr. 413].)

Defendants' position, on the other hand, is that title 5, section 55450 applies to this case so as to make them immune from liability. They point out that section 55450 contemplates "field trips or excursions" in connection with athletic activities. They urge that plaintiffs' trip to the soccer match fits within this definition. They conclude that section 55450 is a specific statute applicable to the circumstances. They bolster this point by claiming that plaintiffs' participation on the soccer team was voluntary in the sense that they were not required to travel to away games in college-provided transportation or even attend away games in the first instance.

Plaintiffs counter that, at the very least, there exists a triable issue of fact as to whether their participation on the soccer team was voluntary, pointing

to their declarations in which they stated that they believed attendance at away games was mandatory because their grades would otherwise suffer.

### 1. *Statute-Regulation Dichotomy*

Education Code section 70902 provides in pertinent part: "(a) Every community college district shall be under the control of a board of trustees, which is referred to herein as the 'governing board.' The governing board of each community college district shall establish, maintain, operate, and govern one or more community colleges in accordance with law. In so doing, the governing board may initiate and carry on any program, activity, or may otherwise act in any manner that is not in conflict with or inconsistent with, or preempted by, any law and that is not in conflict with the purposes for which community college districts are established. . . ."

Education Code "[s]ection 70902 was added to the code in 1988 but contained the same language as former section 72233, which had been added in 1976. Section 72233 was enacted in response to a 1972 amendment to the California Constitution, article IX, section 14, which added the following sentence to that section: 'The Legislature may authorize the governing boards of all school districts to initiate and carry on any programs, activities, or to otherwise act in any manner which is not in conflict with the laws and purposes for which school districts are established.'

"When the Education Code was amended in 1981, the Legislature stated that 'It is the intent of the Legislature, in enacting this act, to implement more fully, for the community colleges of California, the intent of the people in adopting the amendment of Section 14 of Article IX of the California Constitution. The Legislature further finds and declares that, in order to do so, it is necessary to amend or repeal many provisions of the Education Code. [¶] Wherever in this act a power or duty of a community college district governing board is repealed, or otherwise deleted by an amendment, it is not the intent of the Legislature to prohibit the board from acting as prescribed by the deleted provisions. Rather, *it is the intent of the Legislature, that the community college district governing board shall have the power, in the absence of other legislation, to so act under the general authority of Section 72233 of the Education Code.*' [Citation.] This 'general authority,' now embodied in section 70902, became known as the 'permissive code' concept.

". . . As the Legislature expressly stated, the permissive code allows a district's governing board to act under its general authority without specific statutory authorization.

“Since the permissive code was enacted in 1976, the Legislature has repealed many Education Code provisions which had specifically authorized community colleges to conduct various activities. . . . According to legislative counsel, specific statutory authority for such activities is no longer necessary in light of the permissive code. [Citation.] [¶] The only limitation placed on a governing board’s authority under the permissive code is that the board may not act in any manner ‘in conflict with, or inconsistent with, or preempted by, any law.’ [Citation.]” (*Service Employees Internat. Union v. Board of Trustees, supra*, 47 Cal.App.4th at pp. 1665-1666.)

As part of the permissive code, the Legislature also (1) directed that the Board of Governors of the California Community Colleges adopt regulations incorporating the text of specified repealed or amended Education Code sections, and (2) provided that the specified sections would remain operative until the effective date of the corresponding regulation. (Stats. 1990, ch. 1372, § 708, p. 6320.) It specifically stated: “It is the intent of the Legislature that there be no lapse in the requirements, rights, responsibilities, conditions, or prescriptions contained in the statutes.” (*Id.* at p. 6321.)

One of the specified Education Code sections was former Education Code section 72640 (repealed by Stats. 1990, ch. 1372, § 354, p. 6268), which is identical, in pertinent part, to title 5, section 55450. (Stats. 1990, ch. 1372, § 708, p. 6320, operative Apr. 5, 1991.) The immunity aspect of former Education Code section 72640 stated: “All persons making the field trip or excursion shall be deemed to have waived all claims against the district or the State of California for injury, accident, illness, or death occurring during or by reason of the field trip or excursion.” (Stats. 1987, ch. 1118, §§ 9, 10, pp. 3800-3802.)

(5) Thus, title 5, section 55450 is no mere administrative regulation. It is a regulation adopted by the Board of Governors of the California Community Colleges pursuant to the board’s constitutional authority and the Legislature’s mandate to the board to keep in effect the “requirements, rights, responsibilities, conditions, or prescriptions” of an identical repealed statute.

Under these peculiar circumstances, title 5, section 55450 and section 87706 must be deemed to have equal dignity.

## 2. Voluntary Participation

Defendants rely on *Wolfe v. Dublin Unified School Dist.* (1997) 56 Cal.App.4th 126 [65 Cal.Rptr.2d 280], and, by extension, *Castro v. Los Angeles Bd. of Education* (1976) 54 Cal.App.3d 232 [126 Cal.Rptr. 537].

In *Wolfe*, a first grade student sued a school district for injuries suffered in an automobile accident when he was returning to school during school hours from a field trip in a car driven by a volunteer parent. The student's parent had signed a form consenting to the student's participation in the field trip. All students participated in the field trip, but if a student had not produced a consent form he or she would have remained at school and participated in alternate activities. The trial court granted summary judgment for the district.

In affirming the judgment, the court examined the immunities afforded school districts under Education Code sections 44808 and 35330, sections identical to section 87706 and title 5, section 55450, but applicable to elementary and secondary school districts.

*Wolfe*, however, does not hold that voluntary participation is an issue in these types of cases. It simply held that Education Code section 35330 immunity applied because the plaintiff was on a field trip. (*Wolfe v. Dublin Unified School Dist.*, *supra*, 56 Cal.App.4th at p. 134.) And it alternatively held that, if Education Code section 44808 arguably applied (because the field trip was a school-sponsored activity to which the school district undertook to provide transportation and supervision), the specific field-trip statute would control over the general school-sponsored-activity statute. (56 Cal.App.4th at p. 135.) The court discussed the voluntary participation issue only as part of its discourse on *Castro*. (*Id.* at pp. 131-132.)

In *Castro*, a high school student died while participating with an ROTC unit in a summer camp organized and supervised by the board of education. In the wrongful death action, the trial court sustained a demurrer on the basis of Education Code section 35330 immunity (then numbered as § 1081.5).

In reversing the judgment on the basis of Education Code section 44808 (then numbered as § 13557.5), the court noted that there existed a difference between "field trip or excursion" and "school-sponsored activity" and stated: "The Legislature, by these sections, recognized that: not all educational facilities can be provided within the confines of each school's property. To accomplish a school's educational aims, it therefore is necessary for students to accomplish portions of their study off the school's property. Students who are off of the school's property for *required* school purposes are entitled to the same safeguards as those who are on school property, within supervisory limits. Students who participate in *nonrequired* trips or excursions, though possibly in furtherance of their education but not as *required* attendance, are effectively on their own; the *voluntary nature of the event absolves*



*the district of liability.* [¶] As we construe the governing sections, we conclude that where a 'school-sponsored activity,' i.e., one that *requires* attendance and for which attendance credit may be given, is involved, the event is a 'specific undertaking' of the district. In such a case 'the district . . . shall be liable or responsible for the . . . safety of any pupil only while such pupil is or should be under the immediate and direct supervision of an employee of such district.'" (*Castro v. Los Angeles Bd. of Education, supra*, 54 Cal.App.3d at p. 236, italics added, fn. omitted.)

The dispositive reason for the reversal in *Castro*, however, was not the voluntary nature of the participation. The court stated that the reason for the reversal was the need to provide the plaintiffs with "the forum in which to prove, if they can, that the ROTC 'summer camp, bivouac and summer training' was just as much a part of the school curriculum as a school-sponsored band or orchestra performance at an off-premises event." (*Castro v. Los Angeles Bd. of Education, supra*, 54 Cal.App.3d at p. 237.)

Hence, under *Castro*, the test is not really whether the student's participation was voluntary or not, but whether the off-premises activity was part of the school curriculum.

The Supreme Court has commented that *Castro's* discussion about the voluntary nature of the event was "dicta" and, in doing so, correctly observed that *Castro's* holding rested upon that "the activity was school-related." (*Hoyem v. Manhattan Beach City Sch. Dist.* (1978) 22 Cal.3d 508, 518, fn. 3 [150 Cal.Rptr. 1, 585 P.2d 851].)

Thus, *Castro's* statements about the voluntary or involuntary nature of the participation are (1) dicta, and (2) of questionable validity given that neither Education Code section 44808 nor Education Code section 35330 suggests such a test. (4b) For our purposes, neither section 87706 nor title 5, section 55450 suggests such a test. We therefore hold that the disputed facts about the voluntary or involuntary nature of plaintiffs' participation on the soccer team are immaterial. (Code Civ. Proc., § 437c, subs. (b), (c).)

### 3. Statutory Construction

At first blush, section 87706 and title 5, section 55450 appear inconsistent. And plaintiffs appear to tacitly assume that the sections are inconsistent by arguing that statutes prevail over regulations. But the sections can easily be harmonized.

As *Castro* observed, there is a difference between a field trip or excursion and a school-sponsored activity. More particularly, a field trip or excursion

is simply a narrowly defined type of the more broadly defined school-sponsored activity. (*Castro v. Los Angeles Bd. of Education, supra*, 54 Cal.App.3d at p. 236, fn. 2 [“We recognize the possibility of a ‘field-trip or excursion’ being permitted even during a ‘school-sponsored activity.’”]; *Wolfe v. Dublin Unified School Dist., supra*, 56 Cal.App.4th at p. 135 [“A field trip is a special type of off-premises activity, making section 35330 the special statute, should both statutes apply.”].)

Plaintiffs’ trip clearly falls within the broad category of a school-sponsored activity given that participation in an extracurricular sports program is part of the school curriculum. (See *Hartzell v. Connell* (1984) 35 Cal.3d 899, 910 [201 Cal.Rptr. 601, 679 P.2d 35] [“in cases determining the scope of school-related tort liability and insurance coverage, courts have held that ‘school-sponsored activities, such as sports, drama, and the like,’ though denominated ‘‘extracurricular,’’ . . . nevertheless form an integral and vital part of the educational program”]; *Acosta v. Los Angeles Unified School Dist.* (1995) 31 Cal.App.4th 471, 478 [37 Cal.Rptr.2d 171] [“most states, including California, have held a school district’s duty of reasonable supervision applies to school-sponsored extracurricular sports programs”].)

The question in this case, however, boils down to whether plaintiffs were on a field trip or excursion. If so, then there is immunity.

*Castro* defined field trip or excursion as follows: “‘Field trip’ is defined as a visit made by students and usually a teacher for purposes of first hand observation (as to a factory, farm, clinic, museum). ‘Excursion’ means a journey chiefly for recreation, a usual brief pleasure trip, departure from a direct or proper course, or deviation from a definite path.” (*Castro v. Los Angeles Bd. of Education, supra*, 54 Cal.App.3d at p. 236, fn. 1.)

Strictly speaking, plaintiffs’ trip to Fresno does not appear to be a field trip given that it was a trip to participate rather than observe; and, though the trip had recreational and pleasurable aspects, the essence of the trip was not excursionary given that the trip was part of a regular activity rather than a departure or deviation from the norm.

But title 5, section 55450 itself further describes field trips or excursions. The section supposes that field trips or excursions are conducted “in connection with . . . school-related . . . athletic . . . activities.” (tit. 5, § 55450, subd. (a).) School-related athletic activities necessarily include extracurricular sports programs. Thus, by its own terms, title 5, section 55450 places trips in connection with extracurricular sports programs into the narrowly defined field trip or excursion type of school-sponsored activity.

Plaintiffs were therefore on a field trip or excursion; hence, the special or specific immunity statute applies. (*Wolfe v. Dublin Unified School Dist.*, *supra*, 56 Cal.App.4th at p. 135.)

DISPOSITION

The judgment is affirmed.

Cottle, P. J., and Elia, J., concurred.

Appellants' petition for review by the Supreme Court was denied February 23, 2000. Mosk, J., and Werdgar, J., were of the opinion that the petition should be granted.



Hearing Date: September 29, 2011  
 J:\MANDATES\2007\tc\02-tc-47\tc\dsa.doc

**ITEM \_\_\_\_**  
**TEST CLAIM**  
**DRAFT STAFF ANALYSIS**

Education Code Sections 70902(b)(1),<sup>1</sup> 81663, 81800, 81805, 81807, 81808, 81820, 81821,  
 81822, 81823, 81836, 81837, 81839

Statutes 1980, Chapter 910, Statutes 1981, Chapter 470, Statutes 1981, Chapter 891, Statutes  
 1988, chapter 973, Statutes 1990, Chapter 1372, Statutes 1991, chapter 1038, Statutes 1995,  
 Chapter 758

California Code of Regulations, Title 5, Sections 57001, 57001.5, 57001.7, 57002, 57010,  
 57011, 57013, 57014, 57015, 57016, 57033.1, 57050, 57051, 57052, 57053, 57054, 57055,  
 57060, 57061, 57062, 57063, 57150, 57152, 57154, 57156, 57158

Register 75, No. 40 (Oct. 4, 1975) page 673; Register 77, No. 45 (Nov. 6, 1977) pages 673-674;  
 Register 80, No. 39 (Sept. 27, 1980) page 675-676.1; Register 80, No. 44 (Nov. 1, 1980) pages  
 676.5-676.6; Register 81, No. 3 (Jan. 17, 1981) pages 673-676.6; Register 83, No. 18  
 (April 30, 1983) pages 666.27 – 666.36; Register 91, No. 23 (June 7, 1991) pages 371 – 377;  
 Register 91, No. 43 (Oct. 25, 1991) pages 371-372; Register 94, No. 38 (Sept. 23, 1994)  
 page 371; Register 95, No. 23 (June 9, 1995) pages 371 – 389

*Community College Construction*  
 02-TC-47

Santa Monica Community College District, Claimant

**EXECUTIVE SUMMARY**

This test claim addresses capital construction plans of community college districts; capital outlay projects of community college districts funded with or without the assistance of the state; and state-supported energy conservation projects of community college districts.

