

S. 5029

A. 7179

2013-2014 Regular Sessions

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

May 6, 2013

IN SENATE -- Introduced by Sens. LAVALLE, BOYLE, FLANAGAN, ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

IN ASSEMBLY -- Introduced by M. of A. SWEENEY -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to the Suffolk county judicial facilities agency and the H. Lee Dennison building

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

1 Section 1. Subdivision 6 of section 2350-b of the public authorities
2 law, as amended by chapter 762 of the laws of 2005, is amended to read
3 as follows:

4 6. "Construct", "Construction" or "Constructed" means the acquisition,
5 erection, building, alteration, improvement, increase, enlargement,
6 extension, reconstruction, renovation or rehabilitation of the John P.
7 Cohalen court complex [and], the new replacement correctional facility
8 at Yaphank, THE H. LEE DENNISON BUILDING AND THE NORTH COUNTY COMPLEX;
9 the inspection and supervision thereof; and the engineering, architec-
10 tural, legal, fiscal and economic investigations and studies, surveys,
11 designs, plans, working drawings, specifications, procedure and other
12 actions preliminary or incidental thereto.

13 S 2. Subdivisions 15 and 17 of section 2350-b of the public authori-
14 ties law, as amended by chapter 762 of the laws of 2005, are amended and
15 two new subdivisions 12-a and 13-a are added to read as follows:

16 12-A. "H. LEE DENNISON BUILDING" MEANS THE H. LEE DENNISON BUILDING OF
17 THE SUFFOLK COUNTY GOVERNMENT LOCATED IN HAUPPAUGE, NEW YORK.

18 13-A. "NORTH COUNTY COMPLEX" MEANS ONE OR MORE OF THE BUILDINGS OF THE
19 GOVERNMENT OF THE COUNTY OF SUFFOLK DESIGNATED BY THE COUNTY LEGISLATURE
20 IN THE NORTH COUNTY COMPLEX IN HAUPPAUGE, NEW YORK TO BE SOLD, LEASED OR

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

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1 ASSIGNED TO THE AGENCY PURSUANT TO SUBDIVISION ONE OF SECTION
2 TWENTY-THREE HUNDRED FIFTY-F OF THIS TITLE.

3 15. "Project" means any acquisition, erection, building, alteration,
4 improvement, increase, enlargement, extension, renovation, rehabili-
5 tation or relocation of the John P. Cohalen court complex [or], the new
6 replacement correctional facility at Yaphank, THE H. LEE DENNISON BUILD-
7 ING AND THE NORTH COUNTY COMPLEX, or any part thereof.

8 17. "Properties" means the John P. Cohalen court complex [or], the new
9 replacement correctional facility at Yaphank, THE H. LEE DENNISON BUILD-
10 ING AND THE NORTH COUNTY COMPLEX, or any part thereof or appurtenances
11 or any property incidental thereto.

12 S 3. Subdivision 1 of section 2350-c of the public authorities law, as
13 amended by chapter 762 of the laws of 2005, is amended to read as
14 follows:

15 1. A public corporation, to be known as the "Suffolk county judicial
16 facilities agency" is hereby created for the public purposes and charged
17 with the duties and having the powers provided in this title. The agency
18 shall be a body corporate and politic constituting a public benefit
19 corporation, the objects of which in the judgment of the legislature
20 cannot be attained under general laws. The governing body of the agency
21 shall consist of a body totaling six members, all of whom shall be resi-
22 dents of the county, one of whom shall be appointed by the presiding
23 officer of the county legislature, without confirmation by the county
24 legislature, one of whom shall be appointed by the minority leader of
25 the county legislature, without confirmation by the county legislature,
26 two of whom shall be appointed by the county legislature but not subject
27 to review or veto by the county executive and two of whom shall be
28 appointed by the county executive but not subject to review or veto by
29 the county legislature. The terms of the members of the governing body
30 of the agency serving on the effective date of the chapter of the laws
31 of two thousand [five] THIRTEEN that [added this sentence] AMENDED THIS
32 SECTION shall expire on the sixtieth day following such effective date.
33 On or before the sixtieth day, six members shall be appointed by the
34 persons having the authority to make such appointments under this
35 section. Former members of the governing body of the corporation may be
36 reappointed in the discretion of the appointing authority. The appoint-
37 ing authorities shall consult together in making their appointments in
38 an effort to achieve the goal of having at least one member of the board
39 with a background in each of the following areas of experience: finance,
40 operation of correctional facilities, operation of judicial facilities,
41 construction, and real estate. Each member so appointed shall serve for
42 a term of three years, provided, however, that the members first
43 appointed to the six member board by the presiding officer and the
44 minority leader of the county legislature shall be appointed for an
45 initial term of two years and the members first appointed to the six
46 member board by the county legislature shall be appointed for an initial
47 term of four years. Failure by any party to appoint any member shall
48 not invalidate the creation or establishment of the agency and shall
49 result in the creation of a vacancy in the governing body of the agency
50 which may be filled at any time by such party. The clerk of the county
51 legislature shall notify the county executive and, after the appointment
52 of the initial members, the agency, of each appointment setting forth
53 (a) the name of the agency and (b) the name of the member appointed and
54 the member's term of office. All such members shall continue to hold
55 office until their successors are appointed and qualify. Vacancies shall
56 be filled in the manner provided for original appointment. Vacancies,

