

House Bill 1769

By: Representatives Roberts of the 162nd, Dukes of the 161st and Skipper of the 137th

A BILL TO BE ENTITLED

AN ACT

1 To comprehensively revise an Act creating the Chehaw Park Authority, approved April 11,
2 1979 (Ga. L. 1979, p. 4515), as amended; to consolidate and clarify the powers and mission
3 of the authority established as a public corporation and instrumentality of the State of
4 Georgia; to authorize the authority, subject to the conditions and limitations contained in this
5 Act, to operate and manage The Parks at Chehaw (formerly known as Chehaw Park) located
6 in Lee and Dougherty counties, Georgia; to provide for the membership of the authority and
7 the terms of the members; to repeal provisions authorizing the authority to pledge, mortgage,
8 convey, assign, hypothecate, or otherwise encumber real property held by the authority; to
9 modify the procedure for declaring membership positions to be vacant and for the
10 appointment of persons to fill unexpired terms; to require that all members of the authority
11 be at least 18 years of age; to repeal the provision establishing the mayor of the City of
12 Albany as an ex officio member of the authority; to substitute the office of secretary for the
13 office of secretary-treasurer and to provide that the secretary, if not a voting member of the
14 authority, shall be an ex officio member for the term of his or her office; to substitute the
15 office of executive director for the office of chief executive director and to designate the
16 executive director as an ex officio member of the authority; to repeal the provision mandating
17 appointment of a member from nominees submitted by Chehaw Wildlife Society, Inc., or its
18 successor and to require that one member of the authority be appointed from a slate of
19 nominees submitted by the Friends of Chehaw, Inc.; to limit the term of one member of the
20 authority to a period of one year, beginning July 1, 2002, so that thereafter four voting
21 members shall be appointed annually to serve a term of two years; to revise the provisions
22 respecting meetings of the authority; to change the provisions relating to quorums; to
23 authorize the appointment of former members of the authority as voting committee members;
24 to eliminate provisions pertaining to the issuance and payment of revenue bonds; to provide
25 that authority members shall not be personally liable for monetary damages for any action
26 taken, or any failure to take any action, unless such act or failure to perform constitutes
27 self-dealing, a criminal act, willful misconduct, or recklessness; to extend the duration of the

1 authority through December 31, 2020; to provide for the severability of the provisions of this
 2 Act; to provide an effective date; to repeal conflicting laws; and for other purposes.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

4 **SECTION 1.**

5 An Act creating the Chehaw Park Authority, approved April 11, 1979 (Ga. L. 1979, p. 4515),
 6 as amended, is amended by striking Sections 1 through 20 of said Act and inserting in lieu
 7 thereof the following:

8 "SECTION 1.

9 Continuation of the authority.

10 The Chehaw Park Authority, created by an Act approved April 11, 1979 (Ga. L. 1979, p.
 11 4515), as amended, as a public corporation and instrumentality of the State of Georgia, shall
 12 continue to exist subject to the legislative revisions contained in this Act. Nothing contained
 13 in this Act shall shorten, lengthen, or otherwise modify the terms of the members of the
 14 authority who are currently serving, nor shall this Act affect or impair any contractual
 15 relationship entered into by the authority prior to the effective date of this Act.

16 **SECTION 2.**

17 **Definitions.**

18 As used in this Act, the term:

19 (1) 'Authority' means the Chehaw Park Authority created by an Act approved April 11,
 20 1979 (Ga. L. 1979, p. 4515), as amended.

21 (2) 'Cost of the project' shall embrace the cost of construction; the cost of lands,
 22 properties, rights, leases, easements, and franchises acquired and the cost of all
 23 conveyances in fee simple incurred by the authority for title thereto; the cost of preparing
 24 the land, including the construction of all facilities and utilities necessary for the
 25 operation of the park; the cost of all wild animals acquired for the park; the cost of all
 26 machinery, equipment, and furnishings related to any project or projects; financing
 27 charges; interest prior to and during construction and for six months after completion of
 28 construction; the cost of engineering, architectural, accounting, and legal expenses and
 29 other expenses necessary and incident to determining the feasibility or practicability of
 30 the project; administrative expenses; and such other expenses as may be necessary or
 31 incident to the financing authorized in this Act; and the cost of placing any project in

1 operation. Any expenses incurred for any of the foregoing purposes shall be regarded as
2 part of the cost of the project or projects and may be paid or reimbursed out of funds of
3 the authority.

