

7199

2013-2014 Regular Sessions

I N A S S E M B L Y

May 7, 2013

Introduced by M. of A. LAVINE -- 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 Old Westbury

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 devel-
2 opment, construction and operation of a child-care center upon the
3 grounds of the State University of New York College at Old Westbury is
4 necessary and appropriate to further the objectives and purposes of the
5 State University of New York in its support of Old Westbury and fulfills
6 a necessary and desirable public purpose. The legislature further finds
7 that granting the trustees of the State University of New York the
8 authority and power to lease and otherwise contract to make available
9 grounds and facilities of the campus of the State University of New York
10 College at Old Westbury will facilitate the development, construction
11 and operation of such child-care center and also promote the effective
12 use of such grounds and facilities which support the educational activ-
13 ities of Old Westbury.

14 S 2. Notwithstanding any other law to the contrary, the State Univer-
15 sity trustees are hereby authorized and empowered, without any public
16 bidding, to lease and otherwise contract to make available to the Old
17 Westbury College Foundation, Inc., a not-for-profit corporation, a
18 portion of the lands of the State University of New York College at Old
19 Westbury generally described in this act for the purpose of developing,
20 constructing and operating a child-care center, and for uses in support
21 of campus activities; provided, however, that the development and opera-
22 tion of a child-care center shall be of benefit to Old Westbury. Such
23 lease or contract shall be for a period not exceeding thirty years with-
24 out any fee simple conveyance and otherwise upon terms and conditions
25 determined by such trustees, subject to the approval of the director of

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

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1 the division of the budget, the attorney general and the state comp-
2 troller. In the event that the real property that is the subject of
3 such lease or contract shall cease to be used for the purpose described
4 in this act, such lease or contract shall immediately terminate and the
5 real property and any improvements thereon shall revert to the State
6 University of New York. Any lease or contract entered into pursuant to
7 this act shall provide that the real property that is the subject of
8 such lease or contract and any improvements thereon shall revert to the
9 State University of New York on the expiration of such contract or
10 lease.

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

19 S 4. Notwithstanding any general, special or local law or judicial
20 decision to the contrary, all work performed on a project authorized by
21 this act where all or any portion thereof involves a lease or agreement
22 for construction, demolition, reconstruction, excavation, rehabili-
23 tation, repair, renovation, alteration or improvement shall be deemed
24 public work and shall be subject to and performed in accordance with the
25 provisions of article 8 of the labor law to the same extent and in the
26 same manner as a contract of the state, and compliance with all the
27 provisions of article 8 of the labor law shall be required of any
28 lessee, sublessee, contractor and/or subcontractor performing on the
29 project.

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

37 S 6. Any contract or lease awarded or entered into by the Old Westbury
38 College Foundation, Inc., and parties contracting or entering into a
39 lease with the Old Westbury College Foundation, Inc. for construction,
40 reconstruction, renovation, rehabilitation, improvement or expansion
41 authorized pursuant to this act, for any single construction project
42 exceeding ten million dollars in the aggregate, for which more than
43 twenty-five percent of such aggregate amount is to be paid from appro-
44 priations furnished by the state of New York or the State University of
45 New York, shall be undertaken pursuant to a project labor agreement, as
46 defined in subdivision 1 of section 222 of the labor law, provided that
47 a study done by or for the contracting entity determines that a project
48 labor agreement will benefit such construction, reconstruction, reno-
49 vation, rehabilitation, improvement or expansion through reduced risk of
50 delay, potential cost savings or potential reduction in the risk of
51 labor unrest in light of any pertinent local history thereof. For
52 purposes of applying the dollar thresholds set forth in this section,
53 the term "single construction project" shall mean any construction,
54 reconstruction, renovation, rehabilitation, improvement or expansion
55 activity associated with one or more buildings, structures or improve-

1 ments, including all directly related infrastructure and site work in
2 contemplation thereof, that are functionally interdependent.