1 occurring otherwise than by expiration of term of office, shall be
2 filled by appointment for the unexpired terms. Members may be removed
3 from office by their appointing authority for inefficiency, neglect of
4 duty or misconduct in office; provided, however, that such member shall
5 be given a copy of the charges against him or her and an opportunity of
6 being heard in person, or by counsel, in his or her defense upon not
7 less than ten days notice. Members of the agency shall receive no
8 compensation for their services, but may be reimbursed for their actual
9 and necessary expenses incurred in connection with the carrying out of
10 the purposes of this title.

11 S 4. Section 2350-e of the public authorities law, as amended by chap-
12 ter 762 of the laws of 2005, is amended to read as follows:

13 S 2350-e. Governmental capacity of the agency and the county. The
14 agency and the county, in carrying out their respective powers and
15 duties under this title, shall be deemed to be acting in a governmental
16 capacity and in the performance of an essential governmental function.

17 The John P. Cohalen court complex when held by the agency and either
18 leased to the county, used for judicial purposes by the county or the
19 state or any state agency or the subject of a service agreement between
20 the agency and the county shall continue to be regarded as being used in
21 the performance of an essential governmental function. For purposes of
22 the judiciary law, or any successor thereto or similar law providing for
23 the payment by the state of aid for the construction and, or, operation
24 and maintenance of facilities for occupancy by the judiciary of the
25 state, including personal functions ancillary thereto, the agency shall
26 be considered a political subdivision of the state and shall be eligible
27 to receive all state aid for the John P. Cohalen court complex to the
28 same extent as the county.

29 The new replacement correctional facility at Yaphank, when held by the
30 agency and either leased to the county, used for correctional purposes
31 by the county or the state or any state agency, or the subject of a
32 service agreement between the agency and the county shall continue to be
33 regarded as being used in the performance of an essential governmental
34 function. For purposes of the correction law, or any successor thereto
35 or similar law providing for the payment by the state of aid for the
36 construction and, or, operation and maintenance of facilities for
37 correctional [proposes] PURPOSES, including personnel functions ancil-
38 lary thereto, the agency shall be considered a political subdivision of
39 the state and shall be eligible to receive all state aid for the new
40 replacement correctional facility at Yaphank to the same extent as the
41 county.

42 THE H. LEE DENNISON BUILDING AND THE NORTH COUNTY COMPLEX, WHEN HELD
43 BY THE AGENCY AND EITHER LEASED TO THE COUNTY, USED FOR GOVERNMENTAL
44 PURPOSES BY THE COUNTY OR THE STATE OR ANY STATE AGENCY, OR THE SUBJECT
45 OF A SERVICE AGREEMENT BETWEEN THE AGENCY AND THE COUNTY SHALL CONTINUE
46 TO BE REGARDED AS BEING USED IN THE PERFORMANCE OF AN ESSENTIAL GOVERN-
47 MENTAL FUNCTION. FOR PURPOSES OF ANY GENERAL OR SPECIAL LAW PROVIDING
48 FOR THE PAYMENT BY THE STATE OF AID FOR THE CONSTRUCTION AND, OR, OPERA-
49 TION AND MAINTENANCE OF FACILITIES FOR GOVERNMENTAL PURPOSES, INCLUDING
50 PERSONNEL FUNCTIONS ANCILLARY THERETO, THE AGENCY SHALL BE CONSIDERED A
51 POLITICAL SUBDIVISION OF THE STATE AND SHALL BE ELIGIBLE TO RECEIVE ALL
52 STATE AID FOR THE H. LEE DENNISON BUILDING AND THE NORTH COUNTY COMPLEX
53 TO THE SAME EXTENT AS THE COUNTY.

