Senate Bill 4
By: Senators Gooch of the 51st, Williams of the 19th, Mullis of the 53rd, Orrock of the 36th, Ginn of the 47th and others

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 61 of Title 36 of the Official Code of Georgia Annotated, relating to urban redevelopment for counties and municipal corporations, so as to provide for the use of surface transportation projects in urban redevelopment areas; to provide for definitions; to provide for public contracts with private enterprises for the completion of surface transportation projects; to provide for methods of procurement for surface transportation projects in urban redevelopment areas; to provide for limitations on former public employees when negotiating contracts for surface transportation projects; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
Chapter 61 of Title 36 of the Official Code of Georgia Annotated, relating to urban redevelopment for counties and municipal corporations, is amended by revising paragraphs (17) and (19) through (22) and adding two new paragraphs to Code Section 36-61-2, relating to definitions, as follows:

"(17) 'Rehabilitation' or 'conservation' may include the restoration and redevelopment of a slum area or portion thereof, in accordance with an urban redevelopment plan, by:

(A) Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements;

(B) Acquisition of real property and rehabilitation or demolition and removal of buildings and improvements thereon where necessary to eliminate unhealthful, unsanitary, or unsafe conditions, to lessen or increase density, to reduce traffic hazards, to eliminate obsolete or other uses detrimental to the public welfare, to otherwise remove or prevent the spread of slums or deterioration, or to provide land for needed public facilities or improvements, including, but not limited to, surface transportation projects;

(C) Installation, construction, or reconstruction of streets, transit facilities and improvements, sidewalks, streetscapes, trails, bicycle facilities, utilities, parks,
playgrounds, and other improvements necessary for carrying out in the area the urban
redevelopment provisions of this chapter; and
(D) The disposition of any property acquired in such urban redevelopment area,
including sale, initial leasing or retention by the municipality or county itself, at its fair
value for uses in accordance with the urban redevelopment plan.”

“(19) ‘Slum clearance and redevelopment’ may include:
(A) Acquisition of a slum area or portion thereof;
(B) Rehabilitation or demolition and removal of buildings and improvements;
(C) Installation, construction, or reconstruction of streets, transit facilities, sidewalks,
streetscapes, trails, bicycle facilities, utilities, parks, playgrounds, and other public
facilities and improvements necessary for carrying out in the area the urban
redevelopment provisions of this chapter in accordance with the urban redevelopment
plan; and
(D) Making the land available for development or redevelopment by private enterprise
or public agencies (including sale, initial leasing, or retention by the municipality or
county itself) at its fair value for uses in accordance with the urban redevelopment plan.

(20) ‘Sponsoring local government’ means the municipality or county which approves
and is, directly or indirectly, providing the greatest percentage of the public funding,
exclusive of federal funding, for a surface transportation project.

(21) ‘Surface transportation project’ means a project for public improvement and any
related public facilities which is planned to impact 10,000 or more acres and at least ten
transit miles within the area of operation of the sponsoring local government, including
any related facilities, systems, parks, trails, streets, greenspace, and any other integrated
public or private development features included within any adopted infrastructure or
transportation plan, urban redevelopment plan, strategic implementation plan,
redevelopment plan, workable programs, or comprehensive plans. Surface transportation
projects may be undertaken under this chapter in areas proximate to, but lying outside of,
a designated urban redevelopment area, without regard to any requirement that the area
be a slum or blighted area, but only within the territorial limits of the sponsoring local
government, provided that:
(A) The majority of the applicable surface transportation project is located within one
or more urban redevelopment areas;
(B) The elements of such surface transportation project lying outside of one or more
urban redevelopment areas are a functional component of a redevelopment plan
authorized under the provisions of Chapter 44 of this title or a comprehensive
development plan adopted in accordance with the rules of the Department of
Community Affairs under Chapter 8 of Title 50; and
(C) The sponsoring local government determines that the elements of the surface transportation project lying outside of one or more urban redevelopment areas are essential to the full implementation of such project, which legislative determination shall be deemed conclusive.

(22) ’Urban redevelopment area’ means a slum area which the local governing body designates as appropriate for an urban redevelopment project.