3 S 7. Without limiting the determination of the terms and conditions of
4 such contracts or leases, such terms and conditions may provide for
5 leasing, subleasing, construction, reconstruction, rehabilitation,
6 improvement, operation and management of and provision of services and
7 assistance and the granting of licenses, easements and other arrange-
8 ments with regard to such grounds and facilities by the Old Westbury
9 College Foundation, Inc., and parties contracting with the Old Westbury
10 College Foundation, Inc., and, in connection with such activities, the
11 obtaining of funding or financing, whether public or private, unsecured
12 or secured (including, but not limited to, secured by leasehold mort-
13 gages and assignments of rents and leases), by the Old Westbury College
14 Foundation, Inc. and parties contracting with the Old Westbury College
15 Foundation, Inc. for the purposes of completing the project described in
16 this act.

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

25 S 9. Any contracts entered into pursuant to this act between the Old
26 Westbury College Foundation, Inc. and parties contracting with the Old
27 Westbury College Foundation, Inc. shall be awarded by a competitive
28 process.

29 S 10. The property authorized by this act to be leased to the Old
30 Westbury College Foundation, Inc. is generally described as that parcel
31 of real property with improvements thereon, consisting of a total of
32 approximately 11.2 acres, situated on the campus of the State University
33 of New York College at Old Westbury. The description in this section of
34 the parcel to be made available pursuant to this act is not meant to be
35 a legal description, but is intended only to identify the parcel: BEGIN-
36 NING at a point in the dividing line between lands now or formerly of
37 the State of New York, Old Westbury College and The Hamlet Condominiums
38 Number one, said point being distant 0.57 feet on a course of North 64
39 degrees 45 minutes 53 seconds West from a granite monument found, all as
40 shown on a certain map entitled "MAP OF SURVEY, OLD WESTBURY COLLEGE
41 TOWN OF OYSTER BAY, TOWN OF NORTH HEMPSTEAD, COUNTY OF NASSAU, STATE OF
42 NEW YORK, DATED AUGUST 13, 2003," Prepared by Boswell Engineering (CAD
43 File Supplied by the NEW YORK STATE OFFICE OF GENERAL SERVICES), Said
44 Beginning Point having New York State Grid Coordinates North 226,605.93,
45 East 1,104,156.61 (NAD 1983, New York State, Long Island Zone per said
46 map); running thence (Bearings shown are in above-referenced system) (1)
47 thence South 11 degrees 20 minutes 54 seconds East 759.47 feet to a
48 granite monument found; (2) thence South 10 degrees 27 minutes 24
49 seconds East 142.27 feet to a proposed corner at an existing fence line;
50 (3) thence following said fence line and it's extension South 76 degrees
51 14 minutes 16 seconds West 645.39 feet to a point in a line established
52 in the above referenced CAD file, located approximately 10 feet from the
53 edge of the traveled way of an access road known as Greentree Circle;
54 running along said line the following 6 courses; (4) thence North 13
55 degrees 48 minutes 16 seconds West 330.29 feet to a point; (5) thence
56 North 08 degrees 41 minutes 55 seconds West 72.76 feet to a point; (6)

1 thence along a non-tangent curve to the RIGHT having a radius of 400.38
2 feet, an arc distance of 282.54 feet, a central angle of 40 degrees 25
3 minutes 55 seconds, a chord bearing of North 18 degrees 26 minutes 01
4 second East and a chord distance of 276.71 feet to a point; (7) thence
5 along a non-tangent curve to the RIGHT having a radius of 1,319.33 feet,
6 an arc distance of 203.46 feet, a central angle of 08 degrees 50 minutes
7 09 seconds, a chord bearing of North 44 degrees 09 minutes 14 seconds
8 East and a chord distance of 203.26 feet to a point; (8) thence North 47
9 degrees 35 minutes 38 seconds East 274.70 feet to a point; (9) thence
10 North 64 degrees 41 minutes 06 seconds East 121.12 feet to the point and
11 place of BEGINNING. CONTAINING an area of 486,699 square feet or 11.173
12 acres of land, more or less.

13 S 11. The State University of New York shall not lease lands described
14 in this act unless any such lease shall be executed within three years
15 of the effective date of this act.

16 S 12. Insofar as the provisions of this act are inconsistent with the
17 provisions of any law, general, special or local, the provisions of this
18 act shall be controlling.

19 S 13. This act shall take effect immediately.