

5315--A

Cal. No. 1289

2015-2016 Regular Sessions

I N S E N A T E

May 13, 2015

Introduced by Sen. AMEDORE -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to authorize the board of trustees of the state university of New York to establish an advanced weather observing network across the state

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

1 Section 1. Legislative findings. The legislature hereby finds that the  
2 establishment by the state university of New York of an advanced weather  
3 observing network to expand weather detection coverage across the state  
4 serves the public interest. This network will consist of up to 125  
5 surface weather stations, with at least one site deployed in every coun-  
6 ty in the state, to complement existing weather networks and provide a  
7 wide range of sectors, such as agriculture, energy, transportation and  
8 emergency responders with access to high resolution, real-time data for  
9 emergency management purposes, and fulfills a necessary and desirable  
10 public purpose.

11 The legislature further finds that granting the board of trustees of  
12 the state university of New York the authority and power to enter into  
13 contracts with the research foundation for the state university of New  
14 York to permit the use of grounds and facilities at any of the campuses  
15 of the state university for the limited purpose of constructing and  
16 maintaining surface weather stations will ensure such activity and  
17 promote weather data collection across the state.

18 S 2. Notwithstanding any other provision of law to the contrary, the  
19 board of trustees of the state university, or its designee or designees,  
20 is hereby authorized and empowered, without any public bidding, to  
21 contract to permit the use of grounds and facilities at any campus of

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

LBD10548-05-5

1 the state university, with the approval of the president of such campus,  
2 to the research foundation for the state university of New York for the  
3 purpose of constructing surface weather stations. Each such grounds and  
4 facilities shall be a plot of contiguous land not to exceed 400 linear  
5 feet in total perimeter per site and shall not exceed .25 acres per site  
6 and provided that each surface weather station shall be sited at least  
7 300 feet from the nearest obstacle or potential heat source. Provided  
8 further not more than one surface weather station shall be constructed  
9 on a campus provided however more than one such station may be  
10 constructed on the same campus provided such stations are 25 or more  
11 miles apart. Such contracts shall be in writing and shall be for a term  
12 not exceeding 40 years, without any fee simple conveyance and otherwise  
13 upon such terms and conditions as shall be determined by such board of  
14 trustees, or its designee or designees, subject to the approval of the  
15 director of the budget, the attorney general and the state comptroller.  
16 Such contracts shall include granting the research foundation for the  
17 state university of New York, its employees, agents and contractors  
18 authority to construct, install, erect, maintain, replace, test, cali-  
19 brate and deconstruct a surface weather station on the plot of land that  
20 is the subject of such contract and reasonable rights of ingress and  
21 egress access to the plot of land that is the subject of such contract.  
22 The research foundation for the state university shall not assign any  
23 such contract or any rights granted therein. In the event that the real  
24 property that is the subject of such a contract shall cease to be used  
25 for the purposes described in this act, such contract shall immediately  
26 terminate and the real property shall be restored to its original state.

27 All contracts or agreements entered into by the board of trustees of  
28 the state university and the research foundation for the state universi-  
29 ty pursuant to this act shall provide that any real property made avail-  
30 able to the research foundation for the state university pursuant to  
31 this act shall be restored to its original state upon the expiration of  
32 the contract that makes grounds and facilities available to such  
33 research foundation.

34 S 3. Notwithstanding any provision of law or judicial decision to the  
35 contrary, all work performed on a project authorized by this act, where  
36 all or any portion thereof involves a contract or agreement for  
37 construction, demolition, reconstruction, excavation, rehabilitation,  
38 repair, renovation, alteration or improvement shall be deemed public  
39 work and shall be subject to and performed in accordance with the  
40 provisions of article 8 of the labor law to the same extent and in the  
41 same manner as a contract of the state, and compliance with all the  
42 provisions of such article 8 shall be required of any contractor or  
43 subcontractor on the project including the enforcement of prevailing  
44 wage requirements by the fiscal officer, as defined in paragraph e of  
45 subdivision 5 of section 220 of the labor law, to the same extent as a  
46 contract of the state.

47 S 4. Nothing in this act shall be deemed to waive or impair any right  
48 or benefit of employees of the state university of New York that other-  
49 wise would be available to them pursuant to the terms of agreements  
50 between the employee organization of such employees and the state pursu-  
51 ant to article 14 of the civil service law and all work performed on  
52 such property that ordinarily would be performed by such employees shall  
53 continue to be performed by those employees.

54 S 5. Every contract executed pursuant to this act shall include an  
55 indemnity provision whereby the research foundation for the state  
56 university of New York shall be responsible to, and shall defend, indem-

1 nify and hold harmless the state and the state university of New York,  
2 and their respective officers, trustees, directors, employees and agents  
3 from and against any and all losses, expenses, damages and liabilities,  
4 including reasonable attorneys' fees, arising out of the intentional or  
5 negligent acts or omissions of the research foundation for the state  
6 university of New York, its officers, employees, agents, licensees or  
7 contractors.

8 S 6. Except for contracts entered into pursuant to section two of this  
9 act, all other contracts or agreements entered into pursuant to this act  
10 between the research foundation for the state university of New York and  
11 parties contracting with the research foundation for the state universi-  
12 ty of New York shall be awarded by a competitive bidding process.

13 S 7. The state university of New York shall not contract to permit the  
14 use of grounds and facilities pursuant to this act unless any such  
15 contract shall be executed within three years of the effective date of  
16 this act.

17 S 8. Insofar as the provisions of this act are inconsistent with the  
18 provisions of any other provision of law, the provisions of this act  
19 shall be controlling.

20 S 9. This act shall take effect immediately.