

Senate Bill 256

By: Senators Tillery of the 19th, Gooch of the 51st, Mullis of the 53rd, Anderson of the 24th, Hill of the 4th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 16 of Title 50 of the Official Code of Georgia Annotated,
2 relating to the State Properties Code, so as to authorize the State Properties Commission to
3 enter into leases in certain rural technology lease eligible counties for the purpose of
4 providing wireless service or broadband service to the public without submission to the
5 General Assembly for approval; to provide for definitions; to provide for terms and
6 conditions; to provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 16 of Title 50 of the Official Code of Georgia Annotated, relating to the
10 State Properties Code, is amended by revising paragraph (5) of Code Section 50-16-34,
11 relating to duties of State Properties Commission generally, as follows:

12 "(5) Approve a conveyance of state property; provided, however, that except as provided
13 in Code Section 50-16-39.1, the commission shall not be authorized to approve a
14 conveyance of state property that exceeds a value of \$500,000.00 as determined by an
15 appraisal or opinion of value;"

16 **SECTION 2.**

17 Said article is further amended by revising subsection (a) of Code Section 50-16-39, relating
18 to public competitive bidding procedure for sales and leases, acceptance or rejection of bids
19 by commission, General Assembly, or the Governor, and execution of leases and deeds, as
20 follows:

21 "(a) Subject to authorization by the General Assembly as provided in Code Section
22 50-16-40 and except as otherwise provided in Code Section 50-16-39.1, any conveyance,
23 other than a grant of easement, lease, or exchange of real property, shall be initiated and
24 carried out in accordance with this Code section."

25 **SECTION 3.**

26 Said article is further amended by revising paragraph (1) of subsection (a) of Code
27 Section 50-16-40, relating to consideration of conveyances by the General Assembly, as
28 follows:

29 "(1) The commission shall prepare each conveyance of property with a value
30 of \$500,000.00 or more for consideration by the General Assembly and the Governor as
31 provided in this Code section; provided, however, that leases entered into for the purpose
32 of providing broadband services or wireless services to the public, as provided in Code
33 Section 50-16-39.1, shall not be submitted to the General Assembly for its consideration
34 regardless of value."

35 **SECTION 4.**

36 Said article is further amended by adding a new Code section to read as follows:

37 "50-16-39.1.

38 (a) For purposes of this Code section, the term:

39 (1) 'Broadband service' means Internet access capable of transmitting data at a rate of at
40 least 25 megabits per second in the downstream direction and at least 3 megabits per
41 second in the upstream direction.

42 (2) 'Rural technology lease eligible county' means any county that has been designated
43 by the commissioner of community affairs in the previous calendar year as a tier 1 county
44 in accordance with Code Section 48-7-40.

45 (3) 'Wireless service' shall have the same meaning as provided in Code Section 46-5-28.

46 (b) Notwithstanding any provisions and requirements of law to the contrary and in addition
47 to any other conveyance method provided in this chapter, the commission is authorized to
48 negotiate, prepare, and enter into in its own name leases whereby a part of the property
49 located in a rural technology lease eligible county is leased, in accordance with the
50 provisions of this Code section, for the purpose of providing broadband service or wireless
51 service, or both, to the public. Such leases shall not exceed 50 years and shall be for
52 adequate monetary consideration (in no instance to be less than a rate of \$150.00 per year),
53 which shall be determined by the commission, and pursuant to such terms and conditions
54 as the commission shall determine to be in the best interest of the state; provided, however,
55 that any such lease shall require as a condition of such lease that the lessee demonstrate
56 within 12 months from the date of the execution of the lease that the property that is the
57 subject of the lease is being used to provide broadband service or wireless service, or both.

58 (c) Any person interested in a lease pursuant to this Code section shall submit a project
59 proposal to the executive director of the commission. Any such project proposal shall be
60 accompanied by:

61 (1) A project description, including, but not limited to, the location of the property to be
62 leased, the type of facility or facilities to be located on the property to be leased, and the
63 nature of the broadband service or wireless service, or both, to be offered as a result of
64 said lease;

65 (2) A schedule for the initiation and completion of the project;

66 (3) A description of any direct and indirect benefits that the project will provide to the
67 public; and

68 (4) Such additional information as the commission may require by rules and regulations.

69 (d) The commission may reject any project proposal submitted at any time and shall not
70 be required to provide a reason for such rejection. If the commission determines that the
71 project proposal is a qualifying project for which it would be advantageous to this state to
72 pursue, it shall:

73 (1) Provide a public competitive bid process by which it accepts bids for not less than
74 30 nor more than 90 days for the qualifying project; and

75 (2) Review all bids submitted based on the criteria established in the invitation for bids.

76 (e) Each bid shall be accompanied by a bid bond or such other security as may be
77 prescribed by the commission. All bids shall be opened in public on the date and at the
78 time and place specified in the invitation for bids.

79 (f) When the time for receiving bids expires, the commission shall first rank the bids in
80 accordance with the factors set forth in the invitation for bids. The commission shall not
81 be required to select the bid with the highest price offer, but it may consider price as one
82 of various factors in evaluating the bids received in response to the invitation for bids for
83 a qualifying project. Factors that may be considered in the commission determining which
84 bid and bidder it considers to be most advantageous to the state include:

85 (1) The general reputation, industry experience, and financial capacity of the bidder;

86 (2) Benefits to the public; and

87 (3) Other criteria that the commission deems appropriate.

88 (g) After ranking the bids, the commission shall begin negotiations with the first ranked
89 bidder. If the commission and the first ranked bidder do not reach an agreement, then the
90 commission may conduct negotiations with the next ranked bidder. This process shall
91 continue until the commission either voluntarily abandons the process or executes an
92 instrument of lease with a bidder.

93 (h) At any time during the process outlined in this Code section but before the execution
94 of an instrument of lease, the commission may cancel its invitation for bids or reject all
95 bids received in response to its invitation for bids, for any reason whatsoever.

96 (i) When the commission formally determines and announces which bid and bidder, if any,
97 it considers to be most advantageous to the state, the commission shall then prepare the

98 instrument of lease. The instrument of lease shall be executed as provided in subsection (e)
99 of Code Section 50-16-39.
100 (j) If a person fails to provide broadband services or wireless services, or both, in violation
101 of the terms of a lease entered into pursuant to this Code section, such person shall not be
102 permitted to submit a project proposal or submit a bid in response to an invitation for bids
103 for any property located in the same county as that lease for five years after the expiration
104 or termination of such lease."

105 **SECTION 5.**

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