4 (3) 'Park' means The Parks at Chehaw, which is located in Lee and Dougherty counties,
5 Georgia, as presently constituted or as the same may hereafter be enlarged, diminished,
6 or otherwise altered.

7 (4) 'Project' means any undertaking of the authority in connection with the development,
8 redevelopment, improvement, extension, maintenance, or operation of The Parks at
9 Chehaw, located in Lee and Dougherty counties, and shall be deemed to mean and
10 include, but is not limited to, construction at The Parks at Chehaw, maintenance and
11 operation of The Parks at Chehaw, including all facilities useful or desirable in
12 connection with the same, and the acquisition of necessary property therefor, both real
13 and personal, including, but not limited to, wild animals, all of which accomplish the
14 essential public purpose for which the authority was established.

15 SECTION 3.

16 Venue and jurisdiction.

17 The authority may sue and be sued, implead and be impleaded, and complain and defend
18 in all courts of law and equity as Chehaw Park Authority. Any action to protect or enforce
19 any rights under the provisions of this Act or any suit or action against the authority shall
20 be brought in the Superior Court of Dougherty County, Georgia, which shall have
21 exclusive, original jurisdiction of such actions. The authority shall continuously maintain
22 an agent for service of process whose name and address shall be registered with the office
23 of the Secretary of State.

24 SECTION 4.

25 Purposes of the authority.

26 The authority is and shall remain an institution of purely public charity, dedicated to the
27 promotion of the general public welfare in matters of cultural development, education,
28 pleasure, convenience, and recreation of the public at large, and particularly those citizens
29 residing in Lee and Dougherty counties, Georgia. The authority was created as and shall
30 remain a public beneficence, dedicated to the good of humanity and the general
31 improvement and happiness of society. It is declared and established that the operation,
32 maintenance, and expansion of the park is a proper public purpose and that the authority
33 shall be responsible for operation, maintenance, and expansion of the park.

1 SECTION 5.

2 Purposes of the Act.

3 This Act is adopted for the purpose of promoting and facilitating the operation,
4 maintenance, and expansion of the park by consolidating previous legislation, repealing
5 superfluous provisions of the enabling legislation, and otherwise revising the Act creating
6 the authority and amendments thereto. The authority shall, without limitation, retain the
7 rights to undertake projects, to acquire animals, and to construct any and all other facilities
8 useful or desirable in connection therewith, acquiring the necessary property therefor, both
9 real and personal, with the right to contract for the use of or to lease any or all of said
10 facilities and to do any and all things deemed by the authority necessary, convenient, or
11 desirable for and incident to the efficient and proper development, operation, and
12 modernization of the park. The implementation of the corporate purposes set forth in this
13 Act are, in all respects, for the benefit of the people of this state.

14 SECTION 6.

15 Title to authority property to be held
16 for public benefit.

17 All property of the authority is declared and shall in all respects be considered to be public
18 property and title to such property shall be held by the authority only for the benefit of the
19 public. The use of such property pursuant to the terms of this Act shall be and is declared
20 to be for public and governmental purposes.

21 SECTION 7.

22 Property not subject to levy and sale.

23 The property of the authority shall not be subject to levy and sale under legal process. No
24 real property of the authority may be pledged, mortgaged, conveyed, assigned, or otherwise
25 encumbered as security or collateral for the payment of a loan or note should such
26 agreement or indenture provide for foreclosure or forced sale of any property of the
27 authority upon default on such indebtedness either in payment of principal or interest or
28 upon default in the performance of any term or condition contained in such agreement or
29 indenture.

SECTION 8.

