

8454

2011-2012 Regular Sessions

I N   A S S E M B L Y

June 16, 2011

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Introduced by M. of A. McENENY, CANESTRARI, REILLY, AMEDORE -- read once  
and referred to the Committee on Higher Education

AN ACT authorizing the lease of lands located at the State University of  
New York at Albany

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

1     Section 1. Legislative findings. The legislature finds that the state  
2 university of New York at Albany, ("University") is in need of addi-  
3 tional facilities to fulfill its legislatively mandated mission of  
4 research, education, and workforce training. Specifically, additional  
5 instructional, laboratory, residential and student support spaces are  
6 required to support the academic and research programs of the Universi-  
7 ty, including those necessary to realize a Biomedical and Information  
8 Innovation Research initiative and those necessary for a growth and  
9 revitalization initiative for the University's Alumni Quad, a residen-  
10 tial complex in the Education District of the City of Albany. Both  
11 initiatives (hereinafter described as "the project") would be funded, in  
12 part, by active partnerships between government and private industry.

13     The legislature further finds that these activities will promote  
14 enhanced research, technology deployment, improved undergraduate educa-  
15 tion, neighborhood revitalization, and economic outreach across the  
16 capital region of New York state.

17     The legislature further finds that granting the trustees of the state  
18 university of New York the authority and power to lease and otherwise  
19 contract to make available grounds and facilities of the campus of the  
20 state university of New York at Albany will help promote and accomplish  
21 these goals.

22     S 2. As used in this act "the UA Corporation" shall mean the Universi-  
23 ty at Albany Development Corporation, which will be a not-for-profit  
24 corporation established for the purpose of facilitating the educational,  
25 research and economic development activities related to the mission of

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

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1 the state university of New York by constructing, developing and operat-  
2 ing facilities which support economic development, academic and research  
3 activities and the mission of the state university of New York and its  
4 University at Albany campus.

5 S 3. Notwithstanding any other law to the contrary, the state univer-  
6 sity trustees are hereby authorized and empowered, without any public  
7 bidding, to lease and otherwise contract to make available to the UA  
8 Corporation a portion of the lands of the state university of New York  
9 at Albany generally described as all that real property consisting of  
10 approximately 25 acres of land on the Uptown and Alumni Quad campuses of  
11 the University at Albany, for the purpose of constructing and operating  
12 research, education, residential, and student support facilities to  
13 provide additional instructional, laboratory, residential, and student  
14 support spaces required to support the academic programs and the mission  
15 of the state university of New York. Such lease or contract shall be for  
16 a period not exceeding 40 years without any fee simple conveyance and  
17 otherwise upon terms and conditions determined by such trustees, subject  
18 to the approval of the director of the division of the budget, the  
19 attorney general and the state comptroller. In the event that the real  
20 property that is the subject of such lease or contract shall cease to be  
21 used for the purpose described in this act, such lease or contract shall  
22 immediately terminate and the real property and any improvements thereon  
23 shall revert to the state university of New York. Any lease or contract  
24 entered into pursuant to this act shall provide that the real property  
25 that is the subject of such lease or contract and any improvements ther-  
26 eon shall revert to the state university of New York on the expiration  
27 of such contract or lease.

28 S 4. Any contract or lease entered into pursuant to this act shall be  
29 deemed to be a state contract for purposes of article 15-A of the execu-  
30 tive law, and any contractor, subcontractor, lessee or sublessee enter-  
31 ing into such contract or lease for the construction, demolition, recon-  
32 struction, excavation, rehabilitation, repair, renovation, alteration or  
33 improvement authorized pursuant to this act shall be deemed a state  
34 agency for the purposes of article 15-A of the executive law and subject  
35 to the provisions of such article.

36 S 5. Notwithstanding any general, special or local law or judicial  
37 decision to the contrary, all work performed on a project authorized by  
38 this act where all or any portion thereof involves a lease or agreement  
39 for construction, demolition, reconstruction, excavation, rehabili-  
40 tation, repair, renovation, alteration or improvement shall be deemed  
41 public work and shall be subject to and performed in accordance with the  
42 provisions of article 8 of the labor law to the same extent and in the  
43 same manner as a contract of the state, and compliance with all the  
44 provisions of article 8 of the labor law shall be required of any  
45 lessee, sublessee, contractor and/or subcontractor performing on the  
46 project, including the enforcement of prevailing wage requirements by  
47 the fiscal officer as defined in paragraph e of subdivision 5 of section  
48 220 of the labor law to the same extent as a contract of the state.

49 S 6. Nothing in this act shall be deemed to waive or impair any rights  
50 or benefits of employees of the state university of New York that other-  
51 wise would be available to them pursuant to the terms of agreements  
52 between the certified representatives of such employees and the state of  
53 New York pursuant to article 14 of the civil service law; all work  
54 performed on such property that ordinarily would be performed by employ-  
55 ees subject to article 14 of the civil service law shall continue to be  
56 performed by such employees.

