

House Bill 685 (AS PASSED HOUSE AND SENATE)

By: Representatives Bentley of the 139th and Dickey of the 140th

A BILL TO BE ENTITLED
AN ACT

1 To amend an Act providing a new charter for the City of Fort Valley, approved August 22,
2 1907 (Ga. L. 1907, p. 651), as amended, so as to provide for the establishment and powers
3 of the Fort Valley Utility Commission; to provide for related matters; to repeal conflicting
4 laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 An Act providing a new charter for the City of Fort Valley, approved August 22, 1907
8 (Ga. L. 1907, p. 651), as amended, is amended by adding a new Section 1.1 as follows:

9 "SECTION 1.1.

10 (a) The Utility Commission for the City of Fort Valley, hereinafter referred to respectively
11 as the "commission" and the "city", created under the provisions of an Act providing a new
12 charter for the City of Fort Valley, approved August 22, 1907 (Ga. L. 1907, p. 651), as
13 amended, shall be recognized as a body corporate, and shall continue to be subject to all
14 contracts and obligations previously entered into by the city or the commission pertaining
15 to rights, duties, and obligations of the city or commission relating to the creation, building,
16 operation, and supply of water, electricity, gas, cable television operations, sewer system, and
17 other utilities (hereinafter the "utilities" or "utility system"). The commission shall continue
18 to be an instrumentality of the city, with all the powers incident to or convenient or necessary
19 to discharge its duties, including those provided for by an Act approved December 18, 1953
20 (Ga. L. 1953, p. 2817), as amended, particularly by an Act approved April 4, 1991 (Ga. L.
21 1991, p. 3701) and shall be a continuation of the utility commission provided for by such
22 Acts as amended. The commission shall have the right to sue and be sued and power to
23 make all contracts and obligations necessary or convenient to discharge the duties that
24 devolve upon it. All contracts and agreements between the city or the commission and any

25 authorities, carriers, or providers, including without limitation contracts, agreements, or
26 directions relating to the Municipal Electric Authority of Georgia created by Article 3 of
27 Chapter 3 of Title 46 of the O.C.G.A., in effect on the effective date of this Act shall be
28 unaffected by the terms hereof.

29 (b) The commission shall consist of four members to be elected as hereinafter provided with
30 powers and duties hereinafter specified. The mayor of the city shall be an ex officio member
31 of the commission but may vote only in case of a tie vote of the regular members of the
32 commission.

33 (c) Those utility commissioners in office on the effective date of this Act shall serve the
34 terms of office provided for by an Act approved April 4, 1991 (Ga. L. 1991, p. 3701), as
35 amended, and the election of their successors shall be as provided for by said Act. The term
36 of office of the utility commissioners elected thereafter shall be four years, beginning on
37 January 1 of the year following the year of their election and expiring on December 31 of the
38 year of the election of their successors and upon the qualification of those successors. The
39 four utility commissioners of the city shall be elected to numbered posts designated as Posts
40 1, 2, 3, and 4. Each person seeking election as utility commissioner shall designate, at the
41 time of qualifying for election to that office, the post to which that person seeks election. A
42 person elected as utility commissioner to Post 1 shall have been a resident of the East Ward,
43 as described in the charter of the city, for at least six months immediately prior to such
44 person's election, shall continue to reside in that ward during that person's term of office, and
45 shall have received a majority of the votes cast in only the East Ward. A person elected as
46 utility commissioner to Post 2 shall have been a resident of the West Ward, as described in
47 the charter of the city, for at least six months immediately prior to such person's election,
48 shall continue to reside in that ward during that person's term of office, and shall have
49 received a majority of the votes cast in only the West Ward. A person elected as utility
50 commissioner to Post 3 or Post 4 shall have resided in the city for at least 12 months prior
51 to such election and shall have received a majority of the votes cast in the city at large. No
52 person shall hold the office of utility commissioner of the city if that person is ineligible for
53 such office pursuant to Code Section 45-2-1 of the O.C.G.A., or any other general law.

54 (d) The commission shall fix the compensation of its members by resolution. A resolution
55 fixing or changing such compensation may be repealed in the manner hereinafter provided.
56 The mayor of the city shall call for a referendum on the question of whether such resolution
57 shall be repealed if a petition is filed with the mayor containing thereon at least 15 percent
58 of the signatures of the registered electors of said city requesting such election. The mayor
59 and council shall determine the validity of such petition within 30 days after its filing. In the
60 event the petition is found to be valid, it shall be the duty of the mayor to issue the call for
61 an election to coincide with the next city election. Said election shall be governed by the

62 provisions of Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code." The
63 mayor shall cause a notice of the date and purpose of said election to be published in the
64 official organ of said city or of Peach County at least 15 days prior to said election. Such
65 notice shall contain a statement of the compensation received by such members immediately
66 prior to the adoption of said resolution and the present compensation being received by such
67 members pursuant to the provisions of said ordinance. If more than one-half of the votes cast
68 on such question are for approval of the resolution, it shall continue of full force and effect;
69 otherwise, it shall be repealed, and said members shall thereafter receive the compensation
70 they were receiving immediately prior to the adoption of said resolution.

