

House Bill 280 (AS PASSED HOUSE AND SENATE)

By: Representatives Harbin of the 118th, Ehrhart of the 36th, Rice of the 51st, Anderson of the 117th, Sheldon of the 105th, and others

A BILL TO BE ENTITLED

AN ACT

1 To change provisions related to telecommunication systems and towers and contracts related
 2 thereto; to amend Part 4 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia
 3 Annotated, the "Georgia Emergency Telephone Number 9-1-1 Service Act of 1977," so as
 4 to correct a cross-reference; to modify provisions relating to information that must be
 5 registered by a service supplier doing business in Georgia for support of the 9-1-1 system;
 6 to provide additional uses for Emergency Telephone System Fund moneys; to provide for
 7 the enhancement of dispatch and response activities and equipment of public safety
 8 personnel; to amend Code Section 36-37-6 of the Official Code of Georgia Annotated,
 9 relating to disposition of municipal property generally, so as to clarify the authority of
 10 municipal corporations to enter into certain contracts is in addition to and does not change
 11 or conflict with any otherwise existing authority to enter into such contracts; to provide for
 12 property leases for telecommunications towers; to provide for exemptions and terms; to
 13 provide for applicability; to provide for related matters; to repeal conflicting laws; and for
 14 other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 Part 4 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, the
 18 "Georgia Emergency Telephone Number 9-1-1 Service Act of 1977," is amended by revising
 19 subparagraph (C) of paragraph (18) of Code Section 46-5-122, relating to definitions relative
 20 to the "Georgia Emergency Telephone Number 9-1-1 Service Act of 1977," as follows:

21 "(C) Other costs which may be paid with money from the Emergency Telephone
 22 System Fund, pursuant to subsection ~~(e)~~ (f) of Code Section 46-5-134."

23 **SECTION 2.**

24 Said part is further amended by revising subsection (a) of Code Section 46-5-124.1, relating
25 to service suppliers that must register certain information with the director of emergency
26 management, updating information, and notices of delinquency, as follows:

27 "(a) Any service supplier doing business in Georgia shall register the following
28 information with the director:

29 (1) The name, address, and telephone number of the representative of the service supplier
30 to whom the resolution adopted pursuant to Code Section 46-5-133 or other notification
31 of intent to provide automatic number identification or automatic location identification,
32 or both, of a ~~wireless telecommunications~~ telephone service connection should be
33 submitted;

34 (2) The name, address, and telephone number of the representative of the service supplier
35 with whom a local government must coordinate to implement automatic number
36 identification or automatic location identification, or both, of a ~~wireless~~
37 ~~telecommunications~~ telephone service connection;

38 (3) The counties in Georgia in which the service supplier is authorized to provide
39 ~~wireless~~ telephone service at the time the filing is made; and

40 (4) Every corporate name under which the service supplier is authorized to provide
41 ~~wireless~~ telephone service in Georgia."

42 **SECTION 3.**

43 Said part is further amended by revising subsection (f) of Code Section 46-5-134, relating
44 to the establishment of the Emergency Telephone System Fund, as follows:

45 "(f)(1) In addition to cost recovery as provided in subsection (e) of this Code section,
46 money from the Emergency Telephone System Fund shall be used only to pay for:

47 (1)(A) The lease, purchase, or maintenance of emergency telephone equipment,
48 including necessary computer hardware, software, and data base provisioning;
49 addressing; and nonrecurring costs of establishing a 9-1-1 system;

50 (2)(B) The rates associated with the service supplier's 9-1-1 service and other service
51 supplier's recurring charges;

52 (3)(C) The actual cost, according to generally accepted accounting principles, of
53 salaries, ~~including benefits, of employees and employee benefits incurred by the local~~
54 government for employees hired by the local government solely for the operation and
55 maintenance of the emergency 9-1-1 system and the actual cost of training such of
56 those employees who work as dispatchers or and employees who work as directors as
57 that term is defined in Code Section 46-5-138.2, whether such employee benefits are
58 purchased directly from a third-party insurance carrier, funded by the local

