

ADOPTED

Senator Carter of the 1st offered the following amendment:

1 *Amend the substitute to HB 280 (LC 36 1910S) by adding after "To" on line 1 the following:*
 2 *change provisions related to telecommunication systems and towers and contracts related*
 3 *thereto; to and by adding after "personnel;" on line 7 the following: to amend Code Section*
 4 *36-37-6 of the Official Code of Georgia Annotated, relating to disposition of municipal*
 5 *property generally, so as to clarify the authority of municipal corporations to enter into*
 6 *certain contracts is in addition to and does not change or conflict with any otherwise existing*
 7 *authority to enter into such contracts; to provide for property leases for telecommunications*
 8 *towers; to provide for exemptions and terms; to provide for applicability; and by inserting*
 9 *immediately after 119 the following: SECTION 3A. Code Section 36-37-6 of the Official*
 10 *Code of Georgia Annotated, relating to disposition of municipal property generally, is*
 11 *amended by revising paragraph (1)(1), the introductory language of paragraph (1)(2), and*
 12 *paragraphs (1)(3) and (1)(4) and adding a new paragraph (1)(5) as follows: "(1)(1) ~~In addition~~*
 13 *~~to any other authorization or power; Where not otherwise authorized by its charter or other~~*
 14 *applicable law, the governing authority of any municipal corporation may lease or enter into*
 15 *a contract for valuable consideration for the use, operation, or management of any real or*
 16 *personal property of the municipal corporation; ~~provided, however, that pursuant to the~~*
 17 *power granted by this subsection. The authority of any municipal corporation granted*
 18 *pursuant to its charter or other applicable law to enter into leases or contracts for the use,*
 19 *operation, or management of any real or personal property of the municipal corporation shall*
 20 *not be affected by this subsection and it shall not apply to any contracts or leases entered into*
 21 *pursuant to such authority. Where a municipal charter or other applicable law provides no*
 22 *authorization for leasing or contracting for the use, operation, or management of any real or*
 23 *personal property of the municipal corporation and this subsection is to be used as*
 24 *authorization for that purpose, the following shall apply: (A) Any lease or contract for the*
 25 *use, operation, or management of any real or personal property for longer than 30 days shall*
 26 *be by sealed bids or by auction as provided in subsection (a) of this Code section. Easements*
 27 *and licenses for the use of municipal property in connection with construction projects of a*
 28 *municipal corporation shall be exempt from this subparagraph, provided that their term is*
 29 *less than one year; (B) Nothing in this subsection shall have the effect of authorizing*
 30 *alienation of title to such property in derogation of rights, duties, and obligations imposed*
 31 *by prior deed, contract, or like document of similar import or shall cause the divesting of title*
 32 *to property dedicated to public use and not subsequently abandoned; and (C) The lessee or*
 33 *contractee shall not mortgage or pledge the property, lease or contract the property as*

34 security for any debt, or incur any encumbrance that could result in a lien or claim of lien
35 against the property, lease, or contract. (2) ~~As a condition of any~~ Any lease or contract for
36 the use, operation, or management of any real or personal property entered into pursuant to
37 this subsection and for longer than 30 days shall contain the following terms:"

38 "(3)(A) The initial term of a lease or contract for the use of real property entered into
39 pursuant to this subsection shall be no longer than five years and there may be one renewal
40 period of no longer than five years, after which the lease or contract shall again be subject
41 to sealed bids or auction. (B) When the lessee or contractee charges any person to enter or
42 go upon the real property for recreational purposes, the consideration received by the
43 municipal corporation for the lease or contract shall not be deemed a charge within the
44 meaning of Article 2 of Chapter 3 of Title 51. (C) Where real property is leased pursuant to
45 this Code section for the erection of telecommunications towers, the initial term of a lease
46 or contract for the use of such real property shall be no longer than ten years and there may
47 be one renewal period of no longer than ten years, after which the lease or contract shall
48 again be subject to sealed bids or auction; provided, however, that such lease shall also
49 include provisions for the removal of the telecommunications tower structure. (4) ~~This~~
50 ~~subsection~~ Where this subsection is applicable, it shall apply to any lease or contract entered
51 into or renewed on or after July 1, 2010 2011. This subsection shall not ~~effect~~ affect any
52 provisions of subsection (k) of this Code section.

53 (5) Nothing contained in this Code section shall be construed so as to expand the powers of
54 eminent domain or to otherwise provide for additional eminent domain authority for any
55 municipal corporation. The ability for a governing authority of a municipal corporation to
56 exercise eminent domain shall be subject to the limitations enumerated in Chapter 2 of Title
57 22 and the Georgia Constitution."