Property and income exempt from taxation.

All the property, income, obligations, and interest on the obligations of the authority and the transfer thereof shall be and are declared to be nontaxable for any and all purposes.

SECTION 9.

Composition and organization of authority.

(a) The authority shall consist of nine voting members who shall be eligible to succeed themselves. Members must be at least 18 years of age and reside in Dougherty County or any county contiguous to Dougherty County.

(b) The members of the authority shall be appointed by the Board of Commissioners of the City of Albany (hereinafter 'board of commissioners') as follows:

(1) One member of the authority shall be appointed by the board of commissioners from its own membership to serve as a member of the authority concurrently with his or her term of office as commissioner;

(2) One member of the authority shall be appointed by the board of commissioners from a slate of not less than three nominees submitted by the Friends of Chehaw, Inc., who shall serve as a representative of that organization for a term of two years;

(3) The other voting members of the authority shall be appointed by the board of commissioners for terms of two years, with the exception of one member who shall be appointed to serve a term of one year beginning July 1, 2002. Four voting members shall be appointed for a term of two years, beginning July 1, 2003, and each year thereafter so that the board of commissioners will make four appointments annually unless an office is otherwise vacated;

(4) The city manager of the City of Albany shall be an ex officio member of the authority, without a vote; and

(5) All vacancies created as the result of the expiration of the term of said members, or when their office is otherwise vacated, shall be filled by the board of commissioners.

(c) Each member of the authority shall hold office until a successor shall have been appointed and qualified.

(d) Six voting members of the authority shall constitute a quorum, and no vacancy on the authority shall impair the right of the quorum to exercise all the rights and perform all the duties of the authority at every meeting. A majority vote of a quorum shall authorize any legal act of the authority, including all things necessary to incur debt, except as otherwise provided in this Act or in the bylaws of the authority.

1 (e) The authority shall elect one of its members as chairperson and one as vice chairperson
2 and shall elect a secretary, who may but need not necessarily hold membership in the
3 authority. The secretary, if not an appointed voting member, shall, for the duration of his
4 or her term, be an ex officio member of the authority.

5 (f) The authority shall appoint an executive director who shall be responsible for the
6 administration and execution of the policies of the authority. The executive director shall
7 have such powers, duties, authority, and responsibilities as shall be provided by the
8 authority. The compensation and terms and conditions of the executive director's
9 employment shall be as provided by the authority. The executive director shall be an ex
10 officio member of the authority.

11 (g) The authority shall meet at such times and places as it shall determine; but, in any
12 event, the authority shall meet not less often than one time each calendar month.

13 (h) The Board of Commissioners of the City of Albany may declare vacated the office of
14 any member of the authority who is absent for two consecutive meetings of the authority
15 or more than three meetings of the authority in any fiscal year, without the excuse of the
16 authority. The board of commissioners shall fill the unexpired term of the membership
17 position so vacated at the earliest practical date.

18 (i) The board of commissioners shall declare vacated the office of any member of the
19 authority who is no longer a resident of Dougherty County or any county contiguous to
20 Dougherty County. The board of commissioners shall fill the unexpired term of the
21 membership position so vacated at the earliest practical date.

22 (j) The authority may appoint former members of the authority, who are not currently
23 voting members, to serve as voting members of its committees.

24 SECTION 10.

25 Duties of the authority.

26 (a) The members of the authority shall be accountable in all respects as trustees, and the
27 authority shall keep suitable books and records of all its obligations, contracts, transactions,
28 and undertakings and of all income and receipts of every nature and all expenditures of
29 every kind.

30 (b) The authority shall adopt bylaws and regulations for its own government and the
31 conduct and management of the authority, which may not be amended by a vote of less
32 than seven members.

33 (c) The authority shall assure that detailed minutes are taken at each meeting, documenting
34 the attendance of members, their votes, and statements concerning the issues presented for
35 consideration.

1 (d) The authority shall designate officers to sign and act for the authority generally or in
2 any specific manner.