Most of the test claim statutes come from the Community College Construction Act of 1980, the purpose of which is, among other things, “for the state to provide assistance to community college districts for the construction of community college facilities.” (Ed. Code, § 81800(b), Stats. 1980, ch. 910.)<sup>2</sup> The 1980 Act is based largely on the Junior College Construction Act of 1967 (Stats. 1967, ch. 1550, former Ed. Code, §§ 20050 et seq.).

District governing boards are required to prepare and submit to the Board of Governors a plan to “reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The five-year plan shall be subject

<sup>1</sup> This section was severed from the *Minimum Conditions for State Aid* test claim (02-TC-25 & 02-TC-31) in a May 6, 2011 letter from the Commission to the test claimant.

<sup>2</sup> References are to the Education Code or to title 5 of the California Code of Regulations unless otherwise indicated. Claimant pled the 1980 version of section 81800, but former section 81800.1 (Stats. 1979, ch. 797, § 112) is nearly identical.

to continuing review by the governing board and annually shall be extended one year . . . .” (§ 81820.) The five-year plan sets forth the estimated capital construction needs of the district, and must include specified information. (§ 81821.) The Board of Governors reviews and evaluates the district’s plan and makes revisions and changes as appropriate, and notifies the district. (§ 81822.)

Community college districts may propose capital outlay projects and seek the assistance from the state in the funding of those projects. A “State-Funded Project” is “a capital outlay project qualifying as a project pursuant to section 81805 of the Education Code that meets cost and construction standards formulated by the Board of Governors, and for which a district requests or receives State funding assistance.” (Cal.Code Regs., tit. 5, § 57152(c).) Community college districts may submit proposed projects to the Chancellor for review and approval or disapproval. The proposed project is “an element of the district’s plan for capital construction.” (Cal.Code Regs., tit. 5, § 57014.) The Chancellor is required to review and evaluate each proposed project with reference to the elements of the capital construction program, as specified. (Cal.Code Regs., tit. 5, § 57015.) The Chancellor adopts criteria for determining districts’ matching shares of the cost of capital outlay projects. Based on those criteria, the Chancellor recommends each district’s match. (Cal.Code Regs., tit. 5, § 57033.1.) On completion of a project, the district governing board is required to submit to the Chancellor a final report within 30 days. (Cal.Code Regs., tit. 5, § 57011.) Districts may appeal the Chancellor’s decisions on projects to the Board of Governors. (Cal.Code Regs., tit. 5, § 57010.)

When a community college district proposes to acquire new college sites, the Board of Governors advises the district on the acquisition, and after a review of available plots, gives the district governing board a list of approved locations in the order of their merit, taking into account various factors. The Board of Governors charges a fee for this service. (§ 81836(a).) Districts that are planning, designing, or constructing new facilities funded with the assistance from the state are required to meet with appropriate local government authorities and report to the Chancellor’s Office on joint and community use. (Cal.Code Regs., tit. 5, § 57013.)

The governing board of each community college district, before letting any contract totaling \$150,000 or more in the erection of any new community college facility, or for any addition to, or alteration of any existing community college facility, is required to submit the plans to the Board of Governors and obtain the written approval of the plans. (Ed. Code, § 81837.)

Capital outlay projects can also be funded without state assistance. A district-funded project is defined as “a capital outlay project subject to the requirements of section 81837 of the Education Code [i.e., contracts that are \$150,000 or more that are subject to the approval by the Board of Governors] for which any funds, other than state funds, are paid or to be paid for erecting, adding to, or altering any community college facility.” (Cal.Code Regs, tit. 5, § 57150.) District-funded projects of \$150,000 or more must be submitted for approval to the Chancellor and accompanied by the plans and information on the square feet of space. The projects must also comply with all requirements prescribed by the Chancellor. (Cal.Code Regs, tit. 5, § 57154.) The Chancellor reviews and evaluates each district funded project with reference to the elements of the capital construction program specified in Education Code section 81821; i.e., the plans of the district concerning its future academic and student services programs, enrollment projections, the current enrollment capacity, district supporting facility capacities, and an annual inventory of all facilities and land of the district. (Cal.Code Regs., tit. 5, § 57156.) The Chancellor is required to approve the district funded plans when the analysis shows that approval of the plans for a

proposed facility would not result in facilities that would be substantially at variance with space and utilization standards adopted by the Board of Governors.

When the Chancellor's analysis shows that the approval of the plans would result in facilities that would be substantially at variance with space and utilization standards adopted by the Board of Governors, the Chancellor is required to either impose conditions for the approval of the plans or find that despite the variance, the plans are acceptable and respond to the district with cautions or an appraisal of the potential consequences of the variance. (Cal.Code Regs., tit. 5, § 57158.)

Finally, community college districts are authorized to borrow funds from "federal or state regulated financial institutions" in order to retrofit buildings for more energy efficiency. (§ 81663.) The purpose of the energy efficiency regulations is "to aid community college districts in finding cost-effective methods of conserving energy in buildings maintained by the districts" and "to encourage community college districts to retrofit buildings so as to conserve energy and reduce the costs of supplying energy." (Cal.Code Regs., tit. 5, § 57060.) Districts requesting a state-supported energy conservation project are required to provide information required by the Chancellor's Office. (Cal.Code Regs., tit. 5, § 57052.) Energy conservation projects are ranked on the basis of criteria developed by the Chancellor's Office (Cal.Code Regs., tit. 5, §§ 57055, 57054).

### **Procedural History**

The test claim was submitted by the Santa Monica Community College District on June 27, 2003. The Department of Finance filed comments on February 18, 2004, and the Chancellor's Office filed comments on March 16, 2004. The claimant filed rebuttal comments on April 1, 2004. Commission staff severed Education Code section 70902(b)(1) from the *Minimum Conditions for State Aid* test claim (02-TC-25 & 02-TC-31) and consolidated it with this test claim on May 6, 2011.

### **Positions of Parties and Interested Parties**

#### Claimant's Position

Claimant Santa Monica Community College District asserts that the test claim statutes and regulations constitute a reimbursable state mandate.

#### Department of Finance

Finance states that there are two activities that "could be interpreted as state-reimbursable mandated activities" as follows:

- 1) Inclusion in the five-year plan of the district's estimate of funds available for capital outlay matching purposes (Ed. Code, § 81821(f)); and
- 2) Reporting to the Chancellor's Office on plans to achieve greater use of joint facilities with parks and Recreation and possible use of new facilities by the community (Cal.Code Regs., tit. 5, § 57013).

Finance does not agree that the other activities are reimbursable because either they are substantially similar to activities that have been continuously required since the Community College Construction Act of 1967, or they are requirements imposed on the Chancellor's Office and not local districts, or they are discretionary, or they provide cost savings that meet or exceed the amount of expenses incurred.

## Community College Chancellor's Office

The Chancellor's Office states that "there are several bases for rejecting the claim in its entirety." Much of the test claim, for example, may be traced to requirements in effect since the Junior College Construction Act of 1967 (Stats. 1967, ch. 1550), or the Community College Construction Act of 1970 (Stats. 1970, ch. 102), and is therefore not reimbursable because it was mandated before 1975. The Chancellor's Office also cites bond act Funds that were intended to fund the activities in the test claim.

### **Commission Responsibilities**

Under article XIII B, section 6 of the California Constitution, local governments and school districts are entitled to reimbursement for the costs of state-mandated new programs or higher levels of service. In order for local governments or school districts to be eligible for reimbursement, one or more similarly situated local governments or school districts must file a test claim with the Commission. "Test claim" means the first claim filed with the Commission alleging that a particular statute or executive order imposes costs mandated by the state. Test claims function similarly to class actions and all members of the class have the opportunity to participate in the test claim process and all are bound by the final decision of the Commission for purposes of that test claim.

The Commission is the quasi-judicial body vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6. In making its decisions, the Commission cannot apply article XIII B as an equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.

### **Claims**

The following chart provides a brief summary of the claims and issues raised by the claimant, and staff's recommendation.

Claim	Description	Issues	Recommendation
Establish policies and plans for facilities.	Requires districts to establish policies for and approve current and long-range facilities plans and submit them for review and approval.	Claimant states that this activity is reimbursable.	<u>Denied:</u> This activity is not a new program or higher level of service.
Prepare five-year plan for capital construction.	Requires districts to prepare and submit a five-year plan for capital construction and continually review it and report on changes to it, if any.	Claimant states that this activity is reimbursable. Finance and the Chancellor's Office argue that it is not new.	<u>Partially approved:</u> Some contents of the plan have been expanded by the test claim statutes. Including reviewing, and reporting the new content in the capital construction plan is reimbursable.



Submit the plan on the basis of each college or educational center.	Authorizes the districts to submit the plan on the basis of each college or educational center maintained by the district under specified circumstances.	Claimant states that this activity is reimbursable. Finance and the Chancellor's Office state it is a discretionary activity.	<u>Denied.</u> This activity does not mandate a new program or higher level of service.
Review and evaluate the district's capital construction plan.	Requires the Board of Governors to review and evaluate the plan for capital construction as specified.	Claimant states that this is a reimbursable activity.	<u>Denied.</u> This is not a state mandate imposed on community college districts.
State-Funded capital outlay projects.	Requires various activities of districts that submit projects for state funding assistance.	Claimant states that this activity is reimbursable. Finance and the Chancellor's Office state that the activities are not a new program or higher level of service.	<u>Denied.</u> The activities do not mandate a new program or higher level of service.
Submit plan of district-funded construction projects.	Requires submission of plans for projects over \$150,000 that are not funded by the state.	Finance and the Chancellor's Office assert that these activities are not mandated by the state.	<u>Denied.</u> These activities do not mandate a new program or higher level of service.
Energy efficient facilities.	Authorizes districts to borrow funds for projects that promote energy efficiency, and requires specified activities for districts requesting state assistance.	Finance and the Chancellor's Office assert that these activities are not mandated by the state.	<u>Denied.</u> These activities are not mandated by the state.

### Staff Analysis

Five-Year Plan for Capital Construction: The district governing board is required to establish policies for and approve current and long-range facilities plans and submit them to the board of governors for review and approval. Staff finds that this does not impose a new program or higher level of service because it has been required continuously since before 1975.

The district governing board is required to prepare and submit to the Board of Governors a plan for capital construction that reflects the capital construction of the district for the five-year period commencing with the next proposed year of funding. The plan is subject to continuing review

and is annually extended each year and any changes to it are annually submitted to the Board of Governors.

Although the requirement to prepare and submit a five-year plan is not a new program or higher level of service, some of the required contents of the plan were expanded by the test claim statutes. Thus, staff finds a state-mandated reimbursable program requiring districts to include the following in their five year plan, subject to continuing review, and report to the Board of Governors on any changes in the following:

- The plans of the district concerning its future student services programs, and the effect on estimated construction needs that may arise because of particular student services to be emphasized. (§ 81821(a).)
- The enrollment projections for each educational center within a community college district, made cooperatively by the Department of Finance and the district. (§ 81821(b).)
- An annual inventory of all land of the district using standard definitions, forms, and instructions adopted by the Board of Governors. (§ 81821(e).)
- An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to regulations adopted by the board of governors. (§ 81821(f).)

Districts are authorized to submit the five-year plan on the basis of each college or educational center maintained by the district under specified circumstances. Claimant states that this is mandatory. Staff finds that this activity does not mandate a new program or higher level of service.

The Board of Governors is required to review and approve each district's capital construction plan. Staff finds that this provision imposes no requirements on community college districts.

State-Funded Capital Outlay Projects: Districts may seek state funding for capital construction projects, as specified, that qualify for it by submitting an application for approval. Districts that seek these funds may be required to pay fees for plan review and approval, meet with local park and recreational authorities on joint use of facilities, transfer unused funds, submit a final report to the Chancellor, be subject to state post-audit review, and submit to additional review for projects that equal or exceed \$150,000.

Generally, seeking state funding for projects is a discretionary decision and not a state mandate. There is no evidence in the record of practical compulsion to seek this funding. Moreover, the requirements that districts must meet in order to obtain state funding are not a new program or higher level of service. They were all required under preexisting law.

District-Funded Construction Projects: These projects, which are paid for with non-state funds, only require review if they cost \$150,000 or more. Activities required when these projects are undertaken include paying a fee for new school sites reviewed and approved, paying a fee for review of plans and specifications, and submitting an application for project approval to the Chancellor, as specified.

Although the activity to submit an application, including the plans and specifications, to the Chancellor's Office for approval of a district-funded project is mandated in certain situations, the requirement does not impose a new program or higher level of service. The review of plans and specification for projects that exceed a threshold amount (now \$150,000, formerly \$10,000) has

been required since before 1975. In addition, the payment of the fees does not impose a new program or higher level of service.

Energy Efficient Facilities: Community colleges are authorized to enter into energy management agreements and borrow money to retrofit buildings for greater energy efficiency. The amount borrowed is not to exceed the amount to be repaid from energy cost savings. Claimant alleges various activities that are required when a districts seeks funding from the state for these energy retrofits.

The Department of Finance and the Chancellor's Office both assert that these regulations are not reimbursable because they concern voluntary applications for state funding.

The activities for which claimant seeks reimbursement are downstream of the district's discretionary decision to enter into energy systems management agreements and seek funding for an energy conservation project. Thus, staff finds that they are not mandated by the state.

### **Conclusion**

For the reasons discussed above, staff finds that Education Code sections 81820 and 81821(a), (b), (e) and (f) (Stats. 1980, ch. 910, Stats. 1981, ch. 470, Stats. 1981, ch. 891, Stats. 1995, ch. 758) constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution to include the following information in the five-year plan for capital construction:

- The plans of the district concerning its future student services programs, and the effect on estimated construction needs that may arise because of particular student services to be emphasized. (Ed. Code, § 81821(a).)
- The enrollment projections for each educational center within a community college district, made cooperatively by the Department of Finance and the district. (Ed. Code, § 81821(b).)
- An annual inventory of all land of the district using standard definitions, forms, and instructions adopted by the Board of Governors. (Ed. Code, § 81821(e).)
- An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to regulations adopted by the board of governors. (Ed. Code, § 81821(f).)