54 S 5. Subdivision 1 of section 2350-f of the public authorities law, as
55 amended by chapter 762 of the laws of 2005, is amended to read as
56 follows:

1 1. The county is hereby authorized, by a majority vote of the county
2 legislature, subject to review and veto of the county executive in the
3 manner set forth in the county charter, to sell, lease or assign to the
4 agency any or all right, title and interest of the county in and to the
5 John P. Cohalen court complex [and], the new replacement correctional
6 facility at Yaphank AND THE H. LEE DENNISON BUILDING AND THE NORTH COUN-
7 TY COMPLEX, including, without limitation, any land and rights-in-land,
8 any buildings, structures and improvements now or at any time hereafter
9 erected or constructed upon such land or rights-in-land, any fixtures
10 attached thereto, any personal property of any kind and description,
11 whether the same is a structural or nonstructural component, any alter-
12 ation, replacements, additions or substitutions for any of the forego-
13 ing, and any operation and maintenance or functionally similar agree-
14 ments, by any name known. Any such sale, lease, or assignment may,
15 notwithstanding the provisions of any other law, general, special or
16 local, including, without limitations, section two hundred fifteen of
17 the county law, or the county charter, be upon such terms for such dura-
18 tion and upon such conditions and for such consideration as may be
19 agreed upon, without competitive bidding therefor and shall not be
20 subject to permissive or mandatory referendum. Notwithstanding any
21 other provision of law, general, special or local, the county may lease
22 back such properties and, or, enter into a service agreement with the
23 agency pursuant to which the agency will cause the John P. Cohalen court
24 complex, or any part thereof, to be made available for occupancy for
25 judicial purposes and functions [and], the new replacement correctional
26 facility at Yaphank to be made available for occupancy and use for
27 correction purposes and functions, AND THE H. LEE DENNISON BUILDING AND
28 THE NORTH COUNTY COMPLEX TO BE MADE AVAILABLE FOR OCCUPANCY AND USE FOR
29 GOVERNMENTAL PURPOSES AND FUNCTIONS and for which the county will pay to
30 the agency a fee, and enter into an agreement with the agency pursuant
31 to which the county will operate and, or, maintain such court complex
32 [and], such correctional facility, AND THE H. LEE DENNISON BUILDING AND
33 THE NORTH COUNTY COMPLEX for the agency, each upon such terms and for
34 such duration and upon such conditions and for such consideration as may
35 be agreed upon and without competitive bidding. It is hereby determined
36 that the powers conferred by this section shall be in addition and
37 supplemental to any powers contained in any other law and nothing herein
38 contained shall be construed as limiting a right or power that the coun-
39 ty now has or may hereafter have pursuant to any other provision of law.
40 It is hereby determined that the powers conferred by this section are
41 conferred for a public purpose and any sale, lease, assignment or other
42 contract or agreement entered into pursuant to the provisions of this
43 section shall be deemed to be and is herein determined to be for a
44 public purpose.

45 S 6. Subdivision 1 of section 2350-g of the public authorities law is
46 amended by adding a new paragraph (c) to read as follows:

47 (C) THE AGGREGATE PRINCIPAL AMOUNT OF SUCH BONDS, NOTES OR OTHER OBLI-
48 GATIONS FOR THE H. LEE DENNISON BUILDING AND THE NORTH COUNTY COMPLEX
49 SHALL NOT EXCEED SEVENTY MILLION DOLLARS (\$70,000,000), EXCLUDING BONDS,
50 NOTES OR OTHER OBLIGATIONS ISSUED TO REFUND OR REPAY BONDS, NOTES OR
51 OTHER OBLIGATIONS THERETOFORE ISSUED FOR SUCH PURPOSES; PROVIDED, HOWEV-
52 ER, THAT UPON ANY SUCH REFUNDING OR REPAYMENT THE TOTAL AGGREGATE PRIN-
53 CIPAL AMOUNT OF OUTSTANDING BONDS, NOTES AND OTHER OBLIGATIONS MAY BE
54 GREATER THAN SEVENTY MILLION DOLLARS (\$70,000,000), ONLY IF THE PRESENT
55 VALUE OF THE AGGREGATE DEBT SERVICE OF THE REFUNDING OR REPAYMENT OF
56 BONDS, NOTES OR OTHER OBLIGATIONS TO BE ISSUED SHALL NOT EXCEED THE