59 government's self-funding risk program, or funded by the local government's
60 participation in a group self-insurance fund. As used in this paragraph, the term
61 'employee benefits' means health benefits, disability benefits, death benefits, accidental
62 death and dismemberment benefits, pension benefits, retirement benefits, workers'
63 compensation, and such other benefits as the local government may provide. Said term
64 shall also include any post-employment benefits the local government may provide;
65 (D) The actual cost, according to generally accepted accounting principles, of training
66 employees hired by the local government solely for the operation and maintenance of
67 emergency 9-1-1 system and employees who work as directors as that term is defined
68 in Code Section 46-5-138.2;
69 (4)(E) Office supplies of the public safety answering points used directly in providing
70 emergency 9-1-1 system services;
71 (5)(F) The cost of leasing or purchasing a building used as a public safety answering
72 point. Moneys from the fund ~~cannot~~ shall not be used for the construction or lease of
73 an emergency 9-1-1 system building until the local government has completed its street
74 addressing plan;
75 (6)(G) The lease, purchase, or maintenance of computer hardware and software used
76 at a public safety answering point, including computer-assisted dispatch systems and
77 automatic vehicle location systems;
78 (7)(H) Supplies directly related to providing emergency 9-1-1 system services,
79 including the cost of printing emergency 9-1-1 system public education materials; and
80 (8)(I) The lease, purchase, or maintenance of logging recorders used at a public safety
81 answering point to record telephone and radio traffic.
82 (2)(A) In addition to cost recovery as provided in subsection (e) of this Code section,
83 money from the Emergency Telephone System Fund may be used to pay for those
84 purposes set forth in subparagraph (B) of this paragraph, if:
85 (i) The local government's 9-1-1 system provides enhanced 9-1-1 service;
86 (ii) The revenues from the 9-1-1 charges or wireless enhanced 9-1-1 charges in the
87 local government's Emergency Telephone System Fund at the end of any fiscal year
88 shall be projected to exceed the cost of providing enhanced 9-1-1 services as
89 authorized in subparagraphs (A) through (I) of paragraph (1) of this subsection and
90 the cost of providing enhanced 9-1-1 services as authorized in subparagraphs (A)
91 through (I) of paragraph (1) of this subsection includes a reserve amount equal to at
92 least 10 percent of the previous year's expenditures; and
93 (iii) Funds for such purposes are distributed pursuant to an intergovernmental
94 agreement between the local governments whose citizens are served by the
95 emergency 9-1-1 system proportionately by population as determined by the most

96 recent decennial census published by the United States Bureau of the Census at the
 97 time such agreement is entered into.

98 (B) Pursuant to subparagraph (A) of this paragraph, the Emergency Telephone System
 99 Fund may be used to pay for:

100 (i) The actual cost, according to generally accepted accounting principles, of
 101 insurance purchased by the local government to insure against the risks and liability
 102 in the operation and maintenance of the emergency 9-1-1 system on behalf of the
 103 local government or on behalf of employees hired by the local government solely for
 104 the operation and maintenance of the emergency 9-1-1 system and employees who
 105 work as directors as that term is defined in Code Section 46-5-138.2, whether such
 106 insurance is purchased directly from a third-party insurance carrier, funded by the
 107 local government's self-funding risk program, or funded by the local government's
 108 participation in a group self-insurance fund. As used in this division, the term 'cost
 109 of insurance' shall include, but shall not be limited to, any insurance premiums, unit
 110 fees, and broker fees paid for insurance obtained by the local government;

111 (ii) The lease, purchase, or maintenance of a mobile communications vehicle and
 112 equipment, if the primary purpose and designation of such vehicle is to function as
 113 a backup 9-1-1 system center;

114 (iii) The allocation of indirect costs associated with supporting the 9-1-1 system
 115 center and operations as identified and outlined in an indirect cost allocation plan
 116 approved by the local governing authority that is consistent with the costs allocated
 117 within the local government to both governmental and business-type activities;

118 (iv) The lease, purchase, or maintenance of mobile public safety voice and data
 119 equipment, geo-targeted text messaging alert systems, or towers necessary to carry
 120 out the function of 9-1-1 system operations; and

121 (v) The lease, purchase, or maintenance of public safety voice and data
 122 communications systems located in the 9-1-1 system facility that further the
 123 legislative intent of providing the highest level of emergency response service on a
 124 local, regional, and state-wide basis, including equipment and associated hardware
 125 and software that supports the use of public safety wireless voice and data
 126 communication systems."