Community college districts are also eligible for reimbursement to continually review the information bulleted above and to report by February 1<sup>st</sup> of each year any required modifications or changes with respect to the information to the Board of Governors.

Staff also finds that all other statutes and regulations in the test claim do not impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution

### **Staff Recommendation**

Staff recommends that the Commission adopt this analysis to partially approve this test claim by approving the activities listed above.

## STAFF ANALYSIS

### Claimants

Santa Monica Community College District

### Chronology

- 6/27/03 Test claim 02-TC-47 filed by the Santa Monica Community College District
- 2/18/04 Department of Finance files comments
- 3/16/04 Community Colleges Chancellor's Office files comments
- 4/1/04 Claimant files rebuttal comments
- 5/6/11 Commission staff severs Education Code section 70902(b)(1) from the *Minimum Conditions for State Aid* test claim (02-TC-25 & 02-TC-31) and consolidates it with this test claim

### I. Background

This test claim addresses capital construction plans of community college districts; capital outlay projects funded with or without the assistance of the state; and state-supported energy conservation projects of a community college district.

The Community College Construction Act of 1980 ("1980 Act") is the source of most of the test claim statutes. The legislative intent for the 1980 Act was expressed as follows:

The Legislature hereby declares that it is in the interest of the state and of the people thereof for the state to provide assistance to community college districts for the construction of community college facilities. The community college system is of general concern and interest to all the people of the state, and the education of community college students is a joint obligation and function of both the state and community college districts.

In enacting this chapter, the Legislature considers that there is a need to provide adequate community college facilities that will be required to accommodate community college students resulting from growth in population and from legislative policies expressed through implementation of the Master Plan for Higher Education. (Education Code § 81800 (b), Stats. 1980, ch. 910.)

The 1980 Act is "administered by the Board of Governors of the California Community Colleges, and for purposes of the administration the board of governors shall adopt all necessary rules and regulations." The Board of Governors assembles "state-wide data on facility and construction costs, and ... formulate[s] cost standards and construction standards ..." (§ 81805) and allocates and disburses funds for district projects (§ 81807).

The genesis of the 1980 Act is the Junior College Construction Act of 1967 (Stats. 1967, ch. 1550, former Ed. Code, §§ 20050 et seq.). As enacted in 1967, its provisions were under the jurisdiction of the Department of Education. That same year, the Legislature created the Board of Governors of the California Community Colleges ("Board of Governors") and authorized the establishment of the Chancellor's Office (Stats. 1967, ch. 1549). It was not until 1971 that the Legislature amended the Community College Construction Act to make the Board of Governors

and the Chancellor's Office responsible for its enforcement (Stats. 1971, ch. 1525). The Board of Governors (§§ 70901 & 71000), and the Chancellor's Office (§ 71090), are state entities.

Five-Year Plan for Capital Construction (§§ 70902(b)(1), 81820 – 81823): Community college district governing boards are required to:

Establish policies for, and approve, current and long-range academic and *facilities plans* and programs, and promote orderly growth and development of the community colleges within the district. In doing so, the governing board shall, as required by law, establish policies for, develop, and approve, comprehensive plans. The governing board shall submit the comprehensive plans to the board of governors for review and approval. (§ 70902 (b)(1), Stats. 1988, ch. 973, emphasis added.)

More specifically, district governing boards prepare and submit to the Board of Governors, “a plan for capital construction for community college purposes of the district” as follows:

The plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The five-year plan shall be subject to continuing review by the governing board and annually shall be extended one year, and there shall be submitted to the board of governors, on or before the first day of February in each succeeding year, a report outlining the required modifications or changes, if any, in the five-year plan. (§ 81820, Stats. 1990, ch. 1372.)

Districts may also submit the plan on the basis of each college or educational center maintained by the district, under specified circumstances. (§ 81823, Stats. 1980, ch. 910.)

The five-year plan sets forth the estimated capital construction needs of the district, and must include: (1) plans of the district concerning future academic and student services programs and their effect on estimated construction needs; (2) enrollment projections for each district as formulated by the Department of Finance; (3) current enrollment capacity of the district; (4) district office, library and supporting facility capacities; (5) an annual inventory of all facilities and land of the district; and (6) an estimate of district funds that would be available for capital outlay matching purposes. (§ 81821, Stats. 1995, ch. 758.) The Board of Governors reviews and evaluates the district's plan in terms of these elements of the capital construction program, and makes changes as appropriate, and notifies the district. (§ 81822, Stats. 1990, ch. 1372.) The Board of Governors similarly reviews and evaluates continuing five-year plans for capital construction submitted by the district governing boards, and notifies the district of the revised plan for capital construction. (*Ibid.*)

Capital Outlay Projects Funded with the Assistance from the State (§§ 81800-81808, 81836-81837, 81839, Cal.Code Regs, tit. 5, §§ 57001.5, 57010-57016, 57033.1, 57152): The legislative intent of the Community College Construction Act of 1980 is for, among other things, “the state to provide assistance to community college districts for the construction of community college facilities.” (§ 81800, Stats. 1980, ch. 910.)

The Board of Governors is required to administer the 1980 Act and adopt “all necessary rules and regulations” and “assemble statewide data on facility and construction costs, and on the basis

thereof formulate cost standards and construction standards.” (§ 81805, Stats. 1980, ch. 910, Stats. 1990, ch. 1372.)<sup>3</sup>

“State-Funded Project” is defined as “a capital outlay project qualifying as a project pursuant to section 81805 of the Education Code that meets cost and construction standards formulated by the Board of Governors, and for which a district requests or receives State funding assistance.” (Cal.Code Regs., tit. 5, § 57152(c).) Projects and the associated costs that qualify for state funding assistance include the following:

- Planning, acquisition, and improvement of community college sites.
- Planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, a laboratory, a library, a performing arts facility, a gymnasium, the basic outdoor physical education facilities, the basic food service facilities, or child development centers, pursuant to section 79120 of the Education Code; related facilities necessary for the instruction of students or for administration of the educational program; maintenance or utility facilities essential to the operation of the foregoing facilities and the initial acquisition of equipment.
- Initial furnishing of, and initial acquisition of equipment for any facility leased or lease-purchased by a community college district as of August 1, 1987, for educational purposes. (Cal.Code Regs., tit. 5, § 57001.5, emphasis added.)<sup>4</sup>

Section 57152 of the Title 5 regulations defines “capital outlay project” to include the “purchase of land and costs related thereto, including court costs, condemnation costs, legal fees, title fees, etc.; construction projects, including working drawings; and equipment related to a construction project regardless of cost or timing.”

The costs to plan or construct dormitories, student centers other than cafeterias, stadia, the improvement of sites for student or staff parking, or single-purpose auditoriums are not included in the definition of “projects” eligible for state funding. (Cal. Code Regs, tit. 5, § 57001.5(d).)

Community college districts may submit proposed projects to the Chancellor for review and approval or disapproval. The proposed project is “an element of the district’s plan for capital construction.” (Cal.Code Regs., tit. 5, § 57014.)

When a community college district proposes to acquire new college sites, the Board of Governors is required to advise the community college district on the acquisition, and after a review of available plots, give the governing board of the district a written list of approved locations in the order of their merit. The list of approved locations shall take into account educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction. The Board of

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<sup>3</sup> The regulations (Cal. Code Regs., tit. 5, §§57020-57032) concern standards for classroom use, laboratory use, classroom occupancy, laboratory occupancy, classroom space per station, capacity of future assignable space, capacity of future laboratory and service areas, office space, library space, and formulas. These regulations are not part of this test claim.

<sup>4</sup> Register 1991, No. 23 (April 5, 1991) page 371; Register 1991, No. 43 (Oct. 25, 1991) page 371; Register 1995, No. 23 (June 9, 1995) pages 371-372. This provision was in former Education Code section 20052 (Stats. 1967, ch. 1550, Stats. 1970, ch. 102).

Governors shall charge the governing board of the community college district a reasonable fee for each 10 acres or fraction thereof of schoolsite reviewed. (§ 81836(a).)

In addition, any community college district planning, designing, or constructing new facilities funded with the assistance of the state is required to meet with appropriate local government recreation and park authorities and report to the Chancellors' Office plans to achieve: (a) a greater use of any joint or contiguous recreation and park facilities by the district; and (b) possible use by the total community of such facilities and sites and recreation and park facilities." (Cal.Code Regs., tit. 5, § 57013.)

The Chancellor is required to review and evaluate each proposed project with reference to the elements of the capital construction program specified in section 81821, the five-year plan elements described above. Review includes the following:

- (a) An architectural analysis to determine the costs of the various phases of the project, with particular attention to be directed to the type of construction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area.
- (b) Determining the amount of federal funds available for the project, and taking appropriate measures to ensure that the project will qualify for the maximum amounts of federal funds practicable under the circumstances. [¶]. . . [¶]
- (c) Determining the total cost of the project, reducing the total cost by the amount of federal funds available thereof, and determining the remainder to be borne by the state, or, if the district has matching funds, by the state and by the district. [¶]. . . [¶] [Determining district ability to provide matching funds is based on Education Code section 57033.1]. Private funds available for specific projects may be used as a credit towards the district match.
- (d) Determining the total of funds required for the first phase of the project to be provided on a matching basis by the state and the district, and the total state appropriation required to be provided for the project or one or more of its phases. (Cal.Code Regs., tit. 5, § 57015.)

The Chancellor is required to adopt criteria for determining districts' matching shares of the cost of capital outlay projects. Based on those criteria, the Chancellor recommends each district's match, which is reviewed by the Board of Governors in forwarding its annual budget request to the Department of Finance for determination by the Legislature. (Cal.Code Regs., tit. 5, § 57033.1.)

A community college district may include a proposed site in its plans for a project and may enter into an agreement with the owner of property for an option to purchase, or lease with an option to purchase. This agreement "shall in no way affect the determination of the share of the cost of the project to be borne by the state . . . ." (Ed. Code, § 81839.)

If a proposed project is submitted by a district to the Chancellor by February 1 of each year, the regulations require the Chancellor to act on it "pursuant to section 57014 on or before the next succeeding May 1 of each year." (Cal.Code Regs., tit. 5, § 57016.)

Funds appropriated for a community college district's project are to be allocated and disbursed on order of the Board of Governors and by warrants of the Controller. (Ed. Code, § 81807.) If

an existing community college district is included in a newly formed community college district, any unused funds appropriated or authorized to be appropriated for a finally approved project shall be transferred to the newly formed community college district on the date the district is effective for all purposes, or earlier if the governing boards agree. (Ed. Code, § 81808.) Federal funds subject to a federal grant are required to be prorated if “the physical detail and intent of a project subject to a federal grant differs materially from the physical detail and intent for which state funds are appropriated.” (Cal.Code Regs., tit. 5, § 57002.)

On completion of a project, the district governing board is required to submit to the Chancellor, “within 30 days after the closure of the current fiscal year, a final report on all expenditures in connection with the source of the funds expended. The district shall be subject to a state post-audit review of fund claims for all such projects.” (Cal.Code Regs., tit. 5, § 57011.)

Community college districts may appeal decisions of the Chancellor’s Office in administering the Community College Construction Act to the Board of Governors. (Cal.Code Regs., tit. 5, § 57010.)

If a proposed project exceeds \$150,000, additional review and approval of the plans and specifications by the Board of Governors is required. The governing board of each community college district, before letting any contract totaling \$150,000 or more in the erection of any new community college facility, or for any addition to, or alteration of any existing community college facility, is required to submit the plans to the Board of Governors and obtain the written approval of the plans. (Ed. Code, § 81837.) The Board of Governors, for a reasonable fee charged to the district, is required to review the plans and specifications for these projects. The Board of Governors can either approve the plans and specifications as submitted, or return without approval and with recommendation for changes any plans that do not conform to established standards. (Ed. Code, § 81836.) No contract for construction made by any governing board of a community college district that exceeds \$150,000 is valid without the approval of the Board of Governors. In addition, no public money shall be paid for erecting, adding to, or altering any facility without the approval of the Board of Governors when the cost of the project exceeds \$150,000. (Ed. Code, § 81837.)

District-Funded Capital Outlay Projects (§§ 81836 & 81837, Cal. Code Regs, tit. 5, §§ 57150-57158): A district-funded project is defined as “a capital outlay project subject to the requirements of section 81837 of the Education Code [i.e., contracts that are \$150,000 or more that are subject to the approval of the Board of Governors] for which any funds, other than state funds, are paid or to be paid for erecting, adding to, or altering any community college facility.” (Cal.Code Regs, tit. 5, § 57150.)

A capital outlay project includes the purchase of land and the construction project. When a community college district proposes to acquire new college sites, the Board of Governors is required to advise the community college district on the acquisition, and after a review of available plots, give the governing board of the district a written list of approved locations in the order of their merit. The list of approved locations shall take into account educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction. The Board of Governors shall charge the governing board of the community college district a reasonable fee for each 10 acres or fraction thereof of schoolsite reviewed. (Ed. Code, § 81836(a).)



Additionally, in each case of a district funded project, the application for approval of plans shall be submitted to the Chancellor and be accompanied by the plans and full, complete, and accurate take-off of assignable and gross square feet of space, which shall comply with any and all requirements prescribed by the Chancellor. (Cal.Code Regs, tit. 5, § 57154.) The Chancellor is required to review and evaluate each district-funded project with reference to the elements of the capital construction program specified in Education Code section 81821; i.e., the plans of the district concerning its future academic and student services programs, enrollment projections, the current enrollment capacity, district supporting facility capacities, and an annual inventory of all facilities and land of the district. The Chancellor’s review shall be “directed particularly to ascertain whether the locally funded project is of appropriate size, is appropriately timed and is justified in terms of the elements of the capital construction plan and where applicable, the standards adopted by the Board of Governors.” (Cal.Code Regs., tit. 5, § 57156.)

The Chancellor is required to approve the district-funded plans when the analysis shows that approval of the plans for a proposed facility would not result in facilities that would be substantially at variance with space and utilization standards adopted by the Board of Governors.

