

8454

2011-2012 Regular Sessions

I N A S S E M B L Y

June 16, 2011

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.