3 (e) The authority shall adopt a corporate seal, which may not be amended by a vote of less
4 than seven members.

5 (f) The authority shall appoint officers and retain employees, attorneys, and accountants
6 as may be necessary to manage and operate the park.

7 (g) The authority shall prescribe, charge, and collect admission fees and revise same from
8 time to time and establish and collect charges and rent for the services, facilities, and
9 commodities furnished by the authority.

10 (h) The authority shall accumulate its funds from year to year and invest accumulated
11 funds in any manner that public funds of the State of Georgia or any of its political
12 subdivisions may be invested.

13 (i) The authority shall make or cause to be made studies and analyses from time to time
14 concerning the operation of the park and its needs. The authority may, in furtherance of
15 such studies and analyses:

16 (1) Retain, employ, and engage architects and other professional and technical experts
17 as it may require to formulate reports, designs, and recommendations;

18 (2) Prepare a plan or plans for the development and redevelopment of the park, which
19 may be coordinated with governmental planning boards subject to the condition that the
20 authority shall have the ultimate responsibility for preparation of such plan or plans; and

21 (3) Implement any general plan of development in the park which has been approved by
22 the Board of Commissioners of the City of Albany.

23 SECTION 11.

24 Powers of the authority.

25 The authority shall have all of the powers necessary or convenient to carry out and
26 effectuate the purposes and provisions set forth in this Act, including, but without limiting
27 the generality of the foregoing, the power:

28 (1) To contract with the City of Albany to furnish employees to the authority, which
29 employees shall be subject to the control and direction of the executive director of the
30 authority, but who shall be and remain city employees for all purposes, including
31 payment of salaries and the enjoyment of all employee benefits, and who shall be subject
32 to all rules and regulations and requirements of city employees;

33 (2) To make contracts and to execute all instruments necessary or convenient, including
34 contracts for construction of projects and leases of projects or contracts with respect to
35 the use of projects which it causes to be erected or acquired;

1 (3) To contract with any departments, institutions, agencies, counties, municipalities, or
2 political subdivisions of the State of Georgia, public corporations, private legal entities,
3 and others upon such terms and for such purposes as may be deemed advisable for a term
4 not exceeding 50 years. Any such political subdivision shall have and is given the right
5 and power to make such contracts; and the sums contracted to be paid to the authority
6 under such contract or contracts entered into pursuant to the provisions of this Act shall
7 constitute general obligations of the political subdivision for the payment of which the
8 full faith and credit of such political subdivision shall be and the same is pledged to
9 provide the funds required to fulfill all obligations arising under any such contract. Any
10 such political subdivision which shall have entered into such a contract pursuant to the
11 provisions of this Act shall in each and every fiscal year during the term of such contract
12 include in a general revenue or appropriation measure, whether or not any other items are
13 included, sums sufficient to satisfy the payments required to be made in each year by
14 such contract until all payments required under such contract have been paid in full; and
15 such revenues shall be and are unconditionally obligated to the payment of such sums.
16 The amount of the appropriation in each fiscal year to meet the obligations of such
17 contract as authorized and required by this paragraph shall be due and payable and shall
18 be expanded for the purposes of paying and meeting the obligations provided under the
19 terms and conditions of such contract; and such appropriation shall have the same legal
20 status as if the contracting political subdivision had included the amount of the
21 appropriation in its general revenue or appropriation measure. Any such political
22 subdivision is specifically authorized to levy taxes, without limitation as to rate or
23 amount, and to expend tax moneys of said political subdivision and any other available
24 funds thereof, and to obligate said political subdivision to make payment thereof to the
25 authority upon such terms as may be provided in any such contract entered into by and
26 between the authority and said political subdivision in order to enable the authority to pay
27 the cost of operating and maintaining parks, to enable the authority to pay the principal
28 of and interest on any of its debts as the same mature, and also to create and maintain a
29 reserve. In the event for any reason any such provision or appropriation is not made, then
30 the fiscal officers of such political subdivision are authorized and directed to set up as an
31 appropriation on their accounts in each fiscal year the amounts required to pay the
32 obligations called for under any such contract; and such fiscal officers shall make such
33 payment to the authority if for any reason such appropriation is not otherwise made;

