

S. 3536

A. 5664

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

February 24, 2011

IN SENATE -- Introduced by Sen. FUSCHILLO -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

IN ASSEMBLY -- Introduced by M. of A. SWEENEY -- 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 college at Farmingdale

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

1 Section 1. Legislative findings. The legislature finds that the devel-
2 opment, construction and operation of a biotechnology and other technol-
3 ogy-oriented office, research and manufacturing park upon the grounds of
4 the state university of New York college at Farmingdale is necessary and
5 appropriate to further the objectives and purposes of the state univer-
6 sity of New York in its support of the college at Farmingdale and
7 fulfills a necessary and desirable public purpose. The legislature
8 further finds that granting the trustees of the state university of New
9 York the authority and power to lease and otherwise contract to make
10 available grounds and facilities of the campus of the state university
11 of New York college at Farmingdale will ensure the development,
12 construction and operation of such biotechnology and other technology-
13 oriented office, research and manufacturing park and also promote the
14 effective use of such grounds and facilities which support the educa-
15 tional and research activities of the college at Farmingdale.

16 S 2. As used in this act "BHBP" shall mean Broad Hollow Bioscience
17 Park, Inc., which is a not-for-profit corporation organized pursuant to
18 the laws of New York state, for the lease of lands described in section
19 twelve of this act. For the purposes of this act, the biotechnology and
20 other technology-oriented office, research and manufacturing park may
21 include structures with offices, common space, research laboratories,

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

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1 manufacturing facilities, facilities for servicing businesses, incubator
2 facilities and technical facilities related to biotechnology and other
3 technology-oriented purposes.

4 S 3. For the purposes of this act: (a) "project" shall mean work at
5 the property authorized by this act to be leased to BHBP as described in
6 section twelve of this act that involves the design, construction,
7 reconstruction, demolition, excavating, rehabilitation, repair, reno-
8 vation, alteration or improvement of biotechnology and other technolo-
9 gy-oriented office, research and manufacturing park.

10 (b) "project labor agreement" shall mean a pre-hire collective
11 bargaining agreement between a contractor and a labor organization,
12 establishing the labor organization as the collective bargaining repre-
13 sentative for all persons who will perform work on the project, and
14 which provides that only contractors and subcontractors who sign a pre-
15 negotiated agreement with the labor organization can perform project
16 work.

17 S 4. Notwithstanding any other law to the contrary, the state univer-
18 sity trustees are hereby authorized and empowered, without any public
19 bidding, to lease and otherwise contract to make available to BHBP a
20 portion of the lands of the state university of New York college at
21 Farmingdale generally described in this act for the purpose of develop-
22 ing, constructing and operating a biotechnology and other technology-or-
23 iented office, research and manufacturing park, and for uses in support
24 of campus activities; provided, however, that the development and opera-
25 tion of a biotechnology and other technology-oriented office, research
26 and manufacturing park shall be of benefit to the college at Farming-
27 dale. Such lease or contract shall be for a period not exceeding 35
28 years without any fee simple conveyance and otherwise upon terms and
29 conditions determined by such trustees, subject to the approval of the
30 director of the division of the budget, the attorney general and the
31 state comptroller. In the event that the real property that is the
32 subject of such lease or contract shall cease to be used for the purpose
33 described in this act, such lease or contract shall immediately termi-
34 nate and the real property and any improvements thereon shall revert to
35 the state university of New York. Any lease or contract entered into
36 pursuant to this act shall provide that the real property that is the
37 subject of such lease or contract and any improvements thereon shall
38 revert to the state university of New York on the expiration of such
39 contract or lease.

40 S 5. Any contract or lease entered into pursuant to this act shall be
41 deemed to be a state contract for the purposes of article 15-A of the
42 executive law, and any contractor, subcontractor, lessee or subleasee
43 entering into such contract or lease for the construction, demolition,
44 reconstruction, excavation, rehabilitation, repair, renovation, alter-
45 ation or improvement authorized pursuant to this act shall be deemed a
46 state agency for the purposes of article 15-A of the executive law and
47 subject to the provisions of such article.

48 S 6. Notwithstanding any general, special or local law or judicial
49 decision to the contrary, all work performed on a project authorized by
50 this act where all or any portion thereof involves a lease or agreement
51 for construction, demolition, reconstruction, excavation, rehabili-
52 tation, repair, renovation, alteration or improvement shall be deemed
53 public work and shall be subject to and performed in accordance with the
54 provisions of article 8 of the labor law to the same extent and in the
55 same manner as a contract of the state, and compliance with all the
56 provisions of article 8 of the labor law shall be required of any

1 lessee, sublessee, contractor and/or subcontractor performing on the
2 project including the enforcement of prevailing wage requirements by the
3 fiscal officer as defined in paragraph e of subdivision 5 of section 220
4 of the labor law to the same extent as a contract of the state.

5 S 7. Nothing in this act shall be deemed to waive or impair any
6 rights or benefits of employees of the state university of New York that
7 otherwise would be available to them pursuant to the terms of agreements
8 between the certified representatives of such employees and the state of
9 New York pursuant to article 14 of the civil service law; all work
10 performed on such property that ordinarily would be performed by employ-
11 ees subject to article 14 of the civil service law shall continue to be
12 performed by such employees.

13 S 8. Notwithstanding the provisions of any general, special, or local
14 law or judicial decision to the contrary:

15 (a) BHBP may require a contractor awarded a contract, subcontract,
16 lease, grant, bond, covenant or other agreement for a project to enter
17 into a project labor agreement during and for the work involved with
18 such project when such requirement is part of BHBP request for proposals
19 for the project and when BHBP determines that the record supporting the
20 decision to enter into such an agreement establishes that the interests
21 underlying the competitive bidding laws are best met by requiring a
22 project labor agreement including: obtaining the best work at the lowest
23 possible price; preventing favoritism, fraud and corruption; the impact
24 of delay; the possibility of cost savings; and any local history of
25 labor unrest.

