

STATE OF NEW YORK

9614--B

IN SENATE

May 16, 2024

Introduced by Sens. MARTINEZ, PALUMBO -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT relating to authorizing the state university of New York at Stony Brook to lease certain lands for the purpose of constructing a facility to support research and development to address the national semiconductor chip shortage and related environmental sustainability issues

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative findings. The legislature finds that the state
2 university of New York at Stony Brook ("Stony Brook") created the
3 Research and Development Park in order to support the cross-pollination
4 of ground-breaking research and cutting edge technology in the private
5 sector to benefit the students, faculty and staff as well as the broader
6 community. Now, Stony Brook has determined there is an opportunity for
7 Veeco to construct an additional facility in the Research and Develop-
8 ment Park, which would provide needed additional facilities to support
9 the research and development needs of faculty, staff, students, and the
10 community and seeks to use approximately 8 acres of underutilized land
11 on Stony Brook's Research and Development Park to build a facility to
12 address these research and development needs, as well as engage in its
13 private commercial research, development and manufacturing of tools to
14 fabricate semiconductor chips, other memory storage devices or any
15 future technology developed to hold data for later retrieval. Veeco,
16 which provides new technology to aid in the manufacture of semiconductor
17 chips, would address the national semiconductor chip shortage and
18 related environmental sustainability issues, fulfilling a necessary and
19 vital state and federal public purpose. The legislature further finds
20 that granting the trustees of the state university of New York the
21 authority and power to lease and otherwise contract to make available

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

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1 grounds and facilities of the campus of the state university of New York
2 at Stony Brook available in this manner will ensure such land is
3 utilized for the benefit of Stony Brook and the surrounding community.

4 § 2. Notwithstanding any other law to the contrary, the state univer-
5 sity of New York trustees are authorized and empowered, without any
6 public bidding, to lease and otherwise contract to make available to a
7 not-for-profit corporation, established by or affiliated with the state
8 university of New York at Stony Brook, an educational corporation or any
9 other person (other than the state government or any agency thereof or
10 any public authority) a portion of the lands of the university generally
11 described in this act for the purpose of developing, constructing, main-
12 taining and operating a facility to engage in its private commercial
13 research, development and manufacturing purposes, while additionally
14 providing dedicated space which will support the research and develop-
15 ment needs of faculty, staff, students, and the community, which may
16 include supporting services to address the national semiconductor chip
17 shortage and related environmental sustainability issues. Such lease or
18 contract shall be for a period not exceeding one hundred (100) years
19 without any fee simple conveyance and otherwise upon terms and condi-
20 tions determined by such trustees, subject to the approval of the direc-
21 tor of the division of the budget, the attorney general and the state
22 comptroller. In the event that the real property that is the subject of
23 such lease or contract shall cease to be used for the purpose described
24 in this act, such lease or contract shall immediately terminate and the
25 real property and any improvements thereon shall revert to the state
26 university of New York. Any lease or contract entered into pursuant to
27 this act shall provide that the real property that is the subject of
28 such lease or contract and any improvements thereon shall revert to the
29 state university of New York on the expiration of such contract or
30 lease. The allocation of any and all proceeds related to the leases
31 authorized by this act shall be subject to approval by the state univer-
32 sity trustees.

33 § 3. Any contract or lease entered into pursuant to this act shall be
34 deemed to be a state contract for purposes of article 15-A of the execu-
35 tive law, and any contractor, subcontractor, lessee or sublessee enter-
36 ing into such contract or lease for the construction, demolition, recon-
37 struction, excavation, rehabilitation, repair, renovation, alteration or
38 improvement authorized pursuant to this act shall be deemed a state
39 agency for the purposes of article 15-A of the executive law and subject
40 to the provisions of such article.

41 § 4. Notwithstanding any general, special or local law or judicial
42 decision to the contrary, all work performed on a project authorized by
43 this act where all or any portion thereof involves a lease or agreement
44 for construction, demolition, reconstruction, excavation, rehabili-
45 tation, repair, renovation, alteration or improvement shall be deemed
46 public work and shall be subject to and performed in accordance with the
47 provisions of article 8 of the labor law to the same extent and in the
48 same manner as a contract of the state, and compliance with all the
49 provisions of article 8 of the labor law shall be required of any
50 lessee, sublessee, contractor or subcontractor on the project, including
51 the enforcement of prevailing wage requirements by the fiscal officer as
52 defined in paragraph e of subdivision 5 of section 220 of the labor law
53 to the same extent as a contract of the state.

54 § 5. Notwithstanding any law, rule or regulation to the contrary, the
55 state university of New York shall not contract out to the ground lessee
56 or any subsidiary for the instruction or any pedagogical functions or

1 services, or any administrative services, and similar professional
2 services currently being performed by state employees at Stony Brook.
3 Any such functions and services performed in the space used by or for
4 the research of faculty, staff and students of Stony Brook shall be
5 performed by state employees pursuant to the civil service law. Nothing
6 in this act shall result in the displacement of any currently employed
7 state worker or the loss of position (including partial displacement
8 such as reduction in the hours of nonovertime, wages or employment bene-
9 fits), or result in the impairment of existing contracts for services or
10 collective bargaining rights pursuant to existing agreements. All posi-
11 tions currently at the state university of New York in the unclassified
12 service of the civil service law shall remain in the unclassified
13 service. No services or work performed on the property described in this
14 act currently performed by public employees, or that is similar in scope
15 and nature to the work being currently performed by public employees,
16 shall be contracted out or privatized by the state university of New
17 York. The state university of New York acknowledges its obligations as
18 an employer under the civil service law and agrees that it will not
19 exercise its right to contract out for goods and services under any
20 applicable collective bargaining agreement.