34 (4) To acquire, contract, construct, improve, equip, operate, maintain, and manage
35 projects, as defined in Section 2 of this Act, the cost of any such project to be paid, in
36 whole or in part, from the proceeds of a special purpose local option sales tax or from
37 such proceeds and any grant or contribution from the United States of America or any

1 agency or instrumentality thereof or from the State of Georgia or any agency or
2 instrumentality thereof;

3 (5) To construct, acquire, own, repair, remodel, maintain, extend, improve, and equip
4 projects located on land owned or leased by the authority and to pay all or part of the cost
5 of any such project from the proceeds of the authority or from any contribution or loans
6 by persons, firms, or corporations, or any other contributions, all of which the authority
7 is authorized to receive, accept, and use;

8 (6) To acquire by purchase, gift, or donation any real or personal property desired to be
9 acquired as a part of any project or for the purpose of improving, extending, adding to,
10 reconstructing, renovating, or remodeling any project or part thereof already acquired or
11 for the purpose of demolition to make room for such project or any part thereof;

12 (7) To receive and administer gifts, grants, and devises of any property and to administer
13 trusts;

14 (8) To acquire by purchase, gift, or lease any property owned by a political subdivision
15 which has been acquired or damaged through the exercise of the right of eminent domain
16 by said political subdivision;

17 (9) To borrow money and to issue notes for the purpose of paying all or part of the cost
18 of any project, including the cost of extending, adding to, or improving such project;

19 (10) To sell, lease, exchange, transfer, assign, pledge, mortgage, or dispose of, or grant
20 options for any such purposes, any personal property or interest therein;

21 (11) To have and to exercise any and all of the usual powers of private and public
22 corporations which are not in conflict with the Constitution and the laws of the State of
23 Georgia; and

24 (12) To do any and all acts and things necessary or convenient to accomplish or to
25 complement the purposes and powers of the authority as stated in this Act.

26 SECTION 12.

27 Authority members not to be
28 compensated for service.

29 The members of the authority shall not be entitled to compensation for their services but
30 may be reimbursed by the authority for their actual expenses properly incurred in the
31 performance of their duties.

1 SECTION 13.

2 Limitation of personal liability.

3 No member of the authority shall be personally liable for monetary damages for any action
4 taken or any failure to take any action unless such act or failure to act giving rise to the
5 claim is determined by a court to have constituted self-dealing, a criminal act, willful
6 misconduct, or recklessness.

7 SECTION 14.

8 Duration.

9 The existence of the authority is extended through December 31, 2020.

10 SECTION 15.

11 Construction.

12 This Act and all provisions, rights, powers, and authority granted under this Act, being for
13 the welfare of the state and its inhabitants, shall be liberally construed for the
14 accomplishment of its purposes.

15 SECTION 16.

16 Powers declared supplementary.

17 The provisions of this Act shall be regarded as supplementary and additional to powers
18 conferred by other laws and shall not be regarded as being in derogation of any powers
19 now existing.

20 SECTION 17.

21 Severability.

22 The provisions of this Act are severable, and if any of its provisions shall be held
23 unconstitutional by any court of competent jurisdiction, the decision of such court shall not
24 affect or impair any of the remaining provisions. Notwithstanding any other evidence of
25 legislative intent, it is declared to be the controlling legislative intent that if any provision of
26 this Act or the application thereof to any person or circumstances is held invalid, the
27 remainder of the Act and the application of such provisions to persons or circumstances,
28 other than those as to which it is held invalid, shall not be affected thereby. Insofar as the

1 provisions of this Act are inconsistent with the provisions of any other law, the provisions
2 of this Act shall be controlling."

3 **SECTION 2.**

4 Effective date.

5 This Act shall become effective upon its approval by the Governor or upon its becoming law
6 without such approval.

7 **SECTION 3.**

8 Repealer.

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