

6854--A

Cal. No. 440

I N S E N A T E

March 20, 2014

Introduced by Sens. FLANAGAN, LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT authorizing the state university of New York at Stony Brook to lease certain lands

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings. Chapter 629 of the Laws of 2008
2 provided the state university of New York at Stony Brook with the oppor-
3 tunity through the generosity of a private donor to create a facility
4 dedicated to advancing knowledge in the fields of geometry and physics.
5 In furtherance thereof, the legislature determined that the university
6 foundation of the state university of New York at Stony Brook was the
7 appropriate body to design and construct a Center for Geometry and Phys-
8 ics adjacent to existing campus facilities, which has enhanced the
9 academic mission of the university and provides a unique opportunity for
10 education, research and economic benefit to the region, nation and the
11 world.

12 The Simons Center for Geometry and Physics, which opened in 2010, is
13 poised for enhancement and expansion of programmatic use. The building
14 as well as the program is divided into two distinct areas: the lower
15 floors, which are public areas, including a dining facility; and the top
16 three floors, which are secure areas and house faculty and research
17 areas. The project addition envisioned will increase functionality of
18 the facility and expand programmatic use by adding a second elevator at
19 the north side of the building to serve the public areas as well as the
20 dining facility. The project also will add office space and provide a
21 modest increase to the dining area.

22 The legislature further finds that the state university of New York
23 and the state university of New York at Stony Brook will benefit if the
24 design and construction of the project addition is assumed by the
25 university foundation only until such time as the project addition is

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 completed. The legislature determines that the academic mission and the
2 goals of the state university of New York at Stony Brook in the full
3 utilization of the properties in furtherance of its mission, can be best
4 served by the university foundation and the private resources to which
5 it has access. The university foundation shall mean the Stony Brook
6 Foundation or its affiliate, the Stony Brook Foundation Realty, which
7 are 501(c)(3) not-for-profit corporations, the purposes of which are to
8 support the university's educational mission to acquire and manage
9 campus real and personal property, to enhance the region's academic
10 offerings, and to stimulate the economy both locally and throughout New
11 York state.

12 S 2. The state university trustees are hereby authorized to lease
13 without any public bidding a portion of the lands of the state universi-
14 ty of New York at Stony Brook generally described in this act to the
15 university foundation of such university at Stony Brook for the design
16 and construction only of an addition to the Simons Center upon such
17 terms and conditions as the trustees deem advisable not to exceed in the
18 aggregate two years. No such contract or lease for the design and
19 construction only of such addition shall provide for a fee simple
20 conveyance of the underlying land. If the real property shall cease to
21 be used for the purposes described in this act said lease shall imme-
22 diately terminate and the real property and any improvements thereon
23 shall revert to the state university of New York. Any contract or lease
24 entered into pursuant to this act for such design and construction only
25 shall provide that the real property which is the subject of such lease
26 or contract and any improvements thereon shall revert to the state
27 university of New York on the expiration of such contract or lease. The
28 description of the parcel to be leased pursuant to this section is not
29 meant to be a legal description but is intended only to identify the
30 parcel and improvements to be leased.

31 S 3. Any contract or lease entered into by the trustees of the state
32 university of New York for the design and construction only of this
33 addition pursuant to this act shall require the lessee or contracting
34 not-for-profit corporation to comply with the requirements of article
35 15-A of the executive law. Notwithstanding any other law to the contra-
36 ry, any contract or lease for construction, rehabilitation, or other
37 improvement authorized by section five of this act entered into by the
38 trustees shall require the lessee or contractor and/or subcontractor to
39 comply with the requirements of sections 220, 240 and 241 of the labor
40 law, where applicable.

41 S 4. Nothing in this act shall be deemed to waive or impair any rights
42 or benefits of employees of the state university of New York that other-
43 wise would be available to them pursuant to the terms of agreements
44 between the certified representatives of such employees and the state of
45 New York pursuant to article 14 of the civil service law. Any entity
46 that enters into a contract pursuant to the provisions of this act shall
47 be considered a university foundation for the purposes of the applica-
48 tion of such agreements pursuant to article 14 of the civil service law.

49 S 5. By way of example and not limitation, the terms and conditions of
50 the trustees' lease or contract may provide for leasing construction,
51 reconstruction, rehabilitation, improvement and provisions of services
52 and assistance for the design and construction only of such addition and
53 the granting of licenses, easements and other arrangements with regard
54 to such grounds and facilities by the university foundation and parties
55 contracting with the university foundation for the design and
56 construction only of such addition, and, in connection with such activ-

ities, the obtaining of funding or financing, whether public or private, unsecured or secured (including but not limited to secured by leasehold mortgages and assignments of rents and leases), by the university foundation and parties contracting with the university foundation, for the purpose of completing the project described above.

S 6. The lease entered into pursuant to this act shall be subject to approval of the attorney general as to form, the director of the budget and the state comptroller.

S 7. The lease shall include an indemnity provision whereby the lessee or sublessee promises to indemnify, hold harmless and defend the lessor against all claims, suits, actions, liability and damages to all persons on the leased premises, including the tenant, tenant's agents, employees, contractors, subcontractors, customers, guests, licensees, invitees and members of the public for damage to any such person's property, whether real or personal or for personal injuries arising out of tenant's use or occupation of the demised premises.

S 8. Any contracts entered into pursuant to this act between an education corporation, not-for-profit corporation, public benefit corporation or any other person or corporation (other than the state government or any agency thereof) and parties contracting with such education corporation, not-for-profit corporation, public benefit corporation or any other person or corporation (other than the state government or any agency thereof) for the design and construction only of this facility shall be awarded by a competitive process.

S 9. The property authorized by this act to be leased to the university foundation at Stony Brook is generally described as a portion of that parcel of real property with improvements thereon situated on the west campus of the state university of New York at Stony Brook consisting of approximately 235,000 square feet of land bounded as follows: on the north approximately 250 feet west from the corner of the Graduate Physics building to Toll Drive on the west, south along Toll Drive for approximately 600 feet on the south 550 feet east along the southern edge of the parking lot, on the east 250 feet due north then approximately 300 feet along the southern and eastern faces of the Math Tower/Graduate Physics building back to its north edge.

S 10. Insofar as the provisions of this act are inconsistent with the provisions of any law, general, special or local, the provisions of this act shall be controlling.

S 11. This act shall take effect immediately.