When the Chancellor’s analysis shows that the approval of the plans would result in facilities that would be substantially at variance with space and utilization standards adopted by the Board of Governors, the Chancellor is required to either impose conditions for the approval of the plans or find that despite the variance, the plans are acceptable and respond to the district with cautions or appraisal of the potential consequences of the variance. (Cal.Code Regs., tit. 5, § 57158.)

Energy efficient facilities (§ 81663, Cal.Code Regs, tit. 5, §§ 57050-57063): Any community college may enter into an agreement for solar, energy, or solar and energy management systems. (Ed. Code, § 81660.)

Community college districts are authorized to borrow funds from “federal or state regulated financial institutions” in order to retrofit buildings for more energy efficiency, but the “amount borrowed shall not exceed the amount that can be repaid from energy cost avoidance savings accumulated from the improvement of facilities.” (§ 81663, Stats. 1991, ch. 1038, Cal.Code Regs, tit. 5, § 57061.)

The related regulations were originally enacted in 1980 “for the purpose of administration and implementation of Board of Governors Energy and Resources Policy under the Community College Construction Act” (Cal.Code Regs., tit. 5, § 57050). Part of the 1980 Community College Construction Act appropriated “from the Energy and Resources Fund to the Board of Governors of the California Community Colleges the sum of fifty thousand dollars (\$50,000).” The funds were not to be allocated “prior to the approval by the Department of Finance of a statewide priority listing of the projects proposed to be funded in the 1981-1982 Governor’s Budget.” (Stats. 1980, ch. 910, § 4, subds.(a) & (b).)

The legislative intent for the energy regulations (Cal. Code Regs., tit. 5, §§ 57050-57063) is stated as follows:

The Board of Governors finds and declares that it is in the interest of the state and of the people thereof for the state to aid community college districts in finding cost-effective methods of conserving energy in buildings maintained by the districts. The Board of Governors also finds that while many districts may desire to participate in energy conservation programs designed to reduce the steadily rising costs of meeting the energy needs of district buildings, that the costs

involved in improving existing facilities to become more energy efficient are often prohibitive.

It is the intent of the Board of Governors in adopting this regulation to encourage community college districts to retrofit buildings so as to conserve energy and reduce the costs of supplying energy. (Cal.Code Regs, tit. 5, § 57060.)

Districts requesting a state-supported energy conservation project are required to provide “a summary of the district’s Energy Conservation program as part of its five-year construction plan.” (Cal.Code Regs, tit. 5, § 57052.) When the need for an energy conservation project<sup>5</sup> has been adequately established, the project must be submitted “as a project planning guide in accordance with established format to the Chancellor’s Office.” Energy conservation projects are ranked on the basis of criteria developed by the Chancellor’s Office (Cal.Code Regs, tit. 5, § 57055). The criteria include the level of energy use, pay-back period, and “the extent to which the district has implemented an energy conservation program which meets the objectives specified in Board of Governor’s Policy Statement on Energy and Resource Conservation.” (Cal.Code Regs, tit. 5, § 57054.)

Districts are required to contract with “qualified businesses capable of retrofitting school buildings.” (Cal.Code Regs, tit. 5, § 57063). In determining the lowest responsible bidder for the energy management system, the governing board of the community college district shall consider the net cost or savings of each system. “Net cost or savings” means “the cost of the system to the district, if any, less the projected energy savings to be realized from the energy management system.” The governing board may require an independent evaluation of the projected energy savings. (Ed. Code, § 81661.)

### **Claimant’s Position**

Claimant asserts that the test claim statutes and regulations constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6, and Government Code section 17514 for a community college district to do the following:

- A. Transfer any unused project funds appropriated, or authorized for appropriation, when the existing district is incorporated into a newly formed district (Ed. Code, § 81808).
- B. Prepare and submit a plan for capital construction to the Board of Governors of the California Community Colleges reflecting the five-year period commencing with the next proposed year of funding (Ed. Code, § 81820). The capital construction plan is subject to annual review by the Board and a report outlining any required changes must be submitted on or before the first day of February (Ed. Code, §§ 81820 & 81823, Cal . Code Regs. tit. 5, § 57014).
- C. Set out the estimated capital construction needs of the district in its five-year capital construction plan including:

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<sup>5</sup> "Energy Conservation Project" means: the acquisition, development, or modification of facilities and equipment which result in the conservation of energy; energy audits; energy conservation and operating procedures; energy conservation measures; water conservation measures; and redraft consisting of modifications made to existing equipment or structures. (Cal.Code Regs, tit. 5, § 57051(a).)

- 1) The district's plans concerning its future academic and student services programs, and the effect on estimated construction needs arising from particular courses of instruction, subject matter areas or student services to be emphasized (Ed. Code, § 81821(a));
  - 2) The district's enrollment projections (Ed. Code, § 81821(b));
  - 3) The district's current enrollment capacity (Ed. Code, § 81821(c));
  - 4) The district's office, library and supporting facility capacities (Ed. Code, § 81821(d));
  - 5) The district's annual inventory of all facilities and land (Ed. Code, § 81821(e)); or
  - 6) The district's estimate of funds available for capital outlay matching purposes (Ed. Code, § 81821(f)).
- D. Include justification and documentation in its capital construction plan when it is deemed necessary by the district to submit its plan for capital construction on the basis of each college or educational center maintained by it to better serve its students because:
- 1) The students are isolated within the district in terms of distance or inadequacy of transportation, and the students are financially unable to meet the costs of transportation to an educational program (Ed. Code, § 81823(a)(1) & (b)); or
  - 2) The inability of the existing colleges and educational centers to meet the unique educational and cultural needs of a significant number of ethnic students (Ed. Code, § 81823(a)(2) & (b)).
- E. Pay the Board of Governors any reasonable fees charged for the review of proposed new college sites (Ed. Code, § 81836).
- F. Submit its capital construction plans for any new college facility, or for any addition to, or alteration of, an existing facility totaling more than \$150,000 to the Board of Governors before contracting for such (Ed. Code, § 81837). No contract is valid, nor will any public money be paid out before the district receives written approval from the Board of Governors (Ed. Code, § 81837).
- G. As may be necessary, include a proposed site in its capital construction plan, and enter into an option contract with the property owner whereby the district pays the consideration for the option (Ed. Code, § 81839).
- H. Apply, as may be necessary, for project assistance under the Community College Construction Act of 1980, including:
- 1) The planning, acquisition, and improvement of community college sites (Cal.Code Regs., tit. 5, § 57001.5(a));
  - 2) The planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, a laboratory, a library, a performing arts facility, a gymnasium, the basic outdoor physical education facilities, the basic food service facilities, or child development centers (Cal.Code Regs., tit. 5, § 57001.5(a));
  - 3) Related facilities necessary for the instruction of students or for administration of the educational program (Cal.Code Regs., tit. 5, § 57001.5(a));

- 4) Maintenance or utility facilities essential to the operation of the foregoing facilities and the initial acquisition of equipment (Cal.Code Regs., tit. 5, § 57001.5(a));
  - 5) The initial furnishing of, and initial acquisition of equipment for, any facility leased or lease-purchased by a district as of August 1, 1987, for educational purpose or purposes (Cal.Code Regs., tit. 5, § 57001.5(a)); and
  - 6) The reconstruction or remodeling of any facility leased or leased-purchased for educational purposes (Cal.Code Regs., tit. 5, § 57001.5 (b)). Title or any other interest considered sufficient by the district shall be transferred, but a district must repay the state for any unamortized state costs if the lease is terminated prior to amortizing the reconstruction or remodeling costs. If the district leases property from the federal government, the state, or any county, city and county, city, or district for the purposes of constructing school buildings and facilities, it is eligible for state funding (Cal.Code Regs., tit. 5, § 57001.5(b)).
- I. Appeal to the Board of Governors any action of the Chancellor adversely affecting the district (Cal.Code Regs., tit. 5, § 57010).
  - J. Submit to the Chancellor, within 30 days after the closure of the current fiscal year, a final report on all expenditures in connection with the sources of funds expended for completed projects (Cal.Code Regs., tit. 5, § 57011). The district must further submit to any state post-audit review of funds claims for all projects (Cal.Code Regs., tit. 5, § 57011).
  - K. Meet with appropriate local government recreation and park authorities to review all possible methods of coordinating planning, design, and construction of new facilities and sites or major additions to existing facilities and recreation and park facilities in the community (Cal.Code Regs., tit. 5, § 57013). Any district planning, designing, or constructing new facilities must report to the Chancellor's office on plans to achieve:
    - 1) A greater use of any joint or contiguous recreation and park facilities by the district (Cal.Code Regs., tit. 5, § 57013(a)); and
    - 2) Possible use by the total community of such facilities and sites and recreation and park facilities (Cal.Code Regs., tit. 5, § 57013(b)).
  - L. Include in its capital construction program submission to the Chancellor's Office the following to aid in the review and evaluation process:
    - 1) An architectural analysis to determine costs of the various phases of the project, with a particular attention to be directed to the type of construction, unit costs, and the efficiency of particular buildings and facilities in terms of effective utilization of area (Cal.Code Regs., tit. 5, § 57015(a));
    - 2) A determination of the amount of federal funds available for the project, taking appropriate measures to ensure that the project will qualify for the maximum amounts of federal funds practicable under the circumstances (Cal.Code Regs., tit. 5, § 57015(b));
    - 3) A determination of the total cost of the project, reducing the total cost by the amount of federal funds available thereof, and determining the remainder thereof to be borne by the state, or, if the district has matching funds, by the state and by the district (Cal.Code Regs., tit. 5, § 57015(c)). If the district ability is sufficient to meet the

matching costs of the project or its individual phases of planning, working drawings, construction, equipment, or land acquisition, the district must bear its matching share of the cost of the project or one or more of its phases, the district shall provide the moneys available, as defined by the Board of Governors, and state funds may be requested to provide the balance of funds required (Cal.Code Regs., tit. 5, § 57015(c)); and

- 4) A determination of the total of funds required for the first phase of the project to be provided on a matching basis by the state and the district (Cal.Code Regs., tit. 5, § 57015(d)).
- M. Include a summary of the local district energy conservation program and indicate its need for such assistance in its annual five-year construction plan when requesting a state supported energy conservation project (Cal.Code Regs., tit. 5, § 57052(a) & (b)).
- N. When the need for state financial assistance has been adequately established, the energy conservation project must be submitted as a project planning guide in accordance with the Chancellor's Office's established format including evidence of an approved Energy Audit on file with the California Energy Commission (Cal.Code Regs., tit. 5, § 57053).
- O. Include in its preliminary plans for energy related projects: (1) the results of a technical audit performed by an authorized Technical Auditor which describes in detail the energy conservation measures the project is to institute; (2) the status of the project as related to the various federal and state aided programs for energy conservation; and (3) an architectural or engineering analysis setting forth the detailed costs of the various elements of the project (Cal.Code Regs., tit. 5, § 57055(b)).
- P. Arrange, to the extent that services are available, for the pre-audit and post-audit of buildings by investor-owned or municipal utility companies or by independent energy audit companies or organizations which are recognized by federal or state regulated financial institutions (Cal.Code Regs., tit. 5, § 57062). The pre-audit must identify the type and amount of work necessary to retrofit the buildings and shall include an estimate of projected energy savings, while the post-audit must be conducted upon completion of the retrofitting of the buildings to insure that the project satisfies the recommendations of the pre-audit (Cal.Code Regs., tit. 5, § 57062).
- Q. Contract only with qualified business capable of retrofitting school buildings (Cal.Code Regs., tit. 5, § 57063).
- R. Include complete and accurate take-off of assignable and gross square feet of space, complying with any and all requirements prescribed by the Chancellor in each application for capital construction plan approval (Cal.Code Regs., tit. 5, § 57154).

Claimant, in its April 2004 comments, argues that the requirements attached to state funding are compelled and not discretionary, and asserts that legal compulsion is not necessary to find a state mandate.

Claimant also responds to Finance's argument that energy savings provide offsetting costs, stating that "the test claim legislation provides absolutely no offsetting savings" and that there is no evidence that the energy savings "will result in no net costs or be in an amount sufficient to

fund the cost of the state mandate.” (Gov. Code, § 17556(e).) Claimant also discusses various statutes and regulations, arguing that they are post-1975 state mandates.<sup>6</sup>

### **State Agency Positions**

Department of Finance: In its February 2004 comments, Finance states that there are two activities that “could be interpreted as state-reimbursable mandated activities” as follows:

- 1) Inclusion in the five-year plan of the district’s estimate of funds available for capital outlay matching purposes (Ed. Code, § 81821(f)); and
- 2) Reporting to the Chancellor’s Office on plans to achieve greater use of joint facilities with parks and Recreation and possible use of new facilities by the community (Cal.Code Regs., tit. 5, § 57013).

As to the other activities, Finance does not agree they are reimbursable because either they are substantially similar to activities that have been continuously required since the Community College Construction Act of 1967, they are requirements imposed on the Chancellor’s Office and not local districts, they are discretionary, or they provide cost savings that meet or exceed the amount of expenses incurred.

Community College Chancellor’s Office: In its March 2004 comments, the Chancellor’s Office states that “there are several bases for rejecting the Claim in its entirety.” Much of the test claim, for example, may be traced to requirements in effect since the Junior College Construction Act of 1967 (Stats. 1967, ch. 1550), or the Community College Construction Act of 1970 (Stats. 1970, ch. 102), and is therefore not reimbursable because it was mandated before 1975. The Chancellor’s Office also cites over \$3.5 billion in eight bond acts (from 1986 to 2004) for community college construction, in addition to “hundreds of millions of dollars of lease revenue bonds for community college capital construction” provided by the state.

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<sup>6</sup> In its April 2004 rebuttal to the state agency comments, claimant asserts that the comments of the California Community College Chancellor’s Office are incompetent and should be excluded from the record because they are not signed under penalty of perjury “with the declaration that it is true and complete to the best of the representative’s personal knowledge or information or belief.” (Cal.Code Regs., tit. 2, § 1183.02 (c)). While the claimant correctly states the rule in the Commission’s regulations, the Commission disagrees with the request to exclude the Chancellor’s comments from the official record in this case. Most of comments from the Chancellor’s Office argue an interpretation of the law, rather than constitute a representation of fact. If this case were to proceed to court on a challenge to the Commission’s decision, the court would not require sworn testimony for argument on the law. The ultimate determination whether a reimbursable state-mandated program exists is a question of law. (*County of San Diego v. State of California* (1997) 15 Cal.4th 68, 89.)

