House Bill 1565 (AS PASSED HOUSE AND SENATE)

By: Representatives Lunsford of the 85th, Post 2, Howell of the 92nd, and Yates of the 85th, Post 1

A BILL TO BE ENTITLED

AN ACT

To amend Code Section 36-37-6 of the Official Code of Georgia Annotated, relating to the disposition of municipal property generally, so as to provide that the General Assembly may by local Act authorize a municipal corporation to lease municipal property for up to five years with options to renew for three additional five-year periods to a nonprofit corporation for certain purposes related to recreation; to provide restrictions; to provide for insurance coverage and indemnity; to provide for the termination of any sum lease; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 36-37-6 of the Official Code of Georgia Annotated, relating to the disposition of municipal property generally, is amended by inserting at the end thereof the following:

"(j)(1) Notwithstanding any provision of this Code section or any other law to the contrary, the General Assembly by local Act may authorize the governing authority of any municipal corporation to lease or enter into a contract for a valuable consideration for the operation and management, and renewals and extensions thereof, of any real or personal property comprising fairgrounds, ballfields, golf courses, swimming pools, or other like property used primarily for recreational purposes for a period not to exceed five years to a nonprofit corporation which is qualified as exempt from taxation under the provisions of Section 501(c)(3) of the Internal Revenue Code of 1986 that will covenant to use and operate the property for annual regional fair purposes or to continue the recreational purpose to which the property was formerly used and intended on a nondiscriminatory basis for the use and benefit of all citizens of the community; provided, however, that nothing in this subsection shall have the affect of authorizing alienation of title to such property in derogation of rights, duties, and obligations imposed by prior deed, contract, or like document of similar import or that would cause the divesting of title to property dedicated to public use and not subsequently abandoned; and

provided further, that the lessee or contractee under a management contract shall not mortgage or pledge the property as security for any debt or incur any encumbrance that could result in a lien or claim of lien against the property. The lease or management contract may provide for options to renew such lease or management contract for not more than three renewal periods and each such renewal period shall not be greater than the original length of such lease or management contract. As a condition of any lease or management contract, the lessee or contractee shall provide and maintain in force and effect throughout the term of such lease or management contract sufficient liability insurance, in an amount not less than $1 million per claim, no aggregate, naming the municipality as a named insured, shall assume sole responsibility for or incur liability for any injury to person or property caused by any act of omission of such person while on the property, and shall agree to indemnify the municipality and hold it harmless from any claim, suit, or demand made by such person. As an additional condition of any such lease or management contract, the lessee or contractee shall provide to and maintain with the municipality a current copy of the liability insurance policy, including any changes in such policy or coverages as such changes occur, and shall provide proof monthly in writing to the municipality that the lessee or contractee has in force and effect the liability insurance required by this paragraph which the municipality shall retain on file. As a further condition of any lease or management contract, the lessee or contractee shall agree to indemnify the municipality and hold it harmless from any claim, suit, or demand arising out of any improvements to the property or any indebtedness or obligations incurred by the lessee or contractee in making any such improvements to such property. When the lessee or contractee charges any person to enter or go upon the land for the purpose of attending the annual regional fair or for attending or participating in recreational purposes, the consideration received by the municipal corporation for the lease or management contract shall not be deemed a charge within the meaning of Article 2 of Title 51.

(2) Any governing authority entering into a lease as provided in paragraph (1) of this subsection shall have the right unilaterally to terminate such lease after giving three months´ notice of its intention to do so.

(3) Any lease entered into as provided in paragraph (1) of this subsection shall be automatically terminated upon conviction of the lessee or contractee for any offense involving the conduct of unlawful activity. In such event, any improvements to the property made by the lessee shall be forfeited. The municipality shall not be liable in any manner or subject to suit for any indebtedness or other obligations of the lessee or contractee associated with any such improvements to the property and shall take such improvements free and clear of any such indebtedness or other obligations.″

SECTION 2.

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