(24) ’Urban redevelopment plan’ means a plan, as it exists from time to time, for an urban redevelopment project, which plan shall:

(A) Conform to the general plan for the municipality or county as a whole; and

(B) Be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban redevelopment area; zoning and planning changes, if any; land uses; maximum densities; building requirements; and the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

(22)(24) ’Urban redevelopment project’ may include undertakings or activities of a municipality or county in an urban redevelopment area for the elimination and for the prevention of the development or spread of slums and may involve slum clearance and redevelopment in an urban redevelopment area, rehabilitation or conservation in an urban redevelopment area, the implementation of public improvements, including, but not limited to, surface transportation projects, or any combination or part thereof, in accordance with an urban redevelopment plan. Although the power of eminent domain may not be exercised for such purposes, such undertakings or activities may include:

(A) Acquisition, without regard to any requirement that the area be a slum or blighted area, of air rights in an area consisting of lands and highways, railway or subway tracks, bridge or tunnel entrances, or other similar facilities which have a blighting influence on the surrounding area and over which air rights sites are to be developed for the elimination of such blighting influences and for the provision of housing and related facilities and uses designed for, and limited primarily to, families and individuals of low or moderate income; and

(B) Construction of foundations and platforms necessary for the provision of air rights sites of housing and related facilities and uses designed for, and limited primarily to, families and individuals of low or moderate income or construction of foundations necessary for the provision of air rights sites for development of nonresidential facilities.
SECTION 2.

Said chapter is further amended by revising Code Section 36-61-4, relating to the encouragement of private enterprise in urban redevelopment, as follows:

36-61-4. (a) A municipality or county, to the greatest extent it determines to be feasible in carrying out the provisions of this chapter, shall afford maximum opportunity, consistent with the sound needs of the municipality or county as a whole, to the rehabilitation or redevelopment of the urban redevelopment area by private enterprise. A municipality or county shall give consideration to this objective in exercising its powers under this chapter, including: the formulation of a workable program; the approval of urban redevelopment plans consistent with the general plan for the municipality or county; the adoption and enforcement of ordinances as provided for in Code Section 36-61-11; the exercise of its zoning powers; the enforcement of other laws, codes, and regulations relating to the use of land and the use and occupancy of buildings and improvements; the disposition of any property acquired; and the provision of necessary public improvements.

(b) Notwithstanding anything in this chapter or other provisions of law to the contrary, and in order to give effect to the encouragement of private enterprise contemplated in this Code section, the following shall apply to contracts and agreements for surface transportation projects entered into pursuant to this chapter:

(1) In addition to other methods of procurement authorized by law, the sponsoring local government, urban redevelopment agency, or other governing body shall be authorized to utilize the procedures of this chapter to provide for the planning, design, finance, construction, acquisition, leasing, operation, and maintenance of surface transportation projects. The provisions of this chapter shall be an alternative to such other methods to be exercised at the option of each sponsoring local government or public body;

(2) One or more public bodies may participate in the consideration and implementation of a surface transportation project at the discretion of the sponsoring local government. Where more than one public body agrees to participate in the consideration or implementation of a surface transportation project, the participants may designate one or more representatives of each such participating public body, as agreed to by the sponsoring local government or the urban redevelopment agency;

(3)(A) An urban redevelopment agency designated by the sponsoring local government may evaluate a project to determine the appropriate or desirable levels of public and private participation in planning, designing, financing, constructing, operating, maintaining, or facilitating, or any combination thereof, for the execution of such project. Such urban redevelopment agency may designate a public nonprofit, private
corporation, body, or entity to perform this function and to otherwise perform the activities contemplated in this Code section.

(B) A sponsoring local government or an urban redevelopment agency shall be authorized to issue, individually or in sequenced stages, written requests for expressions of interest, qualifications, or proposals, or any combination thereof, or other similar methods of procurement or solicitation. Such requests shall indicate the scope of the project, the proposed public and private financial participation in the project, including, but not limited to, the rights, responsibilities, obligations, revenue sharing features, any lease, license, availability or other payment rights, and any other allocations of interests and federal and state income tax benefits in respect of real and personal property relating to a project. Such requests shall include the factors to be used in evaluating responses, the relative importance of any applicable evaluation factors, and other contractual terms and conditions expected, including any unique capabilities or qualifications that will be required of respondents, as determined in the sole discretion of the designated representative of the sponsoring local government. Public notice of such requests shall be made at least 30 days prior to the date set for the release of said request by posting a legal notice on the websites of the sponsoring local government and the public body implementing the project, in substantially the same manner utilized by such public bodies in order to solicit requests for proposals, with a copy of such notice provided simultaneously to each affected public body.