26 (b) If BHBP does not require a project labor agreement, then any
27 contractor, subcontractor, lease, grant, bond, covenant or other agree-
28 ments for a project shall be awarded pursuant to section 135 of the
29 state finance law.

30 S 9. Without limiting the determination of the terms and conditions of
31 such contracts or leases, such term and conditions may provide for leas-
32 ing, subleasing, construction, reconstruction, rehabilitation, improve-
33 ment, operation and management of and provision of services and assist-
34 ance and the granting of licenses, easements and other arrangements with
35 regard to such grounds and facilities by BHBP, and parties contracting
36 with BHBP, and, in connection with such activities, the obtaining of
37 funding or financing, whether public or private, unsecured or secured
38 (including, but not limited to, secured by leasehold mortgages and
39 assignments of rents and leases), by BHBP and parties contracting with
40 BHBP for the purposes of completing the project described in this act.

41 S 10. Such lease shall include an indemnity provision whereby the
42 lessee or sublessee promises to indemnify, hold harmless and defend the
43 lessor against all claims, suits, actions, and liability to all persons
44 on the leased premises, including tenant, tenant's agents, contractors,
45 subcontractors, employees, customers, guests, licensees, invitees and
46 members of the public, for damage to any such person's property, whether
47 real or personal, or for personal injuries arising out of tenant's use
48 or occupation of the demised premises.

49 S 11. Any contracts entered into pursuant to this act between BHBP and
50 parties contracting with BHBP shall be awarded by a competitive process.

51 S 12. The property authorized by this act to be leased to BHBP is
52 generally described as that parcel of real property with improvements
53 thereon, consisting of a total of approximately 38.5 acres, situated on
54 the campus of the state university of New York college at Farmingdale.
55 The description in this section of the parcel to be made available
56 pursuant to this act is not meant to be a legal description, but is

1 intended only to identify the parcel: All the tract, piece or parcel of
2 land situate in the Town of Huntington and Town of Babylon, County of
3 Suffolk, State of New York, and being more particularly bounded as
4 described as follows: All that tract, piece or parcel of land situate in
5 the Town of Huntington and Town of Babylon, County of Suffolk, State of
6 New York, and being more particularly bounded as described as follows:
7 Beginning at a point on the westerly right of way of New York State
8 Route 110 per NYSDOT Map 3T Parcel 3 at the southeast corner of a NYSDOT
9 detention pond shown on Map 289 T Parcel 324,

10 Thence South 00 deg. 22 min. 45 sec East along said westerly right of
11 way, 573.44 ft to a point;

12 Then through the lands now or formerly of the People of the State of
13 New York for the State University of New York at Farmingdale Campus the
14 following seven (7) courses 1) South 11 deg. 37 min. 49 sec. West 211.11
15 ft to a point of curvature; thence 2) along the arc of a tangent curve
16 to the right of radius 390.49 ft. and length of 422.88 ft. to a point;
17 thence 3) North 45 deg. 00 min. 49 sec. West 964.56 ft. to a point of
18 curvature; thence 4) along the arc of a tangent curve to the left of
19 radius 462.83 ft. and length of 724.84 ft. to a point; thence 5) North
20 44 deg. 41 min. 38 sec West 60.00 ft. to a point; thence 6) North 45
21 deg., 15 min. 20 sec. East 184.68 ft to a point; and 7) North 27 deg. 04
22 min. 59 sec. East 1,274.60 ft. to its intersection with the division
23 line between the lands now or formally of Long Island Power Authority on
24 the northeast and the lands now or formerly of the People of the State
25 of New York for the State University of New York at Farmingdale Campus
26 on the southwest;

27 Thence along said division line the following two (2) courses: 1)
28 South 63 deg. 20 min. 42 sec. East 300.00 ft to a point; and 2) South 60
29 deg. 51 min. 31 sec. East 300.28 ft. to its intersection with the divi-
30 sion line between the lands now or formerly of Long Island Power Author-
31 ity on the northeast and WRD Mellville, LLC in part by each, on the
32 northeast, and the lands now or formerly of the People of the State of
33 New York for the State University of New York at Farmingdale Campus on
34 the southwest;

35 Thence South 67 deg. 16 min. 36 sec. East along said division line,
36 336.05 ft to its intersection with the division line between the lands
37 now or formerly of WRD Mellville, LLC on the east and lands now formerly
38 of the People of the State of New York for the State University of New
39 York at Farmingdale Campus on the west;

40 Thence South 14 deg. 59 min. 39 sec East along said division line,
41 150.00 ft. to its intersection with the NYSDOT detention pond shown on
42 Map 289T Parcel 324;

43 Thence around the NYSDOT detention pond shown on Map 289T Parcel 324
44 the following three (3) courses: 1) North 66 deg. 52 min. 02 sec. West
45 160.84 ft. to a point, thence 2) South 00 deg. 25 min. 27 sec. East
46 424.00 ft to a point;

47 And 3) North 89 deg. 34 min 33 sec. East 243.06 ft. to the point of
48 beginning.

49 S 13. The state university of New York shall not lease lands described
50 in this act unless any such lease shall be executed within three years
51 of the effective date of this act.

52 S 14. Insofar as the provisions of this act are inconsistent with the
53 provisions of any law, general, special or local, the provisions of this
54 act shall be controlling.

55 S 15. This act shall take effect immediately.