

5502

2011-2012 Regular Sessions

I N S E N A T E

May 26, 2011

Introduced by Sens. FLANAGAN, LAVALLE -- read twice and ordered printed,
and when printed to be committed to the Committee on Higher Education

AN ACT to authorize the lease of certain lands located at the state university of New York at Stony Brook; and to amend the public authorities law, in relation to authorizing the dormitory authority to provide financing of certain projects conducted by Stony Brook Foundation Realty, Inc. at the state university of New York at Stony Brook

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 state
2 university of New York at Stony Brook (hereinafter referred to in this
3 act as the "university") is in need of additional facilities to fulfill
4 its legislatively mandated mission of research, education and provision
5 of health care services. Specifically, additional medical office space
6 and parking facilities are required to support the provision of health
7 services by the university faculty professional corporations associated
8 with Stony Brook University Hospital. Furthermore, such activity will
9 promote the provision of quality health care services to the surrounding
10 community.

11 The legislature further finds that granting the board of trustees of
12 the state university of New York the authority and power to lease and
13 otherwise contract to make available grounds and facilities of the
14 campus of the state university of New York at Stony Brook will ensure
15 such activity will promote the provision of quality health care services
16 to the surrounding community.

17 S 2. Notwithstanding any other provision of law to the contrary, the
18 state university board of trustees is hereby authorized and empowered,
19 without any public bidding, to lease and otherwise contract to make
20 available to Stony Brook Foundation Realty, Inc. (hereinafter referred
21 to in this act as the "ground lessee") a portion of the lands of the
22 university not to exceed 4 acres to be located southwest of the Stony

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

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1 Brook University Hospital for the purpose of constructing a medical
2 office building and a portion of the lands of the university not to
3 exceed 8 acres to be located southeast of the Stony Brook University
4 Hospital for the purpose of constructing parking facilities to support
5 the provision of quality health care to the surrounding communities and
6 the missions of the state university of New York. Stony Brook Foundation
7 Realty, Inc. is a not-for-profit corporation which is wholly owned by
8 Stony Brook Foundation, Inc., a not-for-profit corporation, and both
9 corporations have as their exclusive purpose the benefit of the univer-
10 sity. Such lease or contract shall be for a period not exceeding 45
11 years without any fee simple conveyance and otherwise upon terms and
12 conditions determined by such board of trustees, subject to the approval
13 of the director of the division of the budget, the attorney general and
14 the state comptroller. In the event that the real property that is the
15 subject of such lease or contract shall cease to be used for the purpose
16 described in this act, such lease or contract shall immediately termi-
17 nate and the real property and any improvements thereon shall revert to
18 the state university of New York. Any lease or contract entered into
19 pursuant to this act shall provide that the real property that is the
20 subject of such lease or contract and any improvements thereon shall
21 revert to the state university of New York on the expiration of such
22 contract or lease.

23 S 3. Any contract or lease entered into pursuant to this act shall be
24 deemed to be a state contract for purposes of article 15-A of the execu-
25 tive law, and any contractor, subcontractor, lessee or sublessee enter-
26 ing into such contract or lease for the construction, demolition, recon-
27 struction, excavation, rehabilitation, repair, renovation, alteration or
28 improvement authorized pursuant to this act shall be deemed a state
29 agency for the purposes of article 15-A of the executive law and shall
30 be subject to the provisions of such article.

31 S 4. Notwithstanding any general, special or local law or judicial
32 decision to the contrary, all work performed on a project authorized by
33 this act where all or any portion thereof involves a lease or agreement
34 for construction, demolition, reconstruction, excavation, rehabili-
35 tation, repair, renovation, alteration or improvement shall be deemed
36 public work and shall be subject to and be performed in accordance with
37 the provisions of article 8 of the labor law to the same extent and in
38 the same manner as a contract of the state, and compliance with all the
39 provisions of article 8 of the labor law shall be required of any
40 lessee, subleasee, contractor or subcontractor on the project.

41 S 5. Notwithstanding any provision of law to the contrary, all rights
42 or benefits, including terms and conditions of employment, and
43 protection of civil service and collective bargaining status of all
44 employees of the state university of New York affected by the provisions
45 of this act, shall be preserved and protected. Employees in any newly
46 created positions within the state university of New York shall be
47 considered public employees for all purposes of article 14 of the civil
48 service law.

