

House Bill 743 (AS PASSED HOUSE AND SENATE)

By: Representative Dickey of the 140<sup>th</sup>

A BILL TO BE ENTITLED

AN ACT

1 To amend an Act providing a new charter for the City of Fort Valley, approved  
2 August 22, 1907 (Ga. L. 1907, p. 651), as amended, particularly by an Act approved  
3 May 6, 2019 (Ga. L. 2019, 4170), so as to add three appointed members to the Utility  
4 Commission for the City of Fort Valley; to provide for the filling of vacancies on such  
5 commission; to remove provisions providing for agreements between the city and  
6 commission as to certain payments from the commission to the city; to provide for related  
7 matters; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 An Act providing a new charter for the City of Fort Valley, approved August 22, 1907  
11 (Ga. L. 1907, p. 651), as amended, particularly by an Act approved May 6, 2019  
12 (Ga. L. 2019, 4170), is amended in Section 1.1 by revising subsections (b), (c), and (l) as  
13 follows:

14 "(b) The commission shall consist of four members to be elected and three members to be  
15 appointed as hereinafter provided and with powers and duties hereinafter specified. The

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16 mayor of the city shall be an ex officio member of the commission and shall only vote in  
17 the event of a tie.

18 (c)(1) Those elected utility commissioners in office on the effective date of this Act shall  
19 serve out the terms of office to which they were elected, and the election of their  
20 successors shall be as provided for by said Act. The term of office of the utility  
21 commissioners elected thereafter shall be four years, beginning on January 1 of the year  
22 following the year of their election and expiring on December 31 of the year of the  
23 election of their successors and upon the qualification of those successors. The four  
24 elected utility commissioners shall be elected to numbered posts designated as Posts 1, 2,  
25 3, and 4. Each person seeking election as utility commissioner shall designate, at the time  
26 of qualifying for election to that office, the post to which that person seeks election. A  
27 person elected as utility commissioner to Post 1 shall have been a resident of the East  
28 Ward, as described in the charter of the city, for at least six months immediately prior to  
29 such person's election, shall continue to reside in that ward during that person's term of  
30 office, and shall have received a majority of the votes cast in only the East Ward. A  
31 person elected as utility commissioner to Post 2 shall have been a resident of the West  
32 Ward, as described in the charter of the city, for at least six months immediately prior to  
33 such person's election, shall continue to reside in that ward during that person's term of  
34 office, and shall have received a majority of the votes cast in only the West Ward. A  
35 person elected as utility commissioner to Post 3 or Post 4 shall have resided in the city  
36 for at least 12 months prior to such election and shall have received a majority of the  
37 votes cast in the city at large. No person shall hold the office of elected utility  
38 commissioner of the city if that person is ineligible for such office pursuant to Code  
39 Section 45-2-1 of the O.C.G.A., or any other general law.

40 (2) The Board of Commissioners of Peach County shall appoint two members of the  
41 commission who reside in Peach County and outside the corporate limits of the city.

42 (3) The Board of Commissioners of Crawford County shall appoint one member of the  
43 commission who resides in Crawford County.

44 (4) The members appointed pursuant to paragraphs (2) and (3) of this subsection shall  
45 be customers of the utility system and shall serve four-year terms of office.

46 (5) In the event a vacancy occurs among the elected membership of the commission, for  
47 whatever reason, the remaining members of the commission shall:

48 (A) If the vacancy occurs within the first two years of the member's term, appoint a  
49 qualified resident of the city to fill the vacancy until a special election can be  
50 conducted. The city council shall call, within 30 days of the vacancy, a special election  
51 to fill the vacancy for the remainder of the unexpired term. Such election shall be held  
52 on the date of the next regular municipal election of the city and shall be conducted in  
53 all respects in accordance with the provisions of this charter relating to general  
54 elections; or

55 (B) If the vacancy occurs within the last two years of the member's term, appoint,  
56 within 30 days of the vacancy, a qualified resident of the city to fill the vacancy for the  
57 remainder of the unexpired term.

58 (6) In the event a vacancy occurs among the appointed membership of the commission,  
59 for whatever reason, the appropriate appointing authority shall appoint a qualified  
60 customer of the utility system to fill the vacancy for the remainder of the unexpired term."

61 "(1) The city, with the approval of the commission, may use, expend, or invest revenue  
62 derived from the operation of utilities under the commission for any cause or purpose in  
63 promotion of the common welfare of the city or its citizens, and for this purpose may use  
64 the revenue derived from the operation of such utilities to supplement the funds available  
65 for the operations and maintenance of the public school system serving the residents of  
66 the city, and for such other purpose or purposes as the city and the commission may  
67 determine. Before any funds are used as aforesaid for promoting the common welfare  
68 of citizens of the city or to supplement funds available to the public school system, the

69 city and the commission, by proper ordinance or resolution of each body, shall agree to  
70 such use and the amount to be so used in each instance from the utility rates collected by  
71 the commission. Notwithstanding the foregoing, the commission shall annually pay to  
72 the city, in lieu of franchise fees, the greater of \$1.25 million or 6.0 percent of all revenue  
73 collected for charges for services for the year, to be paid in 12 monthly installments of  
74 \$104,165.00 on or before the fifteenth day of each month, with a final payment due, if  
75 required, within 90 days of the completion of the commission's comprehensive annual  
76 financial report for the subject year. This payment shall be known as a payment in lieu  
77 of franchise fees. The city may use such payment in lieu of franchise fees funds, once  
78 received from the commission, for any lawful purpose without the further consent of the  
79 commission. All contracts and agreements between the city or the commission and any  
80 authorities, carriers, or providers, including without limitation contracts, agreements, or  
81 directions relating to the Municipal Electric Authority of Georgia, in effect on the  
82 effective date of this Act shall be unaffected by the terms hereof."

83 **SECTION 2.**

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