When facts are asserted and are relevant to one of the mandate elements, however, rules of evidence do come into play. The Commission may take official notice of any fact that may be judicially noticed by the courts (Cal. Code Regs., tit. 2, § 1187.5(c); Gov. Code, § 11515.) Official acts of the legislative and executive branches of government are properly subject to judicial notice. (Evid. Code, § 452(c).) The Commission may also consider facts provided by sworn testimony at the hearing on this item, or facts asserted in writing and supported with a declaration signed under penalty of perjury.

In arguing that the test claim statutes are part of the minimum standards for community college construction that predate 1975, the Chancellor's Office cites an opinion by the Attorney General (83 Ops.Cal.Atty.Gen. 111 (2000)) that reimbursement is often unavailable for minimum standards regulations. The Chancellor's Office further asserts that the claimant has received state aid and therefore, has been compensated for compliance with the test claim statutes and regulations, and that receipt of state aid is discretionary and not required.

According to the Chancellor's Office, "some of the challenged regulations have not been substantively amended since being converted into regulation by the Board of Governors in 1991 from statutes that predate 1975." Regarding these statutes converted into regulations by Statutes 1990, chapter 1372, the Chancellor cites *Barnhard III v. Cabrillo Community College* (1999) 76 Cal.App.4th 181, arguing that based on this case, a statute converted into a regulation and the repealed statute are deemed to have equal dignity.

## II. Discussion

Article XIII B, section 6 of the California Constitution provides in relevant part the following:

Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such programs or increased level of service.

The purpose of article XIII B, section 6 is to "preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are 'ill equipped' to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose."<sup>7</sup> Thus, the subvention requirement of section 6 is "directed to state mandated increases in the services provided by [local government] ..."<sup>8</sup>

Reimbursement under article XIII B, section 6 is required when the following elements are met:

1. A state statute or executive order requires or "mandates" local agencies or school districts to perform an activity.<sup>9</sup>
2. The mandated activity either:
  - a. Carries out the governmental function of providing a service to the public; or
  - b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.<sup>10</sup>
3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public.<sup>11</sup>

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<sup>7</sup> *County of San Diego, supra*, 15 Cal.4th 68, 81.

<sup>8</sup> *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

<sup>9</sup> *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 874.

<sup>10</sup> *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 874-875 (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

4. The mandated activity results in the local agency or school district incurring increased costs. Increased costs, however, are not reimbursable if an exception identified in Government Code section 17556 applies to the activity.<sup>12</sup>

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.<sup>13</sup> The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.<sup>14</sup> In making its decisions, the Commission must strictly construe article XIII B, section 6, and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”<sup>15</sup>

**Issue 1: Are the test claim statutes and regulations a state-mandated new program or higher level of service subject to article XIII B, section 6, of the California Constitution?**

**A. Five-Year Plan for Capital Construction (§§ 70902(b)(1), 81820 – 81823)**

1. Establish Policies and Plans for Facilities (§ 70902(b)(1), Stats. 1988, ch. 973)

Education Code section 70902 (b)(1) requires community college district governing boards to establish policies for and approve current and long-range facilities plans and submit the plans to the Board of Governors for review and approval.

This requirement, however, is not new. Former section 72231.5 (Stats. 1976, ch. 1010) required the district governing board to “Establish policies for, and approve, academic master plans and long-range plans for facilities. The district governing board shall submit such master plans to the board of governors for review and approval.” This requirement predates 1975. (Former § 200.6, Stats. 1970, ch. 102.) Thus, staff finds that Education Code section 70901(b) does not mandate a new program or higher level of service.

2. Five-year Plan for Capital Construction (§§ 81820-81821, Stats. 1980, ch. 910, Stats. 1981, ch. 470, Stats. 1981, ch. 891, Stats. 1990, ch. 1372, Stats. 1995, ch. 758)

Education Code section 81820 requires community college districts to:

- Prepare and submit to the Board of Governors a plan for capital construction that reflects the capital construction of the district for the five-year period commencing with the next proposed year of funding.

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<sup>11</sup> *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835.

<sup>12</sup> *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

<sup>13</sup> *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551 and 17552.

<sup>14</sup> *County of San Diego, supra*, 15 Cal.4th 68, 109.

<sup>15</sup> *County of Sonoma, supra*, 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.



- Continually review the five-year plan and each year the plan shall be extended one year.
- On or before February first of each succeeding year, submit a report outlining the required modifications or changes, if any, in the five-year plan.

The contents of the five-year plan are listed in section 81821 as follows:

(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

(b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the community college district.

(c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(d) District office, library, and supporting facility capacities as derived from the physical plant standards for office, library, and supporting facilities adopted by the board of governors in consultation with the California Postsecondary Education Commission and consistent with its standards.

(e) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

(f) An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to regulations adopted by the board of governors. (Stats. 1980, ch. 910, Stats. 1981, ch. 470, Stats. 1981, ch. 891, Stats. 1995, ch. 758.)

Claimant requests reimbursement for these activities.

The Department of Finance states the activity is the same as a requirement in the Community College Construction Act of 1967.

For the reasons below, staff finds that the requirements to prepare and submit a capital construction plan, to continually review that plan, and to report any changes to the Board of Governors are not new. However, the required contents of the capital construction plan have changed and now require districts to include additional information in their plans.

Before the test claim statutes (and before January 1, 1975), community college districts were required to prepare and submit a capital construction plan that reflects the five-year period commencing with the next proposed year of funding, and the plan was required to be annually

extended for one year. Prior law also required an annual report outlining the modifications, if any, in the plan.<sup>16</sup>

Staff cannot, however, determine whether sections 81820 and 81821 mandate a new program or higher level of service without analyzing whether the contents of the five-year plan, as listed in section 81821, are new. This is especially true in light of the requirement in section 81820 for the five-year plan to be subject to “continuing review by the governing board.” Although continuing review was required immediately before the enactment of the 1980 test claim statute (and before 1975), the content of the capital construction plans and yearly reports have expanded as explained below.

Section 81821(a) was amended by Statutes 1980, chapter 910 to add the requirement to prepare and submit plans concerning future student services and the effect of the estimated construction needs because of the student services. The 1980 statute added the following underlined text to subdivision (a):

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<sup>16</sup> Although section 81821 dates to the Junior College Construction Act of 1967 (Stats. 1967, ch. 1550), the 1974 version stated as follows:

On or before November 1, 1967, the governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district for the 10-year period commencing with that date. After January 1, 1975, the plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The plan shall be subject to continuing review by the governing board and each year shall be extended one year, and there shall be submitted to the chancellor on or before the first day of November in each succeeding year, a report outlining the required modification or changes, if any, in the plan. (Former § 20065, Stats. 1974, ch. 280.)

This section was renumbered to section 81820 without change (Stats. 1976, ch. 1010), but was amended by Statutes 1977, chapter 36 (changing the report due date from November 1 to February 1) and Statutes 1979, chapter 797, which changed the 10-year plan to a five-year plan.

Claimant pled the 1980 and 1990 versions of section 81820. Statutes 1980, chapter 910, repealed and reenacted section 81820, as follows:

On or before February 1, 1981, the governing board of each community college district shall prepare and submit to the chancellor a plan for capital construction for community college purposes of the district. The plan shall reflect capital construction for community college purposes of the district for the five-year period commencing with the next proposed year of funding. The five-year plan shall be subject to continuing review by the governing board and annually shall be extended one year, and there shall be submitted to the chancellor on or before the first day of February in each succeeding year, a report outlining the required modification or changes, if any, in the five-year plan.

The 1990 version (Stats. 1990, ch. 1372) deleted “on or before February 1, 1981” in the first sentence, and changed submittal to the “board of governors” from “the chancellor” in the first and last sentences.

(a) The plans of the district concerning its future academic and student services programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas or student services to be emphasized.

In addition, prior law required that the plan include enrollment projections for each college within a district. The test claim statute (Stats. 1980, ch. 910) added the requirement to include enrollment projections for each educational center within a district. The 1980 amendment added the following underlined language to subdivision (b):

The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contact hours. The enrollment projections for each individual college and educational center within a district shall be made cooperatively by the Department of Finance and the community college district.

An educational center is administered by a college or district at a location away from the campus of the parent institution, and offers programs leading to certificates and degrees conferred by the parent institution.<sup>17</sup>

Statutes 1980, chapter 910, also amended subdivision (e) to add the underlined text:

(e) An annual inventory of all facilities and land of the district using standard definitions, forms, and instructions adopted by the board of governors.

Prior law did not require including an annual inventory of the district's land in the capital construction plan.

Finally, subdivision (f) was added by the test claim statutes, Statutes 1980, chapter 910 and amended by Statutes 1995, chapter 758, to require that the plan include "an estimate of district funds which shall be made available for capital outlay matching purposes pursuant to regulations adopted by the board of governors."<sup>18</sup>

Thus, staff finds that sections 81820 and 81821 (Stats. 1980, ch. 910; Stats. 1981, ch. 170; Stats. 1995, ch. 758) impose new state-mandated activities on community college districts to include the following information in the five-year plan for capital construction, to continually review the following information and to report by February first of each year any required modifications or changes in the following information to the Board of Governors:

- The plans of the district concerning its future student services programs, and the effect on estimated construction needs that may arise because of particular student services to be emphasized. (§ 81821(a).)
- The enrollment projections for each educational center within a community college district, made cooperatively by the Department of Finance and the district. (§ 81821(b).)

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<sup>17</sup> California Code of Regulations, title 5, section 55180.

<sup>18</sup> Prior to Statutes 1995, chapter 758, the statute read "pursuant to Section 81838." Former section 81838 listed requirements of the Chancellor's Office in determining the district's matching share, but was repealed by Statutes 1990, chapter 1372.

- An annual inventory of all land of the district using standard definitions, forms, and instructions adopted by the Board of Governors. (§ 81821(e).)
- An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to regulations adopted by the board of governors. (§ 81821(f).)

Staff further finds that these new mandated activities provide a service to the public and are uniquely imposed on community college districts and, thus, constitute a new program or higher level of service subject to article XIII B, section 6 of the California Constitution. The purpose of the chapter that includes sections 81820 and 81821 is to ensure that adequate community college facilities will accommodate community college students resulting from growth in population and from legislative policies expressed through the implementation of the Master Plan for Higher Education.<sup>19</sup> The new mandated activities are consistent with that purpose. Thus, staff finds that Education Code sections 81820 and 81821 (Stats. 1980, ch. 910; Stats. 1981, ch. 170; Stats. 1995, ch. 758) mandate a new program or higher level of service as specified above.

3. Submit Plan on the Basis of Each College or Educational Center (§ 81823, Stats. 1980, ch. 910)

The Legislature provided an additional way to submit the five-year plan by allowing the district to submit the plan on the basis of each college or educational center maintained by the district under specified circumstances. Education Code section 81823 (Stats. 1980, ch. 910) states the following:

(a) If a community college district maintains colleges, or one college and one or more educational centers, it may additionally submit the plan required by Section 81820 on the basis of each college or educational center maintained by the district, if either of the following circumstances is present such that students will be better served by evaluating the capital outlay program for the district on that basis: (1) the isolation of students within a district in terms of the distance of students from the location of an educational program, or inadequacy of transportation, and student financial inability to meet costs of transportation to an educational program; or (2) the inability of existing colleges and educational centers in the district to meet the unique educational and cultural needs of a significant number of ethnic students.

(b) If a district elects to submit such a plan, it shall include therewith justification and documentation for so doing.

(c) When a district so elects, the evaluation of the plan pursuant to Section 81822 shall include an evaluation of both of the following:

(1) The justification and documentation for so doing, including enrollment projections for individual campuses and centers.

(2) The plan as thus submitted.

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<sup>19</sup> Education Code section 81800.

Based on section 81823, claimant alleges the following activities:

To include justification and documentation in its capital construction plan when it is deemed necessary by the district to submit its plan for capital construction on the basis of each college or educational center maintained by it to better serve its students because:

- (a) The students are isolated within the district in terms of distance or inadequacy of transportation, and the students are financially unable to meet the costs of transportation to an educational program (Ed. Code, § 81823, subds.(a)(1) & (b)), or
- (b) The inability of the existing colleges and educational centers to meet the unique educational and cultural needs of a significant number of ethnic students (Ed. Code, § 81823, subds.(a)(2) & (b)).

Finance states that this activity is discretionary.

Claimant asserts that complying with the statute is not discretionary “unless you can state publicly that these students are not required to be served.”

Staff finds that the plain language of section 81823 is discretionary, not mandatory. The language states that the district “*may* additionally submit the plan required by Section 81820 on the basis of each college or educational center maintained by the district” and in subdivision (b), “if a district *elects* to submit such a plan” and in subdivision (c), “when a district so *elects* . . .” (emphasis added). Use of the word “may” in the statute renders it discretionary (§ 75), as well as twice stating that the district “elects” to submit such a plan.

Claimant’s argument alleges a mandatory duty on the district to provide for isolated students or the unique needs of ethnic students. Claimant’s reading of the statute, however, would insert “shall” instead of “may” in the first sentence of section 81823. Even if a community college district faces the situation where students are isolated in terms of distance from an educational program or the colleges in the district are unable to meet the unique or cultural needs of ethnic students, the statute still leaves the choice to the district to file additional plans based on each college or educational center. Nothing in the plain language of the statute reveals that a community college district would fail to comply if it submitted all of the information into one capital construction plan. Thus, the requirements in section 81823 to submit the justification and documentation are required only if the district makes the discretionary decision to submit the plan for each college or educational center.

As the Supreme Court stated in the *Kern School Dist.* case:

[A]ctivities undertaken at the option or discretion of a local government entity . . . do not trigger a state mandate and hence do not require reimbursement of funds—even if the local entity is obliged to incur costs as a result of its discretionary decision to participate in a particular program or practice.<sup>20</sup>

Based on the rule in the *Kern School Dist.* case, since the initial decision to provide for the students is discretionary, the resulting downstream requirements are not legally compelled state mandates. Nor is there any indication in the record or the statute that complying with the statute

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<sup>20</sup> *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 742.

is practically compelled by the state. Therefore, staff finds that section 81823 (Stats. 1980, ch. 910) does not impose any state-mandated activities on community college districts, and therefore is not subject to article XIII B, section 6.

