

The Senate State and Local Governmental Operations Committee offered the following substitute to SB 113:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 36-37-6 of the Official Code of Georgia Annotated, relating to
2 disposition of municipal property generally, so as to clarify that the authority of municipal
3 corporations to enter into certain contracts is in addition to and does not change or conflict
4 with any otherwise existing authority to enter into such contracts; to provide for leases of
5 property for telecommunications towers; to provide for exemptions; to provide for terms; to
6 provide for applicability; to provide an effective date; to repeal conflicting laws; and for
7 other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 SECTION 1.

10 Code Section 36-37-6 of the Official Code of Georgia Annotated, relating to disposition of
11 municipal property generally, is amended by revising subsection (l) as follows:

12 "(l)(1) In addition to any other authorization or power, Where not otherwise authorized
13 by its charter or other applicable law, the governing authority of any municipal
14 corporation may lease or enter into a contract for valuable consideration for the use,
15 operation, or management of any real or personal property of the municipal corporation;
16 provided, however, that pursuant to the power granted by this subsection. The authority
17 of any municipal corporation granted pursuant to its charter or other applicable law to
18 enter into leases or contracts for the use, operation, or management of any real or
19 personal property of the municipal corporation shall not be affected by this subsection
20 and it shall not apply to any contracts or leases entered into pursuant to such authority.
21 Where a municipal charter or other applicable law provides no authorization for leasing
22 or contracting for the use, operation, or management of any real or personal property of
23 the municipal corporation and this subsection is to be used as authorization for that
24 purpose, the following shall apply:

25 (A) Any lease or contract for the use, operation, or management of any real or personal
26 property for longer than 30 days shall be by sealed bids or by auction as provided in

27 subsection (a) of this Code section. Easements and licenses for the use of municipal
 28 property in connection with construction projects of a municipal corporation shall be
 29 exempt from this subparagraph, provided that their term is less than one year;

30 (B) Nothing in this subsection shall have the effect of authorizing alienation of title to
 31 such property in derogation of rights, duties, and obligations imposed by prior deed,
 32 contract, or like document of similar import or shall cause the divesting of title to
 33 property dedicated to public use and not subsequently abandoned; and

34 (C) The lessee or contractee shall not mortgage or pledge the property, lease or
 35 contract the property as security for any debt, or incur any encumbrance that could
 36 result in a lien or claim of lien against the property, lease, or contract.

37 (2) ~~As a condition of any~~ Any lease or contract for the use, operation, or management
 38 of any real or personal property entered into pursuant to this subsection and for longer
 39 than 30 days shall contain the following terms:

40 (A) The lessee or contractee shall provide and maintain in force in effect throughout
 41 the term of such lease or contract sufficient liability insurance, in an amount not less
 42 than \$1 million per claim, no aggregate, naming the municipality as a named insured;

43 (B) The lessee or contractee shall assume sole responsibility for or incur liability for
 44 any injury to person or property caused by any act or omission of any person while on
 45 the property and shall agree to indemnify the municipality and hold it harmless from
 46 any claim, suit, or demand made by any person; and

47 (C) The lessee or contractee shall agree to indemnify the municipality and hold it
 48 harmless from any claim, suit, or demand arising out of any improvements to the
 49 property or any indebtedness or obligations incurred by the lessee or contractee in
 50 making any such improvement to such property.

51 (3)(A) The initial term of a lease or contract for the use of real property entered into
 52 pursuant to this subsection shall be no longer than five years and there may be one
 53 renewal period of no longer than five years, after which the lease or contract shall again
 54 be subject to sealed bids or auction.

55 (B) When the lessee or contractee charges any person to enter or go upon the real
 56 property for recreational purposes, the consideration received by the municipal
 57 corporation for the lease or contract shall not be deemed a charge within the meaning
 58 of Article 2 of Chapter 3 of Title 51.

59 (C) Where real property is leased pursuant to this Code section for the erection of
 60 telecommunications towers, the initial term of a lease or contract for the use of such
 61 real property shall be no longer than ten years and there may be one renewal period of
 62 no longer than ten years, after which the lease or contract shall again be subject to

63 sealed bids or auction; provided, however, that such lease shall also include provisions
64 for the removal of the telecommunications tower structure.
65 (4) ~~This subsection~~ Where this subsection is applicable, it shall apply to any lease or
66 contract entered into or renewed on or after July 1, 2010 2011. This subsection shall not
67 effect ~~effect~~ any provisions of subsection (k) of this Code section."

68 **SECTION 2.**

69 This Act shall become effective upon its approval by the Governor or upon its becoming law
70 without such approval.

71 **SECTION 3.**

72 All laws and parts of laws in conflict with this Act are repealed.