(C)(i) The public body implementing the project and the sponsoring local government, with the participation of any designated representatives of other participating public bodies as determined by the sponsoring local government, may engage in individual discussions and interviews with each respondent deemed fully qualified, responsible, and suitable on the basis of initial responses and with emphasis on professional competence and ability to meet the level of private financial participation as called for in such request. Repetitive interviews and negotiation sessions may be conducted. Any such interviews and negotiation sessions shall be deemed to be a part of the procurement process.

(ii)(I) At the conclusion of the final stage, on the basis of evaluation factors published in the request and all information developed in the selection process, the public body implementing the surface transportation project, in an open and public meeting subject to the provisions of Chapter 14 of Title 50, shall select one or more respondents whose qualifications and proposed services are deemed most meritorious.

(II) Negotiations shall then be conducted by the designated representative with the selected respondent or respondents. Negotiations conducted with one or more
selected respondent pursuant to this Code section shall continue to be deemed an
active procurement until the execution of the final, definitive agreement with the
selected respondent or respondents.

(iii) The public body implementing the project shall select for approval the
respondent offering the most satisfactory and advantageous contract terms for the
project based upon a thorough assessment of any one or more of the following:
experience and reputation with similar projects; engineering and design quality; value;
projected savings during, before, or after construction; and the ability of the final
project's characteristics to meet the goals of the sponsoring local government,
consistent with applicable plans and programs. The fair market value of any property
included as a part of the procurement may be based on the consideration of the above
factors, but it shall not be less than the initial cost to obtain the property. Before
making such selection, the designated representative shall consult in an open and
public meeting subject to the provisions of Chapter 14 of Title 50 with the
representatives of any participating local governing authority, participating local
authority, participating state agency, department, or authority, and affected local
government. Notwithstanding the foregoing, if the terms and conditions for multiple
awards are included in the request, the implementing public body may award
contracts to more than one respondent. Should the implementing public body
determine in writing that only one respondent is fully qualified, or that one respondent
is clearly more highly qualified and suitable than the other respondents under
consideration, a contract may be negotiated and awarded to that respondent.

(iv) Upon approval of the selection by the implementing public body, a contract or
contracts not exceeding 50 years in duration may be entered into by the urban
redevelopment agency or any one or more of the participating public bodies and the
selected respondent or respondents. The private financial information provided by the
respondents shall remain exempt from Code Section 50-18-72 during and after the
conclusion of the related selection process.

(D) A dispute over the award of a contract under this chapter shall be resolved by the
filing of a petition in the superior court of the county in which the sponsoring local
government is located within 30 days of the awarding of such contract and shall be
determined through the use of a special master appointed by the judge of the superior
court of the county in which the sponsoring local government is located. The special
master shall not be authorized to enjoin or otherwise delay or suspend the execution of
the contract and any work to be performed under such contract. The decision of the
special master with regard to such dispute shall be appealable for a de novo review to
the superior court of the county in which the sponsoring local government is located within 30 days following the decision of the special master.

(E) Nothing in this chapter shall require the designated representatives, the sponsoring local government, the implementing public body, or any participating public body to continue negotiations or discussions arising out of any request or any other procurement initiated under the provisions of this Code section.

(F) Every public body shall be authorized to promulgate reasonable rules and regulations to assist in its evaluation of responses and to implement the purposes of this chapter; provided, however, that unsolicited proposals shall not be permitted.

(4) No public officer, employee, or member of any participating public body, with respect to contracts of such public body, or the General Assembly shall serve as an agent, lobbyist, or board member for any private entity directly or indirectly under a contract or negotiating a contract provided for by this chapter for three years after leaving his or her position as a public officer, employee, or member of the public body or the General Assembly; and

(5) Contracts entered into with a private enterprise in respect to the design, construction, operation, financing, or management of the public components of a surface transportation project shall not constitute the acquisition of property for a private use, nor shall such contracts be deemed a sale, lease, or other disposition of the related interests in property under any provisions of this chapter or other provision of applicable law, and such public components of a surface transportation project shall be deemed a public use for all purposes under applicable provisions of law, including, without limitation, Code Sections 36-61-9 and 36-61-10."