1 PRESENT VALUE OF THE AGGREGATE DEBT SERVICE OF THE BONDS, NOTES, OR
2 OTHER OBLIGATIONS SO TO BE REFUNDED OR REPAID.

3 S 7. Paragraphs (a), (e) and (h) of subdivision 4 and subdivision 10
4 of section 2350-g of the public authorities law, paragraph (a) of subdivi-
5 sion 4 as amended by chapter 762 of the laws of 2005 and paragraphs
6 (e) and (h) of subdivision 4 and subdivision 10 as added by chapter 200
7 of the laws of 1999, are amended to read as follows:

8 (a) Bonds shall be authorized by resolution of the agency, be in such
9 denominations and bear such date or dates and mature at such time or
10 times, as such resolution may provide, provided that bonds and renewals
11 thereof issued for the John P. Cohalen court complex shall mature no
12 later than December thirty-first, two thousand sixteen; and bonds and
13 renewals thereof for the new replacement correctional facility at
14 Yaphank shall mature no later than December thirty-first, two thousand
15 thirty-five; AND BONDS AND RENEWALS THEREOF FOR THE H. LEE DENNISON
16 BUILDING AND THE NORTH COUNTY COMPLEX SHALL MATURE NO LATER THAN DECEM-
17 BER THIRTY-FIRST, TWO THOUSAND THIRTY-THREE.

18 (e) No private or public bond sale on a negotiated basis shall be
19 conducted by the agency without prior approval of the state comptroller.
20 The agency shall annually prepare and approve a bond sale report which
21 shall include the private [the private] or public bond sale guidelines
22 as specified in this subdivision, amendments to such guidelines since
23 the last private or public bond sale report, an explanation of the bond
24 sale guidelines and amendments, and the results of any sale of bonds
25 conducted during the fiscal year. Such bond sale report may be a part of
26 any other annual report that the agency is required to make.

27 (h) Nothing contained in this subdivision shall[,] be deemed to alter,
28 affect the validity of, modify the terms of, or impair any contract or
29 agreement made or entered into in violation of, or without compliance
30 with, the provisions of this subdivision.

31 10. The agency, subject to such agreements with bondholders as then
32 may exist, shall have power out of any moneys available therefor to
33 purchase bonds of the agency, which shall thereupon be canceled at a
34 price not exceeding; (a) if the bonds are then redeemable, the redemp-
35 tion price then applicable plus accrued interest to the next interest
36 payment date, or (b) if the bonds are not then immediately redeemable
37 then the redemption price applicable on the first date after such
38 purchase upon which the bonds become subject to redemption, plus accrued
39 interest to be THE next interest payment date.

40 S 8. Section 2350-j of the public authorities law, as added by chapter
41 200 of the laws of 1999, is amended to read as follows:

42 S 2350-j. Moneys of the agency. All moneys of the agency from whatever
43 source derived shall be paid to the treasurer of the agency and shall be
44 deposited forthwith in a bank or banks in the state designated by the
45 governing body. The moneys in such accounts shall be paid out on check
46 of the treasurer upon requisition by the governing body or of such other
47 person or persons as the governing body may [authorized] AUTHORIZE to
48 make such requisitions. All deposits of such moneys shall be secured by
49 obligations of the United States or of the state or of the county or of
50 any other municipality within the county of a market value equal at all
51 times to the amount on deposit and all banks and trust companies are
52 authorized to give such security for such deposits. The agency shall
53 have power, notwithstanding the provisions of this section, to contract
54 with the holders of any bonds as to the custody collection, security,
55 investment payment of any moneys of the agency or any moneys held in
56 trust or otherwise for the payment of bonds or in any way to secure

1 bonds, and to carry out any such contract notwithstanding that such
2 contract may be inconsistent with the provisions of this section. Moneys
3 held in trust or otherwise for the payment of bonds or in any way to
4 secure bonds and deposits of such moneys may be secured in the same
5 manner as moneys of the agency and all banks and trust companies are
6 authorized to give such security for such deposits. Any moneys of the
7 agency not required for immediate use or disbursement may, at the
8 discretion of the agency, be invested in those obligations specified
9 pursuant to the provisions of section ninety-eight-a of the state
10 finance law. Subject to the provisions of any contract with bondholders
11 and with the approval of the comptroller, the agency shall prescribe a
12 system of accounts.

