S T A T E O F N E W Y O R K

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:

Section 1. Legislative findings. The legislature finds that the state university of New York at Stony Brook (hereinafter referred to in this act as the "university") is in need of additional facilities to fulfill its legislatively mandated mission of research, education and provision of health care services. Specifically, additional medical office space and parking facilities are required to support the provision of health services by the university faculty professional corporations associated with Stony Brook University Hospital. Furthermore, such activity will promote the provision of quality health care services to the surrounding community.

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

S 2. Notwithstanding any other provision of law to the contrary, the state university board of trustees is hereby authorized and empowered, without any public bidding, to lease and otherwise contract to make available to Stony Brook Foundation Realty, Inc. (hereinafter referred to in this act as the "ground lessee") a portion of the lands of the 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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Brook University Hospital for the purpose of constructing a medical office building and a portion of the lands of the university not to exceed 8 acres to be located southeast of the Stony Brook University Hospital for the purpose of constructing parking facilities to support the provision of quality health care to the surrounding communities and the missions of the state university of New York. Stony Brook Foundation Realty, Inc. is a not-for-profit corporation which is wholly owned by Stony Brook Foundation, Inc., a not-for-profit corporation, and both corporations have as their exclusive purpose the benefit of the university. Such lease or contract shall be for a period not exceeding 45 years without any fee simple conveyance and otherwise upon terms and conditions determined by such board of trustees, subject to the approval of the director of the division of the budget, the attorney general and the state comptroller. In the event that the real property that is the subject of such lease or contract shall cease to be used for the purpose described in this act, such lease or contract shall immediately terminate and the real property and any improvements thereon shall revert to the state university of New York. Any lease or contract entered into pursuant to this act shall provide that the real property that is the subject of such lease or contract and any improvements thereon shall revert to the state university of New York on the expiration of such contract or lease.

S 3. Any contract or lease entered into pursuant to this act shall be deemed to be a state contract for purposes of article 15-A of the executive law, and any contractor, subcontractor, lessee or sublessee entering into such contract or lease for the construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation, alteration or improvement authorized pursuant to this act shall be deemed a state agency for the purposes of article 15-A of the executive law and shall be subject to the provisions of such article.

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

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

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

labor agreement, as defined in subdivision 1 of section 222 of the labor law, provided that a study done by or for the contracting entity determines that a project labor agreement will benefit such construction, reconstruction, renovation, rehabilitation, improvement or expansion through reduced risk of delay, potential cost savings or potential reduction in the risk of labor unrest in light of any pertinent local history thereof. For purposes of applying the dollar thresholds set forth in this section, the term "single construction project" shall mean any construction, reconstruction, renovation, rehabilitation, improvement or expansion activity associated with one or more buildings, structures or improvements, including all directly related infrastructure and site work in contemplation thereof, that are functionally interdependent.

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

S 8. Such 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 and liability to all persons on the leased premises, including tenant, tenant's agents, contractors, subcontractors, employees, 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 9. Any contracts entered into pursuant to this act between the ground lessee and parties contracting with the ground lessee shall be awarded by a competitive process.

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

S 11. 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 12. Paragraph (b) of subdivision 2 of section 1676 of the public authorities law is amended by adding a new undesignated paragraph to read as follows:

STONY BROOK FOUNDATION REALTY, INC., FOR THE FINANCING, REFINANCING OR REIMBURSEMENT OF THE COSTS OF ACQUISITION, DESIGN, CONSTRUCTION, RECONSTRUCTION, REHABILITATION, IMPROVEMENT, FURNISHING AND EQUIPPING OF, OR OTHERWISE PROVIDING FOR THE CONSTRUCTION OF A MEDICAL OFFICE BUILDING AND PARKING FACILITIES ON THE CAMPUS OF THE STATE UNIVERSITY OF NEW YORK AT STONY BROOK.

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

STONY BROOK FOUNDATION REALTY, INC., FOR THE FINANCING, REFINANCING OR REIMBURSEMENT OF THE COSTS OF ACQUISITION, DESIGN, CONSTRUCTION, RECONSTRUCTION, REHABILITATION, IMPROVEMENT, FURNISHING AND EQUIPPING OF, OR

OTHERWISE PROVIDING FOR THE CONSTRUCTION OF A MEDICAL OFFICE BUILDING AND PARKING FACILITIES ON THE CAMPUS OF THE STATE UNIVERSITY OF NEW YORK AT STONY BROOK.

S 14. This act shall take effect immediately.