SECTION 3.

Said chapter is further amended by revising Code Section 36-61-6, relating to formulation of a workable program for urban redevelopment, as follows:

"36-61-6.

For the purposes of this chapter, a municipality or county may formulate a workable program for utilizing appropriate private and public resources including those specified in Code Section 36-61-11, to eliminate and prevent the development or spread of slums, to encourage needed urban rehabilitation, to provide for the redevelopment of slum areas, or to undertake such of the aforesaid activities or such other feasible municipal or county activities as may be suitably employed to achieve the objectives of such workable program. Such workable program may include, without limitation, provision for the prevention of the spread of slums into areas of the municipality or county which are free from slums, through diligent enforcement of housing, zoning, and occupancy controls and standards;"
the rehabilitation or conservation of slum areas or portions thereof by replanting, removing congestion, providing parks, playgrounds, and other public improvements, including without limitation surface transportation projects, encouraging voluntary rehabilitation, and compelling the repair and rehabilitation of deteriorated or deteriorating structures; and the clearance and redevelopment of slum areas or portions thereof."

SECTION 4.

Said chapter is further amended by revising paragraph (1) of subsection (b) of Code Section 36-61-10, relating to the disposal of property in a redevelopment area, as follows:

"(b)(1) A municipality or county may dispose of real property in an urban redevelopment area to private persons only under such reasonable competitive bidding procedures as it shall prescribe, or as are provided in this subsection or, solely with respect to and for the benefit of advancing surface transportation projects, as provided in Code Section 36-61-4. A municipality or county, by public notice by publication once each week for two consecutive weeks in a newspaper having a general circulation in the community, prior to the execution of any contract to sell, lease, or otherwise transfer real property and prior to the delivery of any instrument of conveyance with respect thereto under this Code section, may invite proposals from and make available all pertinent information to private redevelopers or any persons interested in undertaking to redevelop or rehabilitate an urban redevelopment area or any part thereof. The notice shall identify the area or portion thereof and shall state that such further information as is available may be obtained at such office as shall be designated in the notice. The municipality or county shall consider all such redevelopment or rehabilitation proposals and the financial and legal ability of the persons making such proposals to carry them out and may negotiate with any persons for proposals for the purchase, lease, or other transfer of any real property acquired by the municipality or county in the urban redevelopment area. The municipality or county may accept such proposal as it deems to be in the public interest and in furtherance of the purposes of this chapter. The municipality or county may execute contracts in accordance with subsection (a) of this Code section and deliver deeds, leases, and other instruments and take all steps necessary to effectuate such contracts."

SECTION 5.

Said chapter is further amended by revising Code Section 36-61-12, relating to the issuance of bonds for urban redevelopment projects, as follows:
(a) A municipality or county shall have power to issue bonds, in its discretion, from time to time, to finance the undertaking of any urban redevelopment project under this chapter, including, without limiting the generality thereof, the payment of principal and interest upon any advances for surveys and plans for urban redevelopment projects and shall also have power to issue refunding bonds for the payment of retirement of such bonds previously issued by it. Such bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the municipality or county derived from or held in connection with its undertaking and carrying out of urban redevelopment projects under this chapter; provided, however, that payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant, or contribution from the federal government or other source, in aid of any urban redevelopment projects of the municipality or county under this chapter, and by a mortgage of any such urban redevelopment projects or any part thereof, title to which is in the municipality or county, or redevelopment agency.

(b) Bonds issued under this Code section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and shall not be subject to the provisions of any other law or charter relating to the authorization, issuance, or sale of bonds. Bonds issued under this chapter are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempted from all taxes.

(c) Bonds issued under this Code section shall be authorized by resolution or ordinance of the local governing body. They may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics as may be provided by the resolution of the local governing body or by the trust indenture or mortgage issued pursuant thereto.