71 (e) The commission shall have the power and authority to extend its utility system beyond
72 the limits of the city under applicable service delivery agreements as entered into by the
73 appropriate recognized party into such places and to such distances as the commission may
74 determine by proper resolution, and to serve customers on said utility system so extended at
75 such rates as may be fixed by the commission. The commission shall have the right, power,
76 and authority to build and erect plants and other facilities beyond the corporate limits of the
77 city for the operation of utilities, in such manner and under such terms and conditions as the
78 commission may determine, not in violation of the Constitution or laws of this state. The
79 commission shall take the proceeds of any bonds sold for the purpose of erecting utility
80 systems and build and erect such systems to the best advantage its customers and the city,
81 and to this end, if it thinks best and proper, may purchase and acquire any property now
82 owned and operated by any other company, entity or person. Nothing in this Act shall be
83 construed to expand the commission's power and authority with respect to the utility system
84 beyond the limits imposed by applicable general law.

85 (f) The commission is hereby expressly authorized to purchase or sell real or personal
86 property at public or private sale in its own name and under such terms and conditions and
87 for whatever consideration the commission deems necessary. The commission is further
88 authorized to trade, exchange, lease, rent, and otherwise contract in its own name concerning
89 any real or personal property that the city may now or hereafter own or have an interest in
90 and which forms a part of the commission's utility system, provided that the commission
91 satisfies any indebtedness thereon. All proceeds from any such sale shall be used solely for
92 the benefit of the utility system, provided that the commission has satisfied any indebtedness
93 thereon or purchased the same, as applicable, from commission proceeds. All such property
94 acquired after July 1, 2019, shall be the property of the commission, but the commission shall
95 have the right and responsibility to manage and operate any real or personal property that the
96 city may now or hereafter own or have an interest in and which forms a part of the
97 commission's utility system; provided, however, that nothing in this paragraph shall impair
98 obligations or covenants entered into in respect of such property or revenues prior to the date

99 of its enactment; and provided, further, that the terms of existing agreements permitting
100 additional and future obligations to be issued or refinanced by the repledging of such
101 property or revenues shall be unaffected by the terms of this Act.

102 (g) The commission may compel lot owners within the city to connect with sewers; and may
103 purchase or condemn any property within or without the city that may be necessary for the
104 utility system. Any such condemnation shall be done in cooperation with the city, and in
105 case it shall become necessary to condemn any property under this section, or for any other
106 public works, the proceedings shall be the same as provided for by the charter of the city,
107 shall utilize the city's power to condemn if necessary, and the city may assist the commission
108 in any such condemnation proceedings, as necessary. The commission shall have power to
109 enforce compliance therewith by suitable penalties as may be necessary for the protection
110 of the utility system, and for the securing the purity and healthfulness of the water supply,
111 and shall have full power and authority to abate, or cause to be abated, and remove through
112 its proper officers anything that may hinder, retard, or impair the usefulness of any utilities
113 under its jurisdiction. The commission shall have full power and authority to make rules and
114 regulations respecting the introduction of utilities into or upon any premises, and from time
115 to time regulate the use thereof in such manner as the commission shall seem necessary and
116 proper, and the officials representing the commission and in its service are hereby authorized
117 and empowered to enter at all reasonable hours any dwelling or other place where any or all
118 of said utilities are taken and used, and where unnecessary waste thereof is known or
119 suspected, and examine and enquire into the cause thereof. They shall have full power to
120 examine all surface pipes, stopcocks, or other apparatus or appliance connected with any
121 such utilities for the purpose of ascertaining whether the same are of the character and fixed
122 and used in the manner directed in permits issued therefor; and if any person refuses to
123 permit such examination, or opposes or obstructs such officer in the performance of said
124 duties, the person so offending shall be liable to such penalty as the commission may
125 provide; and the utility connection, any or all of them, when necessary to meet the exigencies
126 of the case, may be shut off until the required examination is made and such alterations and
127 repairs are completed as may be necessary and directed by the commission.

128 (h) The commission is authorized to lay or construct gas mains and gas distribution systems
129 both within and without the corporate limits of the city under applicable service delivery
130 agreements, and to issue gas revenue-anticipation certificates for such purpose in accordance
131 with law, and any certificates heretofore issued by the city or commission for such purpose
132 are hereby ratified and affirmed. The city, acting by and through the commission, shall have
133 the right, power, and authority to exercise police powers over the entire gas system and shall
134 have the right, power, and authority to make rules and regulations governing the operation,
135 maintenance, extensions, and connections with any gas main within or without the corporate

136 limits of the city and shall have the right, power, and authority to require all users of gas who
137 connect with the gas mains within or without the corporate limits of the city to install proper
138 meters and make connections in accordance with the rules and regulations provided therefor
139 and shall further have the right, power, and authority to refuse to sell or furnish gas to any
140 person, firm, corporation, or municipal corporation who fails or refuses to comply with such
141 rules and regulations. Nothing contained herein shall be construed as granting to any person,
142 firm, or private or municipal corporation the right to require said commission to furnish gas
143 and the commission shall not be so required to do, if, in its discretion same is not deemed
144 desirable or feasible.