1 S 7. Notwithstanding the provisions of any general, special, or local  
2 law or judicial decision to the contrary:

3 (a) the UA Corporation may require a contractor awarded a contract,  
4 subcontract, lease, grant, bond, covenant or other agreement for any  
5 single construction project exceeding ten million dollars in the aggre-  
6 gate, for which more than twenty-five percent of such aggregate amount  
7 is to be paid from appropriations furnished by the state of New York or  
8 the state university of New York, to enter into a project labor agree-  
9 ment during and for the work involved with such project when such  
10 requirement is part of the UA Corporation request for proposals for the  
11 project and when UA Corporation determines that the record supporting  
12 the decision to enter into such an agreement establishes that the inter-  
13 ests underlying the competitive bidding laws are best met by requiring a  
14 project labor agreement including: obtaining the best work at the lowest  
15 possible price; preventing favoritism, fraud and corruption; the impact  
16 of delay; the possibility of cost savings; and any local history of  
17 labor unrest. For the purposes of this act, "project labor agreement"  
18 shall mean work at the property authorized by this act to be leased to  
19 the UA Corporation as described in this act that involves the design,  
20 construction, reconstruction, demolition, excavation, rehabilitation,  
21 repair, renovation, alteration or improvements.

22 (b) If the UA Corporation does not require a project labor agreement,  
23 then any contractor, subcontractor, lease, grant, bond, covenant or  
24 other agreements for a project shall be awarded pursuant to section 135  
25 of the state finance law.

26 S 8. Without limiting the determination of the terms and conditions of  
27 such contracts or leases, such terms and conditions may provide for  
28 leasing, subleasing, construction, reconstruction, rehabilitation,  
29 improvement, operation and management of and provision of services and  
30 assistance and the granting of licenses, easements and other arrange-  
31 ments with regard to such grounds and facilities by the UA Corporation,  
32 and parties contracting with the UA Corporation, and, in connection with  
33 such activities, the obtaining of funding or financing, whether public  
34 or private, unsecured or secured (including, but not limited to, secured  
35 by leasehold mortgages and assignments of rents and leases), by the UA  
36 Corporation and parties contracting with the UA Corporation for the  
37 purposes of completing the project described in this act.

38 S 9. Such lease shall include an indemnity provision whereby the  
39 lessee or sublessee promises to indemnify, hold harmless and defend the  
40 lessor against all claims, suits, actions, and liability to all persons  
41 on the leased premises, including tenant, tenant's agents, contractors,  
42 subcontractors, employees, customers, guests, licensees, invitees and  
43 members of the public, for damage to any such person's property, whether  
44 real or personal, or for personal injuries arising out of tenant's use  
45 or occupation of the demised premises.

46 S 10. The property authorized by this act to be leased to the UA  
47 Corporation is generally described as those parcels of real property  
48 with improvements thereon, consisting of a total of approximately 25  
49 acres, situated on the Uptown and Alumni campuses of the state universi-  
50 ty of New York at Albany. The descriptions in this section of the  
51 parcels to be made available pursuant to this act are not meant to be  
52 legal descriptions, but are intended only to generally identify the  
53 parcels:

54 FIRST PARCEL:

55 All or portions of the tract, piece or parcel of land situate on the  
56 Uptown Campus of the state university of New York at Albany, portions of

1 which lie in the Town of Guilderland, County of Albany, State of New  
2 York and portions of which lie in the City of Albany, County of Albany,  
3 State of New York, the total consisting of approximately 14.5 acres,  
4 subject to any and all easements, restrictions, and rights of way of  
5 record, and being more particularly bounded on the south by Justice  
6 Drive, on the west by Chemistry Lane and Life Sciences Lane, on the  
7 north by State Drive, and on the east by University Drive.

8 SECOND PARCEL:

9 All or portions of that tract, piece or parcel of land situate on the  
10 Alumni Quad Campus of the state university of New York at Albany in the  
11 City of Albany, County of Albany, State of New York, consisting of  
12 approximately 10.5 acres, subject to any and all easements,  
13 restrictions, and rights of way of record, and being more particularly  
14 bounded on the south by Western Avenue, on the west by O'Leary Boule-  
15 vard, on the north by State Street, and on the east by Ontario Street.

16 S 11. The state university of New York shall not lease lands described  
17 in this act unless any such lease shall be executed within three years  
18 of the effective date of this act.

19 S 12. Insofar as the provisions of this act are inconsistent with the  
20 provisions of any law, general, special or local, the provisions of this  
21 act shall be controlling.

22 S 13. This act shall take effect on the ninetieth day after it shall  
23 have become a law.