(d) Such bonds may be sold at not less than par at public sales held after notice published prior to such sales in a newspaper having a general circulation in the area of operation and in such other medium of publication as the municipality or county may determine or may be exchanged for other bonds on the basis of par. Such bonds may be sold to the federal government or to an institution insured by an agency of the federal government at private sale at not less than par and, in the event that less than all of the authorized principal amount of such bonds is sold to the federal government or to an institution insured by an
agency of the federal government, the balance may be sold at private sale at not less than
par at an interest cost to the municipality or county, such cost not to exceed the interest cost
to the municipality or county of the portion of the bonds sold to the federal government or
to an institution insured by an agency of the federal government. All revenue bonds, but
not notes or other obligations, issued under this Code section shall be issued and validated
under and in accordance with the procedure set forth in Article 3 of Chapter 82 of this title.
The provisions of any resolution or ordinance authorizing the issuance of bonds under this
Code section shall be a contract with every holder of such bonds and enforceable by any
bondholder by mandamus or other appropriate action or proceeding at law or in equity.

(e) If any of the public officials of the municipality or county whose signatures appear on
any bonds or coupons issued under this chapter cease to be such officials before the
delivery of the bonds, such signatures, nevertheless, shall be valid and sufficient for all
purposes, the same as if the officials had remained in office until the delivery. Any
provision of any law to the contrary notwithstanding, any bonds issued pursuant to this
chapter shall be fully negotiable.

(f) In any suit, action, or proceeding involving the validity or enforceability of any bond
issued under this chapter or the security therefor, any such bond reciting in substance that
it has been issued by the municipality or county in connection with an urban redevelopment
project, as defined in paragraph (22)(24) of Code Section 36-61-2, shall be conclusively
deemed to have been issued for such purpose and such project shall be conclusively
deemed to have been planned, located, and carried out in accordance with this chapter.

(g) Any urban redevelopment agency or housing authority which a municipality or county
has elected to exercise powers under Code Section 36-61-17 may also issue bonds, as
provided in this Code section, in the same manner as a municipality or county, except that
such bonds shall be authorized and the terms and conditions thereof shall be prescribed by
the commissioners of such urban redevelopment agency or housing authority in lieu of the
local governing body."

SECTION 6.

Said chapter is further amended by revising subsection (b) of Code Section 36-61-14, related
to property exempt from taxes and from levy and sale by virtue of an execution, as follows:
"(b) The property of a municipality, or county, or any other public body, acquired or held
for the purpose of this chapter, is declared to be public property used for essential public
and governmental purposes and such property shall be exempt from all taxes of the
municipality, the county, the state, or any political subdivision thereof. Such tax exemption
shall terminate when the municipality or county sells, leases, or otherwise disposes of
property in an urban redevelopment area to a purchaser or lessee who or which is not a public body."

SECTION 7.
Said chapter is further amended by revising subsection (a) of Code Section 36-61-16, relating to cooperation by public bodies, as follows:

“(a) For the purpose of aiding in the planning, undertaking, or carrying out of an urban redevelopment project located within the area in which it is authorized to act, any public body, upon such terms, with or without consideration, as it may determine, may:

(1) Dedicate, sell, convey, or lease any of its interest in any property or grant easements, licenses, or other rights or privileges therein to a municipality or county;

(2) Incur the entire expense of any public improvements made by such public body in exercising the powers granted in this Code section;

(3) Do any and all things necessary to aid or cooperate in the planning or carrying out of an urban redevelopment plan;

(4) Lend, grant, or contribute funds to a municipality or county;

(5) Enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with a municipality or county or other public body respecting action to be taken pursuant to any of the powers granted by this chapter, including the furnishing of funds or other assistance in connection with an urban redevelopment project and other provisions allocating legal responsibility for matters arising under or in connection with transactions entered into pursuant to Code Section 36-61-4; and

(6) Cause public buildings and public facilities, including parks, trails, greenspace, playgrounds, recreational, community, education, transit, water, sewer, or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished; furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, sidewalks, ways, or other places; plan, replan, zone, or rezone any part of the public body or make exceptions from building regulations; and cause administrative and other services to be furnished to the municipality or county.

If at any time title to or possession of any urban redevelopment project is held by any public body or governmental agency, other than the municipality or county, which is authorized by law to engage in the undertaking, carrying out, or administration of urban redevelopment projects, including any agency or instrumentality of the United States of America, the provisions of the agreements referred to in this subsection shall inure to the benefit of and may be enforced by such public body or governmental agency. As used in this subsection, the terms 'municipality' and 'county' shall also include an urban
redevelopment agency or a housing authority vested with all of the urban redevelopment project powers pursuant to Code Section 36-61-17.’

SECTION 8.

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