Moreover, the provisions in section 81823 are not new. Claimant pled this section as added by Statutes 1980, chapter 910. However, section 81823 as it existed in 1979 (and last amended by Stats. 1977, ch. 910) provided for an identical reporting activity based on the same criteria, so staff finds that section 81823 is not a new program or higher level of service.

4. Review and Evaluate the District's Capital Construction Plan (§ 81822, Stats. 1980, ch. 910, Stats. 1981, ch. 891, Stats. 1990, ch. 1372)

Education Code section 81822 requires the Board of Governors to “review and evaluate the plan for capital construction submitted by the governing board of each community college district in terms of the elements of the capital construction program specified in Section 81821” and “make the revision and changes therein as are appropriate, and notify the district.” The statute also requires a “similar review and evaluation of continuing five-year plans for capital construction” and notifying the district “of the content of the district's revised plan for capital construction.” Because section 81822 (Stats. 1980, ch. 910, Stats. 1981, ch. 891, Stats. 1990, ch. 1372) imposes requirements on the Board of Governors, but does not impose a requirement on a community college district, staff finds that it is not a state mandate subject to article XIII B, section 6.

**B. State-Funded Capital Outlay Projects (§§ 81800-81808, 81836-81837, 81839, Cal.Code Regs, tit. 5, §§ 57001.5, 57010-57016, 57033.1, 57152)**

Under the Community College Construction Act of 1980, any community college district may propose a capital outlay project for approval and seek state assistance to fund it.

“State-Funded Project” is defined in section 57152(c) as “a capital outlay project qualifying as a project pursuant to section 81805 of the Education Code [by meeting the cost and construction standards adopted by the Board of Governors], and for which a district requests or receives State funding assistance.” Projects and the associated costs that qualify for state funding include the following:

- Planning, acquisition, and improvement of community college sites.
- Planning, construction, reconstruction, or remodeling of any permanent structure necessary for use as a classroom, a laboratory, a library, a performing arts facility, a gymnasium, the basic outdoor physical education facilities, the basic food service facilities, or child development centers, pursuant to section 79120 of the Education Code; related facilities necessary for the instruction of students or for administration of the educational program; maintenance or utility facilities essential to the operation of the foregoing facilities and the initial acquisition of equipment.
- Initial furnishing of, and initial acquisition of equipment for any facility leased or lease-purchased by a community college district as of August 1, 1987, for educational purposes. (Cal.Code Regs., tit. 5, § 57001.5.)<sup>21</sup>

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<sup>21</sup> Register 1991, No. 23 (April 5, 1991) page 371; Register 1991, No. 43 (Oct. 25, 1991) page 371; Register 1995, No. 23 (June 9, 1995) pages 371-372. This provision was in former Education Code section 20052 (Stats. 1967, ch. 1550, Stats. 1970, ch. 102).

Section 57152 of the title 5 regulations defines “capital outlay project” to include the “purchase of land and costs related thereto, including court costs, condemnation costs, legal fees, title fees, etc.; construction projects, including working drawings; and equipment related to a construction project regardless of cost or timing.”

The costs to plan or construct dormitories, student centers other than cafeterias, stadia, the improvement of sites for student or staff parking, or single-purpose auditoriums are not included in the definition of “projects” eligible for state funding. (Cal. Code Regs, tit. 5, § 57001.5(d).)

Under the Community College Construction Act of 1980, any district “may” submit a proposed project to the Chancellor for review and approval or disapproval. The proposed project shall be in such form and contain such detail as will permit its evaluation and approval with reference to the elements of the capital construction program specified in section 81821 of the Education Code. (Cal.Code Regs., tit. 5, § 57014.) Thus, the proposed project submitted for approval is required to contain the plans of the district concerning its future academic and student services programs, enrollment projections, the current enrollment capacity, district supporting facility capacities, an annual inventory of all facilities and land of the district, and an estimate of district funds that shall be made available for matching purposes.

If a community college district submits a proposal for one of the qualifying projects to the Chancellor’s Office and seeks funding assistance from the state, then the following additional requirements are imposed on the community college district:

- When the district proposes to acquire a new college site, the district is required to pay the fee charged by the Board of Governors for each ten acres or fraction thereof of school sites reviewed and approved. (Ed. Code, § 81836.)
- When planning, designing, or constructing new facilities, the district is required to meet with appropriate local government recreation and park authorities in order to achieve a greater use of any joint or contiguous recreation and park facilities and to determine the possible uses by the total community of the facilities and sites. The information shall be reported to the Chancellor’s Office. (Cal. Code Regs., tit. 5, § 57013.)
- If an existing district is included in a newly formed district, any unused funds appropriated or authorized to be appropriated for a finally approved project shall be transferred to the newly formed or including district. (Ed. Code, § 81808.)
- On completion of a project, and within 30 days after the closure of the current fiscal year, the district governing board is required to submit to the Chancellor a final report on all expenditures in connection with the source of funds expended. The district is subject to the state post-audit review of fund claims for all projects. (Cal. Code Regs., tit. 5, § 57011.)

The district also has the authority to include a proposed site in its plans for a project and enter into an agreement with the owner of the property for an option to purchase or lease, and to appeal any decision of the Chancellor’s Office in administering the Community College

Construction Act to the Board of Governors. (Ed. Code, § 81839; Cal. Code Regs., tit. 5, § 57010.)<sup>22</sup>

In addition, any district-proposed project for the erection of any new college facility or addition to, or alteration of an existing college facility that exceeds \$150,000, is required to go through additional review and approval under which the district is required to submit the plans and specifications for the project to the Board of Governors. In such cases, the community college district is required to submit the plans and specifications for the project to the Board of Governors and pay the fee charged by the Board of Governors for its review. (Ed. Code, § 81837.)

The claimant seeks reimbursement for all of the activities identified above.

Staff finds, however, that these activities do not mandate a new program or higher level of service.

Generally, a community college district has the discretionary authority to: 1) acquire property necessary to carry out the powers or functions of the district; 2) manage and control district property; and 3) determine and control the district's capital outlay budget.<sup>23</sup> Although community college districts are required to repair school property,<sup>24</sup> they are not required to seek state funding assistance to pay for the repairs. The plain language of the program provides that any community college "may" submit a proposed project for review and approval, and "request" state funding assistance.<sup>25</sup> Thus, it is the decision of a community college district to seek state funding assistance for proposed capital outlay projects that triggers the activities identified in statute. Under these circumstances, the activities are not mandated by the state.<sup>26</sup>

However, notwithstanding the language in the test claim statutes, a community college district is required by state law, pursuant to Education Code section 81179, to apply for state funding assistance under the Community College Construction Act whenever the district does not have the funds available to repair, reconstruct, or replace school buildings that have been determined by a licensed structural engineer or licensed architect to be unsafe for use. Some may argue that this statute mandates community college districts to comply with the test claim statutes and seek state assistance in the funding of the repair or replacement of district facilities.

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<sup>22</sup> Section 81839 is not new. Former section 20085 (Stats. 71, ch. 373) authorized the same activities (except that "lease with an option to purchase" was added by Stats. 1976, ch. 1010). This section was renumbered to section 81845 by Statutes 1976, chapter 1010, and repealed and added (as renumbered § 81839) by Statutes 1980, chapter 910.

The right to appeal actions of the Chancellor to the Board of Governors is also not new. Former section 20055 of the Education Code (Stats. 67, ch. 1550, amended by Stats. 1971, ch. 1525) also provided this right. This provision was moved to Education Code section 81806 in 1976 (Stats. 1976, ch. 1010) and repealed by Statutes 1980, chapter 910.

<sup>23</sup> Education Code sections 70902 (b)(5)(6)(13), 81600, 81606.

<sup>24</sup> Education Code section 81601.

<sup>25</sup> Education Code section 81839; California Code of Regulations, title 5, sections 57014, 57152.

<sup>26</sup> *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 743; *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 880.



However, since community college districts have been given the authority to manage and control their property and to determine and control their capital outlay budget, the finding of a mandate under these circumstances would need to be based on evidence in the record showing why the facility has gotten to the point of being unsafe for use and why the district does not have funds available for the repair or replacement. Although it is conceivable that Education Code section 81179 may lead to a situation where a community college district is practically compelled to comply with the test claim statutes and regulations (i.e., where a facility is damaged or destroyed by unforeseen circumstances or emergency), there is no evidence in the record that a community college district has no option or choice but to comply with the statutes and regulations. Practical compulsion requires a showing that the district is facing certain and severe penalties “such as double taxation or other draconian consequences.”<sup>27</sup>

Moreover, the requirements that are triggered by the district’s decision to seek state funding assistance are not new.

Former Education Code section 20075 (Stats. 1971, ch. 1525) provided community college districts with the same authority as section 57014 of the regulations to submit a proposed project for review and approval by the Chancellor’s Office. Former section 20075 stated:

Any community college district may submit to the Chancellor for review and approval a proposed project. The proposed project shall be an element of the district’s plan for capital construction. It shall be in such form and contain such detail, pursuant to rules and regulations of the board of governors, as will permit its evaluation and approval with reference to the elements of the capital construction program specified in Section 20066 [which requires that the project proposal contain the same information as Education Code section 81821].<sup>28</sup>

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<sup>27</sup> *Department of Finance v. Commission on State Mandates* (2009) 170 Cal.App.4th 1355, 1366; *Kern High School Dist., supra*, 30 Cal.4th 727, 731.

<sup>28</sup> Former section 20066 (Stats. 1971, ch. 1525) stated:

The plan for capital construction shall set out the estimated capital construction needs of the district with reference to elements including at least all of the following:

- (a) The plans of the district concerning its future academic programs, and the effect on estimated construction needs which may arise because of particular courses of instruction or subject matter areas to be emphasized.
- (b) The enrollment projections for each district formulated by the Department of Finance, expressed in terms of weekly student contract hours. The enrollment projections for each individual college within a district shall be made cooperatively by the Department of Finance and the community college district.
- (c) The current enrollment capacity of the district expressed in terms of weekly student contact hours and based upon the space and utilization standards for community college classrooms and laboratories adopted by the board of governors.
- (d) District office, library and supporting facility capacities as derived from the physical plant standards for office, library and supporting facilities adopted by the board of governors.

Former section 20075 was renumbered to section 81830 by Statutes 1976, chapter 1010, and was amended by Statutes 1980, chapter 910. It was repealed by Statutes 1990, chapter 1372, effective January 1, 1991. Section 57014 was operative on April 4, 1991. Although there appears to be a three month gap between the repeal of former section 81830 and the effective and operative date of section 57014 of the title 5 regulations, the Legislature, in Statutes 1990, chapter 1372, continued the operation of section 81830 and continued the effect of that provision until the operative date of the regulations. Statutes 1990, chapter 1372 states in relevant part of the following:

- (a) Prior to January 1, 1991, the Board of Governors of the California Community Colleges shall initially adopt and put into effect regulations which incorporate the text of the following Education Code provisions that have been repealed or amended by this act. The text of these sections, as they relate to community colleges, may be changed when initially adopted as regulations in accordance with the character of the California Community Colleges as a postsecondary education system, as specified in Section 70900 of the Education Code, and the responsibilities assigned to the Board of Governors of the California Community colleges . . . . *The changes shall not alter the requirements, rights, responsibilities, conditions or prescriptions contained in these statutes.* Permitted initial changes include grammatical or technical changes, renumbering or reordering sections, removal of outdated terms or references to inapplicable or repealed statutory authority, and the correction of gender references of the following sections of the Education Code:

Sections . . . 81802, 81803, 81806, 81809, 81810, 81821.5, *81830*, 81831, 81833, 81838 . . . After initial adoption of the Board of Governors regulations specified by this section, all subsequent changes to those regulations shall be made in accordance with Section 70901.5 of the Education Code.

- (b) It is the intent of the Legislature that there be no lapse in the requirements, rights, responsibilities, conditions, or prescriptions contained in the statutes. *Should the board of governors fail to adopt and put into effect regulations in accordance with subdivision (a), the listed statutes shall remain operative until the effective date of the corresponding board of governors regulations.* (Stats. 1990, ch. 1372, § 708, subs. (a) & (b), emphasis added.)

Thus, since 1971, community college districts have had the continuing authority to submit to the Chancellor for review and approval a proposed capital outlay project and to seek state funding assistance for the proposed project.

In addition, the requirements in Education Code section 81836 to pay the fees charged by the Board of Governors for each ten acres or fraction thereof of school sites reviewed and approved when the community college district proposes to acquire a new college site, and to pay for the review of the plans and specifications of projects, have existed since at least 1974. Former Education Code section 20080.1 (Stats. 1974, ch. 30) required the Chancellor to:

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- (e) An annual inventory of all facilities of the district using standard definitions, forms, and instructions adopted by the board of governors.

- (a) Advise the governing board of each community college district on the acquisition of new college sites, and, after a review available plots, give the governing board of the district in writing a list of the approved locations in the order of their merit, considering especially the matters of educational merit, reduction of traffic hazards, and conformity to the organized regional plans as presented in the master plan of the planning commission having jurisdiction, *and charge the governing board of the community college district a fee of twenty-five dollars (\$25) for each 10 acres or fraction thereof of each school site reviewed.*
- (b) Establish standards for community college facilities.
- (c) Review all plans and specifications for all construction in every community college district required to submit plans and specifications therefor to it for approval. *The Chancellor's office shall charge community college districts for the review of plans and specifications, a fee of one-seventh of 1 percent of the estimated cost determined by the chancellor's office except for those projects intended to be funded totally with district funds in which case a fee of one-twentieth of 1 percent will be charged. The minimum fee in any case shall be ten dollars (\$10).*
- (d) Approve plans and specifications submitted by the governing boards of community college districts, and return without approval and with recommendation for charges, any plans not conforming to established standards. (Emphasis added.)

