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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

SECTION 1.1.

(a) The Utility Commission for the City of Fort Valley, hereinafter referred to respectively as the "commission" and the "city", created under the provisions of an Act providing a new charter for the City of Fort Valley, approved August 22, 1907 (Ga. L. 1907, p. 651), as amended, shall be recognized as a body corporate, and shall continue to be subject to all contracts and obligations previously entered into by the city or the commission pertaining to rights, duties, and obligations of the city or commission relating to the creation, building, operation, and supply of water, electricity, gas, cable television operations, sewer system, and other utilities (hereinafter the "utilities" or "utility system"). The commission shall continue to be an instrumentality of the city, with all the powers incident to or convenient or necessary to discharge its duties, including those provided for by an Act approved December 18, 1953 (Ga. L. 1953, p. 2817), as amended, particularly by an Act approved April 4, 1991 (Ga. L. 1991, p. 3701) and shall be a continuation of the utility commission provided for by such Acts as amended. The commission shall have the right to sue and be sued and power to make all contracts and obligations necessary or convenient to discharge the duties that devolve upon it. All contracts and agreements between the city or the commission and any...
authorities, carriers, or providers, including without limitation contracts, agreements, or
directions relating to the Municipal Electric Authority of Georgia created by Article 3 of
Chapter 3 of Title 46 of the O.C.G.A., in effect on the effective date of this Act shall be
unaffected by the terms hereof.

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

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

(d) The commission shall fix the compensation of its members by resolution. A resolution
fixing or changing such compensation may be repealed in the manner hereinafter provided.
The mayor of the city shall call for a referendum on the question of whether such resolution
shall be repealed if a petition is filed with the mayor containing thereon at least 15 percent
of the signatures of the registered electors of said city requesting such election. The mayor
and council shall determine the validity of such petition within 30 days after its filing. In the
event the petition is found to be valid, it shall be the duty of the mayor to issue the call for
an election to coincide with the next city election. Said election shall be governed by the
provisions of Chapter 2 of Title 21 of the O.C.G.A., the "Georgia Election Code." The mayor shall cause a notice of the date and purpose of said election to be published in the official organ of said city or of Peach County at least 15 days prior to said election. Such notice shall contain a statement of the compensation received by such members immediately prior to the adoption of said resolution and the present compensation being received by such members pursuant to the provisions of said ordinance. If more than one-half of the votes cast on such question are for approval of the resolution, it shall continue of full force and effect; otherwise, it shall be repealed, and said members shall thereafter receive the compensation they were receiving immediately prior to the adoption of said resolution.

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

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

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

(h) The commission is authorized to lay or construct gas mains and gas distribution systems
both within and without the corporate limits of the city under applicable service delivery
agreements, and to issue gas revenue-anticipation certificates for such purpose in accordance
with law, and any certificates heretofore issued by the city or commission for such purpose
are hereby ratified and affirmed. The city, acting by and through the commission, shall have
the right, power, and authority to exercise police powers over the entire gas system and shall
have the right, power, and authority to make rules and regulations governing the operation,
maintenance, extensions, and connections with any gas main within or without the corporate
limits of the city and shall have the right, power, and authority to require all users of gas who
connect with the gas mains within or without the corporate limits of the city to install proper
meters and make connections in accordance with the rules and regulations provided therefor
and shall further have the right, power, and authority to refuse to sell or furnish gas to any
person, firm, corporation, or municipal corporation who fails or refuses to comply with such
rules and regulations. Nothing contained herein shall be construed as granting to any person,
firm, or private or municipal corporation the right to require said commission to furnish gas
and the commission shall not be so required to do, if, in its discretion same is not deemed
desirable or feasible.

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

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

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

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

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

(n) The commission may issue revenue bonds as now or hereafter provided by law, payable
out of the revenue produced by the project, program, or venture for the purpose of which
such bonds were issued."
SECTION 2.

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