

# STATE OF NEW YORK

9371--A

## IN SENATE

May 14, 2024

Introduced by Sen. MARTINEZ -- 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

AN ACT in relation to authorizing the state university of New York at Farmingdale to lease certain lands to the Farmingdale state development corporation

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 Farmingdale ("Farmingdale") seeks to use  
3 approximately 9.26 acres of underutilized land on Farmingdale's campus  
4 for the purpose of multi-purpose facilities to support housing needs and  
5 supporting amenities, fulfilling a necessary and vital public purpose.  
6 The legislature further finds that granting the trustees of the state  
7 university of New York ("Trustees") the authority and power to lease and  
8 otherwise contract to make available grounds and facilities of the Farm-  
9 ingtondale campus will ensure such land is utilized for the benefit of  
10 Farmingdale, the surrounding community, and the general public.

11 § 2. Notwithstanding any other law to the contrary, the state univer-  
12 sity Trustees are authorized and empowered, without any public bidding,  
13 to lease and otherwise contract to make available to Farmingdale state  
14 development corporation, a not-for-profit corporation (the "ground  
15 lessee"), a portion of the lands of the university generally described  
16 in this act for the purpose of developing, constructing, maintaining and  
17 operating multi-purpose facilities to support housing needs and support-  
18 ing amenities. Such lease or contract shall be for a period not exceed-  
19 ing ninety-nine years without any fee simple conveyance and otherwise  
20 upon terms and conditions determined by such Trustees, subject to the  
21 approval of the director of the division of the budget, the attorney  
22 general and the state comptroller. In the event that the real property  
23 that is the subject of such lease or contract shall cease to be used for  
24 the purpose described in this act, such lease or contract shall imme-  
25 diately terminate and the real property and any improvements thereon

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

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1 shall revert to the state university of New York. Any lease or contract  
2 entered into pursuant to this act shall provide that the real property  
3 that is the subject of such lease or contract and any improvements there-  
4 on shall revert to the state university of New York on the expiration  
5 of such contract or lease. Any and all proceeds related to the leases  
6 authorized by this act shall be used for the benefit of the Farmingdale  
7 campus and the allocation of such proceeds shall be subject to approval  
8 by the Trustees.

9 § 3. Any contract or lease entered into pursuant to this act shall be  
10 deemed to be a state contract for purposes of article 15-A of the execu-  
11 tive law, and any contractor, subcontractor, lessee or sublessee enter-  
12 ing into such contract or lease for the construction, demolition, recon-  
13 struction, excavation, rehabilitation, repair, renovation, alteration or  
14 improvement authorized pursuant to this act shall be deemed a state  
15 agency for the purposes of article 15-A of the executive law and subject  
16 to the provisions of such article.

17 § 4. Notwithstanding any general, special or local law or judicial  
18 decision to the contrary, all work performed on a project authorized by  
19 this act where all or any portion thereof involves a lease or agreement  
20 for construction, demolition, reconstruction, excavation, rehabili-  
21 tation, repair, renovation, alteration or improvement shall be deemed  
22 public work and shall be subject to and performed in accordance with the  
23 provisions of article 8 of the labor law to the same extent and in the  
24 same manner as a contract of the state, and compliance with all the  
25 provisions of article 8 of the labor law shall be required of any  
26 lessee, sublessee, contractor or subcontractor on the project, including  
27 the enforcement of prevailing wage requirements by the fiscal officer as  
28 defined in paragraph e of subdivision 5 of section 220 of the labor law  
29 to the same extent as a contract of the state.

30 § 5. Notwithstanding any law, rule or regulation to the contrary, the  
31 state university of New York shall not contract out to Farmingdale state  
32 development corporation or any subsidiary for the instruction or any  
33 pedagogical functions or services, or any administrative services, and  
34 similar professional services currently being performed by state employ-  
35 ees. All such functions and services shall be performed by state employ-  
36 ees pursuant to the civil service law. Nothing in this act shall result  
37 in the displacement of any currently employed state worker or the loss  
38 of position (including partial displacement such as reduction in the  
39 hours of non-overtime, wages or employment benefits), or result in the  
40 impairment of existing contracts for services or collective bargaining  
41 rights pursuant to existing agreements. All positions currently at the  
42 state university of New York in the unclassified service of the civil  
43 service law shall remain in the unclassified service. No services or  
44 work on the property described in this act currently performed by public  
45 employees or future work that is similar in scope and nature to the work  
46 being currently performed by public employees shall be contracted out or  
47 privatized by the state university of New York or by an affiliated enti-  
48 ty or associated entity of the state university of New York. All such  
49 future work shall be performed by public employees.

50 § 6. For the purposes of this act: (a) "project" shall mean work at  
51 the property authorized by this act to be leased to Farmingdale state  
52 development corporation as described in section twelve of this act that  
53 involves the design, construction, reconstruction, demolition, exca-  
54 vation, rehabilitation, repair, renovation, alteration or improvement of  
55 Farmingdale state development corporation property.