This section was renumbered to section 81836 by Statutes 1976, chapter 1010, and the fee provision was amended in subdivision (a) by Statutes 1980, chapter 910 to “a reasonable fee as determined by the chancellor’s office for each 10 acres or fraction thereof of school site reviewed.” Subdivision (d) was amended by Statutes 1980, chapter 910, to “a reasonable fee as established by the board of governors.” It was amended to its current form by Statutes 1990, chapter 1372. Thus, the Chancellor has been authorized to charge a fee continuously since before 1975.

Claimant argues that to the extent that the “reasonable fees” exceed the amounts under prior law, they are additional costs for which reimbursement is allowable.

Staff disagrees. Claimant confuses an increased cost to provide a service, which, by itself, is not reimbursable, with an actual higher level of service, which may be reimbursable. As the Supreme Court explained in *San Diego Unified School Dist.*, (2004) 33 Cal.4th 859, 877:

Viewed together, these cases (*County of Los Angeles, supra*, 43 Cal.3d 46, 233 Cal.Rptr. 38, 729 P.2d 202, *City of Sacramento, supra*, 50 Cal.3d 51, 266 Cal.Rptr. 139, 785 P.2d 522, and *City of Richmond, supra*, 64 Cal.App.4<sup>th</sup> 1190, 75 Cal.Rptr.2d 754) illustrate the circumstance that simply because a state law or order may *increase the costs borne* by local government in *providing services*, this does not necessarily establish that the law or order constitutes an *increased or higher level* of the resulting “service to the public” under article XIII B, section 6, and Government Code section 17514.

By contrast, Courts of Appeal have found a reimbursable “higher level of service” concerning an existing “program” when a state law or executive order mandates

not merely some change that increases the cost of providing services, but an increase in the actual level or quality of governmental services provided.  
[Emphasis in original.]

Any increase in fees charged by the Chancellor to review plans is merely an increase in the cost of obtaining or providing the service, not an increase in the level or quality of governmental services provided. Therefore, staff finds any increase in fees in section 81836 (Stats. 1980, ch. 910, Stats. 1990, ch. 1372) over former versions of the statute is not a new program or higher level of service subject to article XIII B, section 6.

Furthermore, the requirements in section 57013 of the regulations to meet with appropriate local government recreation and park authorities when planning, designing, or constructing new facilities in order to achieve a greater use of any joint or contiguous recreation and park facilities and to determine the possible uses by the total community of the facilities and sites, and to report the information to the Chancellor's Office, are not new. Section 57013 was adopted on April 5, 1991. However, in 1979, the Legislature enacted former Education Code section 81831.5 (Stats. 1979, ch. 797), and renumbered it as section 81821.5 in 1980 (Stats. 1980, ch. 910) to require the same activities as follows:

The governing board of any community college district shall meet with appropriate local government recreation and park authorities to review all possible methods of coordinating, planning, design, and construction of new facilities and sites or major additions to existing facilities and recreation and park facilities in the community. Any community college district planning, designing, or constructing new facilities and sites or major additions to existing facilities shall report to the chancellor's office on plans to achieve (a) a greater use of any joint or contiguous recreation and park facilities by the district and (b) possible use by the total community of such facilities and sites and recreation and park facilities.

Education Code section 81821.5 was repealed by Statutes 1990, chapter 1372, effective January 1, 1991, and section 57013 of the regulations became effective on April 5, 1979. However, as indicated above, the Legislature continued the operation of section 81821.5 until the operative date of the regulation and, thus, there is no time gap in the operation of the requirement to meet with appropriate local government recreation and park authorities when planning, designing, or constructing new facilities. Thus, the requirement in section 57013 does not impose a new program or higher level of service.

Moreover, the requirement in Education Code section 81837 to submit the plans and specifications of a project costing more than \$150,000 to the Board of Governors for review and approval has been the law since at least 1974. Former Education Code section 20080.2 (Stats. 1974, ch. 30) provided:

The governing board of each community college district, except districts governed by a city board of education, before letting any contract or contracts totaling ten thousand dollars (\$10,000) or more, for the erection of any new community college facility, or for any addition to, or alteration of, an existing community college facility, shall submit plans therefor to the chancellor's office, and obtain the written approval of the plans by the office. No contract for construction made by any governing board of a community college district contrary to the provisions of this section is valid, nor shall any public money be

paid for erecting, adding to, or altering any facility in contravention of this section.

Former section 20080.2 was renumbered to section 81837 by Statutes 1976, chapter 1010, and repealed and reenacted by Statutes 1980, chapter 910. In 1981, it was amended to increase the threshold amount to \$150,000. Claimant pled the 1980 and 1981 versions of section 81837.

Because submitting plans for construction projects, as specified, has been continuously required since at least 1974, staff finds that section 81837 (Stats. 1980, ch. 910, Stats. 1981, ch. 891) is not a new program or higher level of service. The 1981 amendment raising the threshold amount to \$150,000 is not a new program or higher level of service, since it would result in fewer district submissions to the Chancellor for smaller projects.

The requirement in Education Code section 81808 to transfer any unused funds appropriated or authorized to be appropriated for a finally approved project to a newly formed district is also not new, but has been the law since 1967. Former Education Code section 20057 (Stats. 1967, ch. 1550) stated:

In the event an existing junior college district is included in a newly formed junior college district, any unused funds appropriated or authorized to be appropriated for a finally approved project of the included district pursuant to this chapter shall be transferred to the newly formed or including junior college district on the date that such district is effective for all purposes, or prior to such effective date where the governing boards of the districts agree to such earlier transfer.

Former section 20057 was amended to read “community” instead of “junior” college district in 1970 (Stats. 1970, ch. 102). The statute was renumbered in the 1976 Education Code without change as section 81808 (Stats. 1976, ch. 1010).

Finally, the requirement in section 57011 of the regulations to submit to the Chancellor a final report on all expenditures in connection with the source of funds expended, and to be subject to the post-audit review of fund claims by the state for all projects is not new. Former Education Code section 20058 (Stats. 1967, ch. 1550) stated the following: “Upon completion of a project the governing board of a junior college district shall submit to the Department of Education a final report on all expenditures in connection with the project and the sources of the funds expended.”

In 1971, the statute was amended to require submitting the report to the Chancellor instead of the Department of Education. (Stats. 1971, ch. 1525.) This statute was renumbered to section 81809 by Statutes 1976, chapter 1010. In 1980 (Stats 1980, ch. 910) it was amended to add a deadline of “within 30 days after the closure of the current fiscal year” for submission. In 1981 (Stats. 1981, ch. 891) it was amended to add: “The district shall be subject to a state post-audit review of fund claims for all such projects.” Section 81809 was repealed by Statutes 1990, chapter 1372, effective January 1, 1991. Section 57011 of the title 5 regulations was adopted effective April 5, 1991. However, as with the other statutes repealed by Statutes 1990, chapter 1372 discussed above, the Legislature continued the operation of section 81809 until the operative date of section 57011 of the title 5 regulations. Thus, the requirements imposed by section 57011 does not constitute a new program or higher level of service.

Accordingly, staff finds that requirements imposed when a district seeks state funding for capital outlay projects pursuant to the Community College Construction Act of 1980

(§§ 81800-81808, 81836-81837, 81839, Cal.Code Regs, tit. 5, §§ 57001.5, 57010-57016, 57033.1, 57152) does not mandate an new program or higher level of service.

**C. District-Funded Construction Projects (Ed. Code, § 81836 & 81837; Cal.Code Regs., tit. 5, §§ 57150 - 57158)**

A district-funded project is defined as “a capital outlay project subject to the requirements of section 81837 of the Education Code [i.e., contracts of \$150,000 or more subject to the approval of the Board of Governors] for which any funds, other than state funds, are paid or to be paid for erecting, adding to, or altering any community college facility.” (Cal.Code Regs, tit. 5, § 57150.) The following requirements are imposed with respect to district-funded capital outlay projects:

- When the community college district proposes to acquire a new college site, the community college district is required to pay the fee charged by the Board of Governors for each ten acres or fraction thereof of school sites reviewed and approved. (Ed. Code, § 81836(a).)<sup>29</sup>
- When the community college district proposes a project, the district is required to pay a reasonable fee for review of the project’s plans and specifications. (Ed. Code, § 81836(d).)
- Submit an application for approval of the project plans to the Chancellor. The application shall be accompanied by the plans and full, complete and accurate take-off of assignable and gross square feet of space, which shall comply with any and all requirements prescribed by the Chancellor. (Cal.Code Regs, tit. 5, § 57154.)

The Chancellor is required to review and evaluate each district funded project with reference to the elements of the capital construction program specified in Education Code section 81821; i.e., the plans of the district concerning its future academic and student services programs, enrollment projections, the current enrollment capacity, district supporting facility capacities, and an annual inventory of all facilities and land of the district. The Chancellor’s review shall be “directed particularly to ascertain whether the locally funded project is of appropriate size, is appropriately timed and is justified in terms of the elements of the capital construction plan and where applicable, the standards adopted by the Board of Governors.” (Cal.Code Regs., tit. 5, § 57156.)

The Chancellor is required to approve the district-funded plans when the analysis shows that approval of the plans for a proposed facility would not result in facilities that would be substantially at variance with space and utilization standards adopted by the Board of Governors. (Cal.Code Regs., tit. 5, § 57158(a).)

When the Chancellor’s analysis shows that the approval of the plans would result in facilities that would be substantially at variance with space and utilization standards adopted by the Board of Governors, the Chancellor is required to either impose conditions for the approval of the plans or find that despite the variance, the plans are acceptable and respond to the district with cautions and/or appraisal of the potential consequences of the variance. (Cal.Code Regs., tit. 5, § 57158(b).)

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<sup>29</sup> All proposals to acquire a new college site, whether funded by the district or funded with the assistance from the state, are required to comply with Education Code sections 81836 & 81837.

The claimant requests reimbursement for the required activities when proposing a district-funded project.

As indicated in the analysis above, the requirement in Education Code section 81836 to pay the fees charged by the Board of Governors for the review and approval of new sites proposed to be acquired by a community college district and to review the plans and specifications for proposed projects has existed since at least 1974 and, thus, does not mandate a new program or higher level of service. (Former Ed. Code, § 20080.1 (Stats. 1974, ch. 30.)

Staff further finds that while the activity to submit an application, including the plans and specifications, to the Chancellor's Office for approval of a district-funded project is mandated in certain situations, the requirement does not impose a new program or higher level of service.

Community college districts are required by state law, pursuant to Education Code section 81601, to repair school property. Thus, any capital construction contract that exceeds \$150,000 and is proposed for the purpose of repairing school property is required to be approved by the Board of Governors. Under these circumstances, staff finds that community college districts are mandated by the state to submit an application for approval of the plans to the Chancellor. The application shall be accompanied by the plans and full, complete and accurate take-off of assignable and gross square feet of space, which shall comply with any and all requirements prescribed by the Chancellor. (Cal.Code Regs, tit. 5, § 57154.)

Other than repairing school buildings, state law does not require community college districts to engage in capital outlay projects. Rather, community college districts can decide when and if to propose capital outlay projects for new construction, alteration, or extension and betterment of existing structures that are not in need of repair, and have the general discretionary authority to manage and control property.<sup>30</sup> Under these circumstances, the requirement to submit an application for approval of the plans to the Chancellor in accordance with section 57154 is not mandated by the state.<sup>31</sup>

Staff finds, however, that the requirement in section 57154 of the regulations to submit an application for approval of the plans for capital outlay projects that exceed \$150,000 and proposed for the purpose of repairing school property to the Board of Governors does not constitute a new program or higher level of service. In 1979, the Attorney General of California opined that facility plans financed entirely by local funds are subject to review and approval by the Chancellor in accordance with the standards established pursuant to Education Code section 81836. (62 Ops.Cal.Atty.Gen. 568, 577 (1979).)

As indicated above, the requirement in section 81837 to submit the plans and specifications of a project costing more than \$150,000 to the Board of Governors for review and approval has been the law since at least 1974. Former Education Code section 20080.2 (Stats. 1974, ch. 30) required districts that let contracts over \$10,000 to "submit plans therefor to the chancellor's office ... and obtain the written approval of the plans by the office." Former section 20080.2 was renumbered to section 81837 by Statutes 1976, chapter 1010, and repealed and reenacted by

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<sup>30</sup> Education Code sections 70902 (b)(5)(6)(13), 81600, 81606.

<sup>31</sup> *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 743; *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 880.

Statutes 1980, chapter 910. In 1981, it was amended to increase the threshold amount to \$150,000.

Thus, before the test claim regulation (§ 57154) was adopted in 1991, districts with locally-funded projects were required to submit their plans that conformed to established standards to the Chancellor for review and approval. This is the same requirement as in current law. Although the regulation requires that the plans be accompanied by “full, complete and accurate take-off of assignable and gross square feet of space” This requirement is not new. These calculations of square footage were necessary under the capacity and utilization standards required by section 81836(c) of the Education Code, and listed in sections 57020-57026 of the title 5 regulations, which predate 1975.<sup>32</sup>

Thus, staff finds that section 57154<sup>33</sup> is not a state-mandated new program or higher level of service.

#### **D. Energy Efficient Facilities (§ 81663, Cal.Code Regs, tit. 5, §§ 57050-57063)**

Education Code section 81660 provides that a community college district “may enter into an energy management agreement for energy management systems with any person, firm, corporation, or public agency . . . .” “Energy management systems” is defined as “solar, energy, or solar and energy management systems.”

Education Code section 81663 and section 57061 of the title 5 regulations authorize community college districts to borrow funds from “federal or state regulated financial institutions” to retrofit buildings for greater energy efficiency, but provides that the “amount borrowed shall not exceed the amount that can be repaid from energy cost avoidance savings accumulated from the improvement of facilities.” (§ 81663, Stats. 1991, ch. 1038, Cal.Code Regs, tit. 5, § 57061.)