13 S 9. Subdivisions 1 and 4 of section 2350-m of the public authorities
14 law, as added by chapter 200 of the laws of 1999, are amended to read as
15 follows:

16 1. It is hereby determined that the creation of the agency and the
17 carrying out of its corporate purpose is in all respects for the benefit
18 of the people of the state and is a public purpose and the agency shall
19 be regarded as performing a governmental function in the exercise of the
20 powers conferred upon it by this title and shall not be required to pay
21 any fees, taxes, special ad valorem levies or special assessments of any
22 kind, whether state or local, including, but not limited to fees, taxes,
23 special ad valorem levies or assessments on real property, franchise
24 taxes, sales or other taxes, upon or with respect to any properties
25 owned by it or under its jurisdiction, control or supervision, or upon
26 the uses thereof, or upon or with respect to its activities or oper-
27 ations in furtherance of the powers conferred upon it by this title, or
28 upon or with respect to any fees, rents, charges, revenues or other
29 income received by the agency, or any filing, recording or transfer fees
30 or taxes in relation to instruments filed, recorded or transferred by it
31 or on its behalf. The construction, use, occupation or possession of any
32 properties owned by the agency, including improvements thereon or there-
33 to, by the state or any state agency or by the county or any other
34 person under a lease, lease and sublease or any other agreement shall
35 not act to abrogate or limit the foregoing exemption, notwithstanding
36 that the lessee, user, occupant or person in possession shall claim
37 ownership for federal income tax purposes.

38 4. The agency may pay, or may enter into agreements with the county or
39 any municipality to pay, a sum or sums annually or otherwise or to
40 provide other considerations with respect to [of] the real property
41 owned by the agency located within the county or such municipality.

42 S 10. Subdivision 2 of section 2350-o of the public authorities law,
43 as amended by chapter 762 of the laws of 2005, is amended to read as
44 follows:

45 2. Construction contracts let by the agency shall be in conformity
46 with the applicable provisions of section one hundred thirty-five of the
47 state finance law, provided, however, that any contract for the
48 construction, reconstruction, rehabilitation or improvement of buildings
49 let by the agency shall not be governed by section one hundred thirty-
50 five of the state finance law if the agency chooses to utilize a project
51 labor agreement IN ACCORDANCE WITH THE PROVISIONS OF SECTION TWO HUNDRED
52 TWENTY-TWO OF THE LABOR LAW when the record supporting the decision to
53 enter into such an agreement establishes that it is justified by the
54 interests underlying the competitive bidding laws.

1 S 11. Subdivision 5 of section 2350-s of the public authorities law,
2 as added by chapter 762 of the laws of 2005, is amended to read as
3 follows:

4 5. The agency shall provide the secretaries of the [state] SENATE
5 finance committee and the assembly ways and means committee, with access
6 to any and all books, records, audits and contracts of the agency.

7 S 12. Subdivision 2 of section 2350-v of the public authorities law is
8 amended by adding a new paragraph (h) to read as follows:

9 (H) NOTHING IN THIS SECTION SHALL BE CONSTRUED AS LIMITING THE
10 REQUIREMENTS OF THE PUBLIC AUTHORITIES ACCOUNTABILITY ACT OF 2005 AS
11 ADOPTED BY CHAPTER SEVEN HUNDRED SIXTY-SIX OF THE LAWS OF TWO THOUSAND
12 FIVE AND THE PUBLIC AUTHORITIES REFORM ACT OF 2009 AS ADOPTED BY CHAPTER
13 FIVE HUNDRED SIX OF THE LAWS OF TWO THOUSAND NINE.

14 S 13. Subdivision 1 of section 2350-ff of the public authorities law,
15 as added by chapter 762 of the laws of 2005, is amended to read as
16 follows:

17 1. Every person or organization subject to the provisions of article
18 one-A of the legislative law as a lobbyist or client (as those terms are
19 defined in such article) because of acts relating to procurements of the
20 agency shall, in addition to filing one or more statements of registra-
21 tion and reports with the New York temporary state commission on lobby-
22 ing as required by article one-A of the legislative law, file a copy of
23 each such document required to be filed under said article with the
24 [authority] AGENCY.

25 S 14. This act shall take effect immediately.