145 (i) The commission shall have full power and authority to fix the price and regulate the
146 terms covering the payment of same on all utility rents, fees, dues, or rates within the utility
147 systems operated by it. In the event that any of said utilities are not operated by commission,
148 then and in that event, the commission shall have the right to regulate the charges and to
149 formulate rules and regulations for the installation and use of same, and exercise general
150 supervision over the business thus carried on, and should any person, firm, or corporation
151 refuse to comply with the lawful directives of the commission, then and in that event, said
152 person, firm, or corporation shall be punished as for a misdemeanor in accordance with the
153 city charter for each and every offense. All contracts and agreements between the city or the
154 commission and any authorities, carriers, or providers, including without limitation contracts,
155 agreements, or directions relating to the Municipal Electric Authority of Georgia, in effect
156 on the effective date of this Act shall be unaffected by the terms hereof.

157 (j) The commission and the city shall have power and authority to enforce by execution the
158 collection of any amount due or to become due to it for utility rents, fees, dues, or rates.
159 Such execution shall be issued by the commission against the person, corporation, or firm
160 by whom any such debt may be due, which execution may be levied by the marshal on the
161 property of the owner against whom such execution shall issue, and the same sold as
162 provided for municipal sales for taxes.

163 (k) The commission is vested with the right and authority to set aside revenues realized from
164 utility rents, fees, dues, or rates to be used, from time to time, for the construction,
165 maintenance, and repair of any or all facilities which the commission may consider necessary
166 or proper for the manufacture, sale, production, re-sale, and distribution of such utilities.
167 Said funds may be invested or deposited as provided by law, pending the use of said funds
168 as aforesaid. All contracts and agreements between the city or the commission and any
169 authorities, carriers, or providers, including without limitation contracts, agreements, or
170 directions relating to the Municipal Electric Authority of Georgia, in effect on the effective
171 date of this Act shall be unaffected by the terms hereof. Nothing in this Act shall impair or

172 otherwise interfere with the commission's rights to existing utility funds, including those
173 funds held at or by the Municipal Electric Authority of Georgia.

174 (l) The city, with the approval of the commission, may use, expend, or invest revenue
175 derived from the operation of utilities under the commission for any cause or purpose in
176 promotion of the common welfare of the city or its citizens, and for this purpose may use the
177 revenue derived from the operation of such utilities to supplement the funds available for the
178 operations and maintenance of the public school system serving the residents of the city, and
179 for such other purpose or purposes as the city and the commission may determine. Before
180 any funds are used as aforesaid for promoting the common welfare of citizens of the city or
181 to supplement funds available to the public school system, the city and the commission, by
182 proper ordinance or resolution of each body, shall agree to such use and the amount to be so
183 used in each instance from the utility rates collected by the commission. Notwithstanding
184 the foregoing, and unless otherwise agreed to by the city and the commission, the
185 commission shall annually pay to the city, in lieu of franchise fees, the greater of \$1.25
186 million or 6.0 percent of all revenue collected for charges for services for the year, to be paid
187 in twelve monthly installments of \$104,165.00 on or before the 15th day of each month, with
188 a final payment due, if required, within 90 days of the completion of the commission's
189 comprehensive annual financial report for the subject year. This payment shall be known as
190 a payment in lieu of franchise fees. The city may use such payment in lieu of franchise fees
191 funds, once received from the commission, for any lawful purpose without the further
192 consent of the commission. All contracts and agreements between the city or the
193 commission and any authorities, carriers, or providers, including without limitation contracts,
194 agreements, or directions relating to the Municipal Electric Authority of Georgia, in effect
195 on the effective date of this Act shall be unaffected by the terms hereof.

196 (m) Neither the city nor the commission may, except as otherwise provided for in this Act,
197 sell, lease, or otherwise dispose of any part of the utility system, or grant any franchise,
198 privilege, or right to sell or distribute utilities or electric current to any user of such current
199 in quantities of less than 100 horsepower, or grant any franchise to pump, store, or distribute
200 water within or without the limits of the city unless and until not less than 75 percent of the
201 qualified voters of the city vote in favor of such sale, lease, or other disposition of said
202 facilities at an election called for that purpose by the mayor and city council of the city. A
203 notice of such election shall be published in the official organ of Peach County once a week
204 for four weeks next preceding the election date, stating the time and place of the election and
205 the purpose for which held.

206 (n) The commission may issue revenue bonds as now or hereafter provided by law, payable
207 out of the revenue produced by the project, program, or venture for the purpose of which
208 such bonds were issued."

209

SECTION 2.

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