The “Energy and Resources Conservation” regulations (Cal.Code Regs, tit. 5, §§ 57050-57063) require, for districts requesting a state-supported energy conservation project, “a summary of the district’s Energy Conservation program as part of its five-year construction plan.” (Cal.Code Regs, tit. 5, § 57052(a).) A district submitting an energy conservation project for state aid is to indicate the need for assistance in the annual district five-year construction plan. (Cal.Code Regs, tit. 5, § 57052(b).) When the need for an energy conservation project<sup>34</sup> has been adequately established, it must be submitted “as a project planning guide in accordance with established format to the Chancellor’s Office.” (Cal.Code Regs, tit. 5, § 57053.) Energy conservation projects are ranked on the basis of criteria developed by the Chancellor’s Office (Cal.Code Regs, tit. 5, § 57055). The criteria include level of energy use, pay-back period, and “the extent to which the district has implemented an energy conservation program which meets

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<sup>32</sup> Register 74, No. 26 (June 29, 1975) page 673.

<sup>33</sup> Register 80, No. 44 (Nov. 1, 1980) page 676.5; Register 91, No. 23 (June 7, 1991) page 377; Register 95, No. 23 (June 9, 1995) page 378.

<sup>34</sup> "Energy Conservation Project" means: the acquisition, development, or modification of facilities and equipment which result in the conservation of energy; energy audits; energy conservation and operating procedures; energy conservation measures; water conservation measures; and redraft consisting of modifications made to existing equipment or structures. (Cal.Code Regs, tit. 5, § 57051(a).)



the objectives specified in Board of Governor’s Policy Statement on Energy and Resource Conservation.” (Cal.Code Regs, tit. 5, § 57054.) Districts are required to contract with “qualified businesses capable of retrofitting school buildings.” (Cal.Code Regs, tit. 5, § 57063.)

Claimant pled the following activities based on these regulations:

- To include a summary of the local district energy conservation program and indicate its need for such assistance in its annual five-year construction plan when requesting a state supported energy conservation project (Cal.Code Regs., tit. 5, § 57052, subs.(a) & (b)).
- When the need for state financial assistance has been adequately established, the energy conservation project must be submitted as a project planning guide in accordance with the Chancellor’s office’s established format including evidence of an approved Energy Audit on file with the California Energy Commission (Cal.Code Regs., tit. 5, § 57053).
- To include in its preliminary plans for energy related projects: (1) the results of a technical audit performed by an authorized Technical Auditor which describes in detail the energy conservation measures the project is to institute; (2) the status of the project as related to the various federal and state aided programs for energy conservation; and (3) an architectural or engineering analysis setting forth the detailed costs of the various elements of the project (Cal.Code Regs., tit. 5, § 57055(b)).
- To arrange, to the extent that services are available, for the pre-audit and post-audit of buildings by investor-owned or municipal utility companies or by independent energy audit companies or organizations which are recognized by federal or state regulated financial institutions (Cal.Code Regs., tit. 5, § 57062). The pre-audit must identify the type and amount of work necessary to retrofit the buildings and shall include an estimate of projected energy savings, while the post-audit must be conducted upon completion of the retrofitting of the buildings to insure that the project satisfies the recommendations of the pre-audit (Cal.Code Regs., tit. 5, § 57062).
- To contract only with qualified business capable of retrofitting school buildings (Cal.Code Regs., tit. 5, § 57063).

The Department of Finance comments that all regulations pertaining to energy conservation projects are not reimbursable because they are contingent on electing to pursue funding for an energy conservation project. Finance also cites offsetting savings resulting from energy conservation. The Chancellor’s Office also states that sections 57052, 57053, 57055, 57062, and 57063 “concern voluntary applications for state funding for energy conservation projects.”

Claimant cites the legislative finding in section 57060 of the title 5 regulations that it is in the interest of the state and the people for the state to aid community college districts in conserving energy.

Staff finds that neither section 81663 of the Education Code (Stats. 1991, ch. 1038), nor the “Energy and Resources Conservation” regulations (Cal.Code Regs, tit. 5, §§ 57050-57063) pled by the claimant impose a state-mandated program subject to article XIII B, section 6 of the California Constitution.

Section 81660 is the first code section in Article 3.5 of the Education Code governing energy management systems and clearly states that community college districts “may” enter into energy management agreements. Furthermore, the test claim statute and regulation (section 81663 and

section 57061 of the title 5 regulations) authorize but do not require community college districts to enter into energy management agreements and borrow funds for “retrofitting buildings to become more energy efficient.”

Sections 81663 and 57061 state that the community college district “*may* borrow funds ...” [Emphasis added.] Using the word “may” makes the activity discretionary (Ed. Code, § 75). There is no legal compulsion on the face of sections 81663 or 57061 to borrow funds. And, the statute, regulations, and record are silent as to any practical compulsion to enter into energy management agreements and borrow funds for energy management systems. Therefore, staff finds that section 81663 of the Education Code (Stats. 1991, ch. 1038) and section 57061 of the title 5 regulations<sup>35</sup> are not state mandates, and not subject to article XIII B, section 6.

As to the remaining energy efficiency regulations (Cal.Code Regs, tit. 5, §§ 57050-57063), the legislative intent is expressly to “*encourage* community college districts to retrofit buildings so as to conserve energy and reduce the cost of supplying energy.” (Emphasis added.) (Cal.Code Regs., tit. 5, § 57060.) The plain language to “encourage” an energy retrofit should not be interpreted as “requiring” or “mandating” one.

Moreover, the event triggering all the district requirements is the district “requesting a state supported energy conservation project...” (Ed. Code, § 81660; Cal.Code Regs., tit. 5, § 57052(a).) There is no legal requirement on the face of the regulations to request a state-supported energy conservation project. And neither the regulations nor the record indicates any practical compulsion to request a state-supported energy conservation project.

If a district does request a state-supported energy conservation project, it must comply with the requirements in the regulations, such as including a summary of the local district energy conservation program in its annual five-year plan (Cal.Code Regs., tit. 5, § 57052(a)) and indicating the need for assistance in the five-year plan (Cal.Code Regs., tit. 5, § 57052(b)). The district must also submit the energy conservation project as a project planning guide with evidence of an approved energy audit on file with the California Energy Commission (Cal.Code Regs., tit. 5, § 57053(a) & (b).) Districts also arrange for pre- and post-audits of buildings (Cal.Code Regs., tit. 5, § 57062) and contract with qualified businesses capable of retrofitting school buildings (Cal.Code Regs., tit. 5, § 57063).

All of these requirements, however, are downstream of the district’s discretionary decision to enter into energy systems management agreements and seek funding for an energy conservation project. Based on the reasoning in the *Kern School Dist.* case,<sup>36</sup> staff finds that Education Code section 81663 all of the regulations in subchapter 1.5 (Cal.Code Regs., tit. 5 §§ 57050 et seq.) are not mandated by the state under article XIII B, section 6.

**Issue 2: Do sections 81820 and 81821(a), (b), (e), and (f), impose costs mandated by the state within the meaning of Government Code sections 17514 and 17556?**

The final issue is whether sections 81820 and 81821(a), (b), (e), and (f), which require community college districts to include, review and report new information in the five year capital

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<sup>35</sup> Register 91, No. 23 (June 7, 1991) page 376; Register 95, No. 23 (June 9, 1995) page 377.

<sup>36</sup> *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 743.

construction plan, impose costs mandated by the state,<sup>37</sup> and whether any statutory exceptions listed in Government Code section 17556 apply to these provisions. Government Code section 17514 defines “cost mandated by the state” as follows:

[A]ny increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

Government Code section 17564 requires reimbursement claims to exceed \$1,000 to be eligible for reimbursement.

In Exhibit 1 of the test claim, claimant submitted an estimate under penalty of perjury that it would incur more than \$1,000 in costs “in excess of the funding provided the district by the state to implement these new duties mandated by the state for which the community college district will not be reimbursed by any federal, state, or local government agency, and for which it cannot otherwise obtain reimbursement.”

Staff also finds that no exceptions to reimbursement in Government Code section 17556 apply to this test claim. There is no evidence in the record that funds have been appropriated by the Legislature for these activities.

Accordingly, staff finds that sections 81820 and 81821(a), (b), (e), and (f), as specified above under Issue II of this analysis, impose increased costs mandated by the state within the meaning of Government Code section 17514.

### **III. Conclusion**

For the reasons discussed above, staff finds that Education Code sections 81820 and 81821(a), (b), (e), and (f) (Stats. 1980, ch. 910, Stats. 1981, ch. 470, Stats. 1981, ch. 891, Stats. 1995, ch. 758) constitute a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution to include the following information in the five-year plan for capital construction:

- The plans of the district concerning its future student services programs, and the effect on estimated construction needs that may arise because of particular student services to be emphasized. (Ed. Code, § 81821(a).)
- The enrollment projections for each educational center within a community college district, made cooperatively by the Department of Finance and the district. (Ed. Code, § 81821(b).)
- An annual inventory of all land of the district using standard definitions, forms, and instructions adopted by the Board of Governors. (Ed. Code, § 81821(e).)
- An estimate of district funds which shall be made available for capital outlay matching purposes pursuant to regulations adopted by the board of governors. (Ed. Code, § 81821(f).)

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<sup>37</sup> *Lucia Mar, supra*, 44 Cal.3d 830, 835; Government Code section 17514.

Community college districts are also eligible for reimbursement to continually review the information bulleted above and to report by February 1<sup>st</sup> of each year any required modifications or changes with respect to the information to the Board of Governors.

Staff also finds that all other statutes and regulations in the test claim do not impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution.

#### **IV. Staff Recommendation**

Staff recommends that the Commission adopt this analysis to partially approve this test claim by approving the activities listed above.

# SixTen and Associates

## Mandate Reimbursement Services

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August 23, 2011

Drew Bohan, Executive Director  
Commission on State Mandates  
U.S. Bank Plaza Building  
980 Ninth Street, Suite 300  
Sacramento, California 95814

Re: CSM 02-TC-47  
Test Claim of Santa Monica Community College District  
Community College Construction

Dear Mr. Bohan:

I have received the Commission's Draft Staff Analysis (DSA) dated July 22, 2011, for the above-referenced test claim to which I respond on behalf of the test claimant. Issues raised by the DSA, but not responded to by this letter, are not waived.

1. NEW PROGRAM STANDARD OF REVIEW  
Government Code Section 17514

The DSA (19) states that to determine if a program is new or imposes a higher level of service, the statutes pled must be "compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order." This standard is applied (DSA 26) for the analysis of Education Code section 81823 and other code sections alleged in the test claim. This is incorrect. The test claim was filed June 27, 2003. The filing was effective prior to the September 30, 2003, effective date of Statutes of 2002, Chapter 1124 (for mandates that became effective before January 1, 2002)<sup>1</sup>, which first established at Government Code section 17551, subdivision (c),

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<sup>1</sup> Statutes of 2002, Chapter 1124, is generally effective September 30, 2002. However, the amendment that added Government Code Section 17551, subdivision (c), delayed the effective date of that subdivision for mandates effective before January 1, 2002, by one year to September 30, 2003:

time limits for filing on statutes enacted after December 31, 1974. Based on the date the test claim was submitted, the standard of review is to compare the statutes pled on the effective date of the test claim filing (here July 1, 2001) to the status of the law as of December 31, 1974, pursuant to Government Code section 17514. The staff recommendation should be revised to compare the statutes and regulations effective July 1, 2001, to the law as it existed on December 31, 1974.

The Commission, however, decided to the contrary on this issue in the March 24, 2011, Statement of Decision for 02-TC-25/31/46, Discrimination Complaint Procedures, relying upon *San Diego Unified School District v. Commission on State Mandates* (2004) 33 Cal.4th 859. The legal issue here is identical to that in the Discrimination Complaint Procedures test claim. The test claimant raises it here for purposes of the record and does not waive the issue.

## 2. PRACTICAL COMPULSION FOR CONSTRUCTION AND STATE FUNDING

In the March 30, 2004, rebuttal to the Department of Finance and Chancellor's Office responses to the test claim, the test claimant asserted that college districts are practically and legally compelled to build new facilities and obtain funding from the state for that purpose. The DSA does not respond to the issue. The DSA determination that the various relevant Education Code and Title 5 sections pled in the test claim are not mandated relies upon this threshold issue. The Commission, however, has treated and decided this issue in four previous test claims.<sup>2</sup> The legal issue here is identical and the test claimant raises it here for purposes of the record and does not waive the issue.

## 3. NEW TITLE 5 SECTIONS AND THE CHAPTER 1372/90 CODE REPEALERS

In the finding for Education Code section 81830 (DSA 30), and other sections, the Commission staff notes the "three month gap between the repeal of former section 81830 and the effective and operative date of section 57014 of the title 5 regulations," but concludes as a matter of law, without citation of case law, that, as a result of Legislative *intent*, there was no lapse in any legal requirements of the repealed Education Code sections while awaiting for the adoption of new Title 5 regulations by the Board of Governors.

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(c) Local agency and school district test claims shall be filed not later than three years following the date the mandate became effective, *or in the case of mandates that became effective before January 1, 2002*, the time limit shall be one year from the effective date of this subdivision. (Emphasis added)

<sup>2</sup> CSM 01-TC-28 Prevailing Wage Rate  
CSM 02-TC-30/43 School Facilities Funding Requirements  
CSM 03-TC-17 California Environmental Quality Act

Drew Bohan, Executive Director

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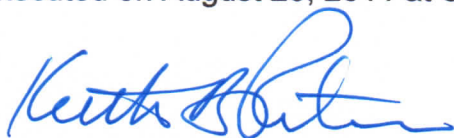
August 23, 2011

This is not an issue of first impression. The DSA conclusion regarding the gap issue for this test claim is consistent with the Commission decision on this issue in three previous test claims.<sup>3</sup> The test claimant for the three previous test claims responded to this issue in a letter to Paula Higashi dated October 9, 2001, and at the hearing in January 2002, all of which is part of the record. The test claimant raises it here for purposes of the record and does not waive the issue.

### Certification

By my signature below, I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this submission is true and complete to the best of my own knowledge or information or belief, and that the attached documents, if any, are true and correct copies of documents received from or sent by the state agency which originated the document.

Executed on August 23, 2011 at Sacramento, California, by



Keith B. Petersen

C: Commission electronic service list

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<sup>3</sup> CSM.# 97-TC-10 CCD Budget and Financial Reports  
CSM.# 97-TC-11 Fiscal Management Reports  
CSM.# 97-TC-12 Financial and Compliance Audits