

Senate Bill 116

By: Senators Watson of the 1st, Mallow of the 2nd, Hickman of the 4th, Gooch of the 51st and Ginn of the 47th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Code Section 36-37-6 of the Official Code of Georgia Annotated, relating to
2 disposition of municipal property generally, so as to revise provisions relating to the
3 maximum term of certain leases or contracts for the use, operation, or management of real
4 or personal property owned by a municipality for recreational facilities; to provide for related
5 matters; to repeal conflicting laws; and for other purposes.

6 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

7 **SECTION 1.**

8 Code Section 36-37-6 of the Official Code of Georgia Annotated, relating to disposition of
9 municipal property generally, is amended by revising subsection (l) as follows:

10 "(l)(1) Where not otherwise authorized by its charter or other applicable law, the
11 governing authority of any municipal corporation may lease or enter into a contract for
12 valuable consideration for the use, operation, or management of any real or personal
13 property of the municipal corporation pursuant to the power granted by this subsection.
14 The authority of any municipal corporation granted pursuant to its charter or other
15 applicable law to enter into leases or contracts for the use, operation, or management of
16 any real or personal property of the municipal corporation shall not be affected by this
17 subsection and it shall not apply to any contracts or leases entered into pursuant to such

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18 authority. Where a municipal charter or other applicable law provides no authorization
19 for leasing or contracting for the use, operation, or management of any real or personal
20 property of the municipal corporation and this subsection is to be used as authorization
21 for that purpose, the following shall apply:

22 (A) Any lease or contract for the use, operation, or management of any real or personal
23 property for longer than 30 days shall be by sealed bids or by auction as provided in
24 subsection (a) of this Code section. Easements and licenses for the use of municipal
25 property in connection with construction projects of a municipal corporation shall be
26 exempt from this subparagraph, provided that their term is less than one year;

27 (B) Nothing in this subsection shall have the effect of authorizing alienation of title to
28 such property in derogation of rights, duties, and obligations imposed by prior deed,
29 contract, or like document of similar import or shall cause the divesting of title to
30 property dedicated to public use and not subsequently abandoned; and

31 (C) The lessee or contractee shall not mortgage or pledge the property, lease or
32 contract the property as security for any debt, or incur any encumbrance that could
33 result in a lien or claim of lien against the property, lease, or contract.

34 (2) Any lease or contract for the use, operation, or management of any real or personal
35 property entered into pursuant to this subsection and for longer than 30 days shall contain
36 the following terms:

37 (A) The lessee or contractee shall provide and maintain in force in effect throughout
38 the term of such lease or contract sufficient liability insurance, in an amount not less
39 than \$1 million per claim, no aggregate, naming the municipality as a named insured;

40 (B) The lessee or contractee shall assume sole responsibility for or incur liability for
41 any injury to person or property caused by any act or omission of any person while on
42 the property and shall agree to indemnify the municipality and hold it harmless from
43 any claim, suit, or demand made by any person; and

44 (C) The lessee or contractee shall agree to indemnify the municipality and hold it
45 harmless from any claim, suit, or demand arising out of any improvements to the
46 property or any indebtedness or obligations incurred by the lessee or contractee in
47 making any such improvement to such property.

48 (3)(A) The initial term of a lease or contract for the use of real property entered into
49 pursuant to this subsection shall be no longer than five years and there may be one
50 renewal period of no longer than five years, after which the lease or contract shall again
51 be subject to sealed bids or auction.

52 (B) When the lessee or contractee charges any person to enter or go upon the real
53 property for recreational purposes, the consideration received by the municipal
54 corporation for the lease or contract shall not be deemed a charge within the meaning
55 of Article 2 of Chapter 3 of Title 51.

56 (C) Where real property is leased pursuant to this Code section for the erection of
57 telecommunications towers, the initial term of a lease or contract for the use of such
58 real property shall be no longer than ten years and there may be one renewal period of
59 no longer than ten years, after which the lease or contract shall again be subject to
60 sealed bids or auction; provided, however, that such lease shall also include provisions
61 for the removal of the telecommunications tower structure.

62 (D) Where real property is leased pursuant to this Code section for the operation of an
63 arena, sports field, stadium, or other recreational facility, the initial term of a lease or
64 contract for the use of such real property shall be no longer than 20 years, and there
65 shall not be a renewal period. After the initial term of a lease or contract, such lease or
66 contract shall again be subject to sealed bids or auction.

67 (4) Where this subsection is applicable, it shall apply to any lease or contract entered into
68 or renewed on or after July 1, 2011. This subsection shall not affect any provisions of
69 subsection (k) of this Code section.

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

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SECTION 2.

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