

House Bill 473 (AS PASSED HOUSE AND SENATE)

By: Representatives Welch of the 110<sup>th</sup> and Wilkinson of the 52<sup>nd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to  
2 provisions applicable to counties and municipal corporations, so as to add the option of fiscal  
3 year contracts; to provide for related matters; to repeal conflicting laws; and for other  
4 purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 SECTION 1.

7 Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to provisions  
8 applicable to counties and municipal corporations, is amended by revising Code  
9 Section 36-60-13, relating to multiyear lease, purchase, or lease-purchase contracts, as  
10 follows:

11 "36-60-13.

12 (a) Each county or municipality in this state shall be authorized to enter into multiyear  
13 lease, purchase, or lease-purchase contracts of all kinds for the acquisition of goods,  
14 materials, real and personal property, services, and supplies, provided that any such  
15 contract shall contain provisions for the following:

16 (1) The contract shall terminate absolutely and without further obligation on the part of  
17 the county or municipality at the close of the calendar or fiscal year in which it was  
18 executed and at the close of each succeeding calendar or fiscal year for which it may be  
19 renewed as provided in this Code section;

20 (2) The contract may provide for automatic renewal unless positive action is taken by the  
21 county or municipality to terminate such contract, and the nature of such action shall be  
22 determined by the county or municipality and specified in the contract;

23 (3) The contract shall state the total obligation of the county or municipality for the  
24 calendar or fiscal year of execution and shall further state the total obligation which will  
25 be incurred in each calendar or fiscal year renewal term, if renewed; and

26 (4) The contract shall provide that title to any supplies, materials, equipment, or other  
27 personal property shall remain in the vendor until fully paid for by the county or  
28 municipality.

29 (b) In addition to the provisions enumerated in subsection (a) of this Code section, any  
30 contract authorized by this Code section may include:

31 (1) A provision which requires that the contract will terminate immediately and  
32 absolutely at such time as appropriated and otherwise unobligated funds are no longer  
33 available to satisfy the obligations of the county or municipality under the contract; or

34 (2) Any other provision reasonably necessary to protect the interests of the county or  
35 municipality.

36 (c) Any contract developed under this Code section containing the provisions enumerated  
37 in subsection (a) of this Code section shall be deemed to obligate the county or  
38 municipality only for those sums payable during the calendar or fiscal year of execution  
39 or, in the event of a renewal by the county or municipality, for those sums payable in the  
40 individual calendar or fiscal year renewal term.

41 (d) No contract developed and executed pursuant to this Code section shall be deemed to  
42 create a debt of the county or municipality for the payment of any sum beyond the calendar  
43 or fiscal year of execution or, in the event of a renewal, beyond the calendar or fiscal year  
44 of such renewal.

45 (e) No contract developed and executed pursuant to this Code section may be delivered  
46 if the principal portion of such contract, when added to the amount of debt incurred by any  
47 county or municipality pursuant to Article IX, Section V, Paragraph I of the Constitution  
48 of Georgia, exceeds 10 percent of the assessed value of all taxable property within such  
49 county or municipality.

50 (f) No contract developed and executed pursuant to this Code section may be delivered if  
51 the real or personal property being so financed has been the subject of a referendum which  
52 failed to receive the approval of the voters of the county or municipality within the  
53 immediately preceding four calendar years, unless such real or personal property is  
54 required to be financed pursuant to a federal or state court order, or imminent threat  
55 thereof, as certified by the governing authority of the county or municipality.

56 (g) No contract developed and executed pursuant to this Code section with respect to the  
57 acquisition of real property may be delivered unless a public hearing has been held by the  
58 county or municipality after two weeks' notice published in a newspaper of general  
59 circulation within the county or municipality.

60 (h)(1) On or after July 1, 2000, no contract developed and executed or renewed,  
61 refinanced, or restructured pursuant to this Code section with respect to real property may  
62 be delivered if the lesser of either of the following is exceeded:

63 (A) The average annual payments on the aggregate of all such outstanding contracts  
64 exceed 7.5 percent of the governmental fund revenues of the county or municipality for  
65 the calendar year preceding the delivery of such contract plus any available special  
66 county 1 percent sales and use tax proceeds collected pursuant to Code Section  
67 48-8-111; or

68 (B) The outstanding principal balance on the aggregate of all such outstanding  
69 contracts exceeds \$25 million; provided, however, that with respect to any county or  
70 municipality in which, prior to July 1, 2000, the outstanding principal balance on the  
71 aggregate of outstanding contracts exceeds \$25 million, such outstanding contracts may  
72 be renewed, refinanced, or restructured, but no new contracts shall be developed and  
73 executed until the outstanding principal balance on such outstanding contracts has been  
74 reduced so that the \$25 million limitation of this subparagraph, or the limitation in  
75 subparagraph (A) of this paragraph, whichever is lower, is not exceeded.

76 (2) Paragraph (1) of this subsection shall not apply to contracts developed and executed  
77 or renewed, refinanced, or restructured pursuant to this Code section which are for  
78 projects or facilities:

79 (A) For the housing of court services, where any other state law or laws authorize the  
80 project or facility to be financed and paid for from the collection of fines rather than  
81 from tax revenues; or

82 (B) Which have been previously approved in the most recent referendum calling for  
83 the levy of a special county 1 percent sales and use tax pursuant to Part 1 of Article 3  
84 of Chapter 8 of Title 48.

85 (i) Any such contract may provide for the payment by the county or municipality of  
86 interest or the allocation of a portion of the contract payment to interest, provided that the  
87 contract is in compliance with this Code section.

88 (j) Nothing in this Code section shall restrict counties or municipalities from executing  
89 reasonable contracts arising out of their proprietary functions."

90 **SECTION 2.**

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