21 § 6. For the purposes of this act:

22 (a) "project" shall mean work at the property authorized by this act
23 to be leased to the ground lessee as described in section eight of this
24 act that involves the design, construction, reconstruction, demolition,
25 excavating, rehabilitation, repair, renovation, alteration or improve-
26 ment of such property.

27 (b) "project labor agreement" shall mean a pre-hire collective
28 bargaining agreement between a contractor and a labor organization,
29 establishing the labor organization as the collective bargaining repre-
30 sentative for all persons who will perform work on the project, and
31 which provides that only contractors and subcontractors who sign a pre-
32 negotiated agreement with the labor organization can perform project
33 work.

34 § 7. Notwithstanding the provisions of any general, special, or local
35 law or judicial decision to the contrary, the ground lessee shall
36 require the use of a project labor agreement, as defined in subdivision
37 1 of section 222 of the labor law, for all contractors and subcontrac-
38 tors on the project, consistent with paragraph (a) of subdivision 2 of
39 section 222 of the labor law.

40 § 8. Nothing in this act shall be deemed to waive or impair any rights
41 or benefits of employees of the state university of New York that other-
42 wise would be available to them pursuant to the terms of agreements
43 between the certified representatives of such employees and the state of
44 New York pursuant to article 14 of the civil service law; all work
45 performed on such property in the spaces used by or for the research of
46 the faculty, staff and students of Stony Brook that ordinarily would be
47 performed by employees subject to article 14 of the civil service law
48 shall continue to be performed by such employees.

49 § 9. Without limiting the determination of the terms and conditions of
50 such contracts or leases, such terms and conditions may provide for
51 leasing, subleasing, construction, reconstruction, rehabilitation,
52 improvement, operation and management of and provision of services and
53 assistance and the granting of licenses, easements and other arrange-
54 ments with regard to such grounds and facilities by the ground lessee,
55 and parties contracting with the ground lessee, and in connection with
56 such activities, the obtaining of funding or financing, whether public

1 or private, unsecured or secured (including, but not limited to, secured
2 by leasehold mortgages and assignments of rents and leases), by the
3 ground lessee and parties contracting with the ground lessee for the
4 purposes of completing the project described in this act.

5 § 10. Such lease shall include an indemnity provision whereby the
6 lessee or sublessee promises to indemnify, hold harmless and defend the
7 lessor against all claims, suits, actions, and liability to all persons
8 on the leased premises, including tenant, tenant's agents, contractors,
9 subcontractors, employees, customers, guests, licensees, invitees and
10 members of the public, for damage to any such person's property, whether
11 real or personal, or for personal injuries arising out of tenant's use
12 or occupation of the demised premises.

13 § 11. Any construction contracts entered into pursuant to this act
14 between the ground lessee and parties contracting with the ground lessee
15 for purposes of the construction, demolition, reconstruction, exca-
16 vation, rehabilitation, repair, renovation, alterations or improvements
17 to such structure shall be awarded by a competitive process.

18 § 12. The property authorized by this act to be leased to the ground
19 lessee is generally described as approximately 8 acres of land situated
20 on Stony Brook's Research and Development Park within the town of Brook-
21 haven, county of Suffolk, state of New York, commencing at a concrete
22 monument found on the southwesterly sideline of Stony Brook road (66
23 feet wide) where the same is intersected by the dividing line of section
24 273, block 1, lot 3 to the north with the northerly line of the subdivi-
25 sion known as "Map of University Heights at Flowerfield, Section No. 6",
26 filed September 27, 1965 as map no. 4479, to the South. the said
27 commencement point having state plane coordinate values of, North
28 268163.304 and East 1224698.785, and running the following two (2)
29 courses to the point of beginning:

30 A) along the said dividing line, South 61 degrees 59 minutes 05
31 seconds West, a distance of 395.30 feet; thence

32 B) along the same, South 51 degrees 07 minutes 47 seconds West, a
33 distance of 584.24 feet to the point of beginning. From the said point
34 of beginning, running; thence

35 1) continuing along the aforementioned dividing line, South 51 degrees
36 07 minutes 47 seconds West, a distance of 406.75 feet; thence crossing
37 into aforementioned lot 1 the following four (4) courses:

38 2) North 38 degrees 52 minutes 13 seconds west, a distance of 1152.33
39 feet to a point on the southeasterly side of development drive, a
40 private roadway of undesignated width; thence

41 3) following the said side of development drive, on a curve to the
42 right having a radius of 3485.50 feet, a central angle of 03 degrees 09
43 minutes 38 seconds and an arc length of 192.27 feet, the chord of which
44 bears North 69 degrees 55 minutes 59 seconds East for a distance of
45 192.25 feet to a point of tangency; thence

46 4) North 71 degrees 30 minutes 49 seconds east, a distance of 46.00
47 feet; thence

48 5) South 48 degrees 28 minutes 00 seconds east, a distance of 1089.59
49 feet to the point and place of beginning.

50 The above-described lease area contains 348,485 square feet or 8.0001
51 acres of land.

52 The above-described preservation area was written in accordance with a
53 map entitled, "Lease area sketch, proposed Veeco lease area, Stony Brook
54 university, part of section 273, block 1, lot 3, town of Brookhaven,
55 county of Suffolk, state of New York" prepared by Gallas Surveying

1 Group, dated March 6, 2024, subject to all existing easements and
2 restrictions of record.

3 § 13. The state university of New York shall not lease lands described
4 in this act unless any such lease shall be executed within 5 years of
5 the effective date of this act.

6 § 14. Insofar as the provisions of this act are inconsistent with the
7 provisions of any law, general, special or local, the provisions of this
8 act shall be controlling.

9 § 15. This act shall take effect immediately.