127 **SECTION 3A.**

128 Code Section 36-37-6 of the Official Code of Georgia Annotated, relating to disposition of
 129 municipal property generally, is amended by revising paragraph (1)(1), the introductory
 130 language of paragraph (1)(2), and paragraphs (1)(3) and (1)(4) and adding a new paragraph
 131 (1)(5) as follows: "(1)(1) ~~In addition to any other authorization or power, Where not otherwise~~

132 authorized by its charter or other applicable law, the governing authority of any municipal
 133 corporation may lease or enter into a contract for valuable consideration for the use,
 134 operation, or management of any real or personal property of the municipal corporation;
 135 provided, however, that pursuant to the power granted by this subsection. The authority of
 136 any municipal corporation granted pursuant to its charter or other applicable law to enter into
 137 leases or contracts for the use, operation, or management of any real or personal property of
 138 the municipal corporation shall not be affected by this subsection and it shall not apply to any
 139 contracts or leases entered into pursuant to such authority. Where a municipal charter or
 140 other applicable law provides no authorization for leasing or contracting for the use,
 141 operation, or management of any real or personal property of the municipal corporation and
 142 this subsection is to be used as authorization for that purpose, the following shall apply: (A)
 143 Any lease or contract for the use, operation, or management of any real or personal property
 144 for longer than 30 days shall be by sealed bids or by auction as provided in subsection (a) of
 145 this Code section. Easements and licenses for the use of municipal property in connection
 146 with construction projects of a municipal corporation shall be exempt from this
 147 subparagraph, provided that their term is less than one year; (B) Nothing in this subsection
 148 shall have the effect of authorizing alienation of title to such property in derogation of rights,
 149 duties, and obligations imposed by prior deed, contract, or like document of similar import
 150 or shall cause the divesting of title to property dedicated to public use and not subsequently
 151 abandoned; and (C) The lessee or contractee shall not mortgage or pledge the property, lease
 152 or contract the property as security for any debt, or incur any encumbrance that could result
 153 in a lien or claim of lien against the property, lease, or contract. (2) ~~As a condition of any~~
 154 ~~Any~~ lease or contract for the use, operation, or management of any real or personal property
 155 entered into pursuant to this subsection and for longer than 30 days shall contain the
 156 following terms:"

157 "(3)(A) The initial term of a lease or contract for the use of real property entered into
 158 pursuant to this subsection shall be no longer than five years and there may be one renewal
 159 period of no longer than five years, after which the lease or contract shall again be subject
 160 to sealed bids or auction. (B) When the lessee or contractee charges any person to enter or
 161 go upon the real property for recreational purposes, the consideration received by the
 162 municipal corporation for the lease or contract shall not be deemed a charge within the
 163 meaning of Article 2 of Chapter 3 of Title 51. (C) Where real property is leased pursuant to
 164 this Code section for the erection of telecommunications towers, the initial term of a lease
 165 or contract for the use of such real property shall be no longer than ten years and there may
 166 be one renewal period of no longer than ten years, after which the lease or contract shall
 167 again be subject to sealed bids or auction; provided, however, that such lease shall also
 168 include provisions for the removal of the telecommunications tower structure. (4) This

169 ~~subsection~~ Where this subsection is applicable, it shall apply to any lease or contract entered
170 into or renewed on or after July 1, 2010 2011. This subsection shall not ~~effect~~ affect any
171 provisions of subsection (k) of this Code section.

172 (5) Nothing contained in this Code section shall be construed so as to expand the powers of
173 eminent domain or to otherwise provide for additional eminent domain authority for any
174 municipal corporation. The ability for a governing authority of a municipal corporation to
175 exercise eminent domain shall be subject to the limitations enumerated in Chapter 2 of Title
176 22 and the Georgia Constitution."

177 **SECTION 4.**

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