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

9187--A

I N A S S E M B L Y

March 26, 2014

Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the Committee on Higher Education -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT authorizing the state university of New York at Stony Brook to lease certain lands

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

Section 1. Legislative findings. Chapter 629 of the Laws of 2008 provided the state university of New York at Stony Brook with the opportunity through the generosity of a private donor to create a facility dedicated to advancing knowledge in the fields of geometry and physics. In furtherance thereof, the legislature determined that the university foundation of the state university of New York at Stony Brook was the appropriate body to design and construct a Center for Geometry and Physics adjacent to existing campus facilities, which has enhanced the academic mission of the university and provides a unique opportunity for education, research and economic benefit to the region, nation and the world.

The Simons Center for Geometry and Physics, which opened in 2010, is poised for enhancement and expansion of programmatic use. The building as well as the program is divided into two distinct areas: the lower floors, which are public areas, including a dining facility; and the top three floors, which are secure areas and house faculty and research areas. The project addition envisioned will increase functionality of the facility and expand programmatic use by adding a second elevator at the north side of the building to serve the public areas as well as the dining facility. The project also will add office space and provide a modest increase to the dining area.

The legislature further finds that the state university of New York and the state university of New York at Stony Brook will benefit if the design and construction of the project addition is assumed by the university foundation only until such time as the project addition is completed. The legislature determines that the academic mission and the

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

LBD13787-03-4

goals of the state university of New York at Stony Brook in the full utilization of the properties in furtherance of its mission, can be best served by the university foundation and the private resources to which it has access. The university foundation shall mean the Stony Brook Foundation or its affiliate, the Stony Brook Foundation Realty, which are 501(c)(3) not-for-profit corporations, the purposes of which are to support the university's educational mission to acquire and manage campus real and personal property, to enhance the region's academic offerings, and to stimulate the economy both locally and throughout New York state.

S 2. The state university trustees are hereby authorized to lease without any public bidding a portion of the lands of the state university of New York at Stony Brook generally described in this act to the university foundation of such university at Stony Brook for the design and construction only of an addition to the Simons Center upon such terms and conditions as the trustees deem advisable not to exceed in the aggregate two years. No such contract or lease for the design and construction only of such addition shall provide for a fee simple conveyance of the underlying land. If the real property shall cease to be used for the purposes described in this act said lease shall immediately terminate and the real property and any improvements thereon shall revert to the state university of New York. Any contract or lease entered into pursuant to this act for such design and construction only shall provide that the real property which 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. The description of the parcel to be leased pursuant to this section is not meant to be a legal description but is intended only to identify the parcel and improvements to be leased.

S 3. Any contract or lease entered into by the trustees of the state university of New York for the design and construction only of this addition pursuant to this act shall require the lessee or contracting not-for-profit corporation to comply with the requirements of article 15-A of the executive law. Notwithstanding any other law to the contrary, any contract or lease for construction, rehabilitation, or other improvement authorized by section five of this act entered into by the trustees shall require the lessee or contractor and/or subcontractor to comply with the requirements of sections 220, 240 and 241 of the labor law, where applicable.

S 4. Nothing in this act shall be deemed to waive or impair any rights or benefits of employees of the state university of New York that otherwise would be available to them pursuant to the terms of agreements between the certified representatives of such employees and the state of New York pursuant to article 14 of the civil service law. Any entity that enters into a contract pursuant to the provisions of this act shall be considered a university foundation for the purposes of the application of such agreements pursuant to article 14 of the civil service law.

S 5. By way of example and not limitation, the terms and conditions of the trustees' lease or contract may provide for leasing construction, reconstruction, rehabilitation, improvement and provisions of services and assistance for the design and construction only of such addition and the granting of licenses, easements and other arrangements with regard to such grounds and facilities by the university foundation and parties contracting with the university foundation for the design and construction only of such addition, and, in connection with such activities, the obtaining of funding or financing, whether public or private,

unsecured or secured (including but not limited to secured by leasehold mortgages and assignments of rents and leases), by the university foundation and parties contracting with the university foundation, for the purpose of completing the project described above.

S 6. The lease entered into pursuant to this act shall be subject to approval of the attorney general as to form, the director of the budget and the state comptroller.

S 7. The 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, liability and damages to all persons on the leased premises, including the tenant, tenant's agents, employees, contractors, subcontractors, 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 8. Any contracts entered into pursuant to this act between an education corporation, not-for-profit corporation, public benefit corporation or any other person or corporation (other than the state government or any agency thereof) and parties contracting with such education corporation, not-for-profit corporation, public benefit corporation or any other person or corporation (other than the state government or any agency thereof) for the design and construction only of this facility shall be awarded by a competitive process.

S 9. The property authorized by this act to be leased to the university foundation at Stony Brook is generally described as a portion of that parcel of real property with improvements thereon situated on the west campus of the state university of New York at Stony Brook consisting of approximately 235,000 square feet of land bounded as follows: on the north approximately 250 feet west from the corner of the Graduate Physics building to Toll Drive on the west, south along Toll Drive for approximately 600 feet on the south 550 feet east along the southern edge of the parking lot, on the east 250 feet due north then approximately 300 feet along the southern and eastern faces of the Math Tower/Graduate Physics building back to its north edge.

S 10. 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 11. This act shall take effect immediately.