1 (b) "project labor agreement" shall mean a pre-hire collective  
2 bargaining agreement between a contractor and a labor organization,  
3 establishing the labor organization as the collective bargaining repre-  
4 sentative for all persons who will perform work on the project, and  
5 which provides that only contractors and subcontractors who sign a pre-  
6 negotiated agreement with the labor organization can perform project  
7 work.

8 § 7. Nothing in this act shall be deemed to waive or impair any rights  
9 or benefits of employees of the state university of New York that other-  
10 wise would be available to them pursuant to the terms of agreements  
11 between the certified representatives of such employees and the state of  
12 New York pursuant to article 14 of the civil service law; all work  
13 performed on such property that ordinarily would be performed by employ-  
14 ees subject to article 14 of the civil service law shall continue to be  
15 performed by such employees.

16 § 8. Notwithstanding the provisions of any general, special, or local  
17 law or judicial decision to the contrary, Farmingdale state development  
18 corporation shall require the use of a project labor agreement, as  
19 defined in subdivision 1 of section 222 of the labor law, for all  
20 contractors and subcontractors on the project, consistent with paragraph  
21 (a) of subdivision 2 of section 222 of the labor law.

22 § 9. Without limiting the determination of the terms and conditions of  
23 such contracts or leases, such terms and conditions may provide for  
24 leasing, subleasing, construction, reconstruction, rehabilitation,  
25 improvement, operation and management of and provision of services and  
26 assistance and the granting of licenses, easements and other arrange-  
27 ments with regard to such grounds and facilities by Farmingdale state  
28 development corporation, and parties contracting with Farmingdale state  
29 development corporation, and in connection with such activities, the  
30 obtaining of funding or financing, whether public or private, unsecured  
31 or secured (including, but not limited to, secured by leasehold mort-  
32 gages and assignments of rents and leases), by Farmingdale state devel-  
33 opment corporation and parties contracting with Farmingdale state devel-  
34 opment corporation for the purposes of completing the project described  
35 in this act.

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

44 § 11. Any contracts entered into pursuant to this act between the  
45 ground lessee and parties contracting with the ground lessee shall be  
46 awarded by a competitive process.

47 § 12. The property authorized by this act to be leased to Farmingdale  
48 state development corporation is generally described as that parcel of  
49 real property with improvements thereon consisting of a total of 9.26  
50 acres situated on the campus of the State University of New York at  
51 Farmingdale. The description in this section of the parcel to be made  
52 available pursuant to this act is not meant to be a legal description,  
53 but is intended only to identify the parcel:

54 All that certain plot, piece or parcel of land, situate, lying and  
55 being at Melville, Town of Huntington, County of Suffolk and State of  
56 New York, being more particularly bounded and described as follows:

1 BEGINNING at the corner formed by the intersection of the southerly side  
2 of Melville Road with the westerly side of Route 110 (Broad Hollow  
3 Road).  
4 Running Thence the following 12 (twelve) courses and distances:  
5 1. Southerly, along the westerly side of Route 110, along the arc of a  
6 curve, bearing to the right, having a radius of 5629.58 feet and a  
7 length of 241.37 feet;  
8 2. Still along said side, South 18 degrees 09 minutes 05 seconds West, a  
9 distance of 121.11 feet;  
10 3. Westerly, North 56 degrees 29 minutes 30 seconds West, a distance of  
11 100.00 feet;  
12 4. Southerly, South 15 degrees 47 minutes 32 seconds West, a distance of  
13 125.97 feet;  
14 5. Westerly, North 56 degrees 29 minutes 30 seconds West, a distance of  
15 545.14 feet;  
16 6. Still westerly, North 56 degrees 05 minutes 25 seconds West, a  
17 distance of 382.45 feet;  
18 7. Still westerly, North 56 degrees 57 minutes 00 seconds West, a  
19 distance of 300 feet, to the southerly side of Melville Road;  
20 8. Easterly, along said side, along the arc of a curve, bearing to the  
21 right, having a radius of 512.54 feet, and a length of 485.98 feet;  
22 9. Still along said side, South 66 degrees 50 minutes 52 seconds East, a  
23 distance of 196.45 feet;  
24 10. Still along said side, along the arc of a curve, bearing to the  
25 left, having a radius of 1313.24 feet and a length of 274.97 feet;  
26 11. Still along said side, South 78 degrees 50 minutes 40 seconds East,  
27 a distance of 228.40 feet;  
28 12. Still along said side, South 45 degrees 52 minutes 29 seconds East,  
29 a distance of 130.39 feet, to the westerly side of Route 110, at the  
30 Point or Place of BEGINNING.  
31 Containing within said bounds an area of 9.26 acres more or less.  
32 Subject to all existing easements and restrictions of record.  
33 § 13. The state university of New York shall not lease lands described  
34 in this act unless any such lease shall be executed within 5 years of  
35 the effective date of this act.  
36 § 14. Insofar as the provisions of this act are inconsistent with the  
37 provisions of any law, general, special or local, the provisions of this  
38 act shall be controlling.  
39 § 15. This act shall take effect immediately.