49 S 6. Any contract or lease awarded or entered into by the ground
50 lessee, and parties contracting or entering into a lease with the
51 ground lessee for construction, reconstruction, renovation, rehabili-
52 tation, improvement or expansion authorized pursuant to this act, for
53 any single construction project exceeding ten million dollars in the
54 aggregate, for which more than twenty-five percent of such aggregate
55 amount is to be paid from appropriations furnished by the state or the
56 state university of New York shall be undertaken pursuant to a project

1 labor agreement, as defined in subdivision 1 of section 222 of the labor
2 law, provided that a study done by or for the contracting entity deter-
3 mines that a project labor agreement will benefit such construction,
4 reconstruction, renovation, rehabilitation, improvement or expansion
5 through reduced risk of delay, potential cost savings or potential
6 reduction in the risk of labor unrest in light of any pertinent local
7 history thereof. For purposes of applying the dollar thresholds set
8 forth in this section, the term "single construction project" shall mean
9 any construction, reconstruction, renovation, rehabilitation, improve-
10 ment or expansion activity associated with one or more buildings, struc-
11 tures or improvements, including all directly related infrastructure and
12 site work in contemplation thereof, that are functionally interdepend-
13 ent.

14 S 7. Without limiting the determination of the terms and conditions of
15 such contracts or leases, such terms and conditions may provide for
16 leasing, subleasing, construction, reconstruction, rehabilitation,
17 improvement, operation and management of and provision of services and
18 assistance and the granting of licenses, easements and other arrange-
19 ments with regard to such grounds and facilities by the ground lessee,
20 and parties contracting with the ground lessee, and, in connection with
21 such activities, the obtaining of funding or financing, whether public
22 or private, unsecured or secure (including, but not limited to, secured
23 by leasehold mortgages and assignments of rents and leases), by the
24 ground lessee and parties contracting with the ground lessee for the
25 purposes of completing the project described in this act.

26 S 8. Such lease shall include an indemnity provision whereby the
27 lessee or sublessee promises to indemnify, hold harmless and defend the
28 lessor against all claims, suits, actions and liability to all persons
29 on the leased premises, including tenant, tenant's agents, contractors,
30 subcontractors, employees, customers, guests, licensees, invitees and
31 members of the public, for damage to any such person's property, whether
32 real or personal, or for personal injuries arising out of tenant's use
33 or occupation of the demised premises.

34 S 9. Any contracts entered into pursuant to this act between the
35 ground lessee and parties contracting with the ground lessee shall be
36 awarded by a competitive process.

37 S 10. The state university of New York shall not lease the lands
38 described in this act unless any such lease shall be executed within
39 three years of the effective date of this act.

40 S 11. Insofar as the provisions of this act are inconsistent with the
41 provisions of any law, general, special or local, the provisions of this
42 act shall be controlling.

43 S 12. Paragraph (b) of subdivision 2 of section 1676 of the public
44 authorities law is amended by adding a new undesignated paragraph to
45 read as follows:

46 STONY BROOK FOUNDATION REALTY, INC., FOR THE FINANCING, REFINANCING OR
47 REIMBURSEMENT OF THE COSTS OF ACQUISITION, DESIGN, CONSTRUCTION, RECON-
48 STRUCTION, REHABILITATION, IMPROVEMENT, FURNISHING AND EQUIPPING OF, OR
49 OTHERWISE PROVIDING FOR THE CONSTRUCTION OF A MEDICAL OFFICE BUILDING
50 AND PARKING FACILITIES ON THE CAMPUS OF THE STATE UNIVERSITY OF NEW YORK
51 AT STONY BROOK.

52 S 13. Subdivision 1 of section 1680 of the public authorities law is
53 amended by adding a new undesignated paragraph to read as follows:

54 STONY BROOK FOUNDATION REALTY, INC., FOR THE FINANCING, REFINANCING OR
55 REIMBURSEMENT OF THE COSTS OF ACQUISITION, DESIGN, CONSTRUCTION, RECON-
56 STRUCTION, REHABILITATION, IMPROVEMENT, FURNISHING AND EQUIPPING OF, OR

1 OTHERWISE PROVIDING FOR THE CONSTRUCTION OF A MEDICAL OFFICE BUILDING
2 AND PARKING FACILITIES ON THE CAMPUS OF THE STATE UNIVERSITY OF NEW YORK
3 AT STONY BROOK.
4 S 14. This act shall take effect immediately.