

House Bill 685 (AS PASSED HOUSE AND SENATE)

By: Representatives Epps of the 128th and James of the 135th

A BILL TO BE ENTITLED
AN ACT

1 To create the Manchester Public Utilities Authority and to provide for the appointment of
2 members of the authority; to confer powers upon the authority; to authorize the issuance of
3 revenue bonds of the authority payable from the revenues, tolls, fees, charges and earnings
4 of the authority, contract payments to the authority and from other moneys pledged therefor
5 and to authorize the collection and pledging of the revenues, tolls, fees, charges, earnings and
6 contract payments of the authority for the payment of such revenue bonds; to authorize the
7 execution of resolutions and trust indentures to secure the payment of the revenue bonds of
8 the authority and to define the rights of the holders of such obligations; to make the revenue
9 bonds of the authority exempt from taxation; to fix and provide the venue and jurisdiction
10 of actions relating to any provisions of this Act; to provide for the validation of bonds; to
11 provide for the separate enactment of each provision of this Act; to provide an effective date;
12 to repeal conflicting laws; and for other purposes.

13 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

14 **SECTION 1.**

15 Short title.

16 This Act shall be known and may be cited as the "Manchester Public Utilities Authority Act."

17 **SECTION 2.**

18 Manchester Public Utilities Authority.

19 (a) There is hereby created a public body corporate and politic to be known as the
20 "Manchester Public Utilities Authority," which shall be deemed to be a political subdivision
21 of the state and a public corporation, and by that name, style and title said body may contract
22 and be contracted with, sue and be sued, implead and be impleaded and complain and defend
23 in all courts of law and equity. The authority shall have perpetual existence.

24 (b) The authority shall consist of five members who shall be appointed by the city council.
 25 Members of the city council may be appointed as members of the authority. With respect to
 26 the initial appointments, two members shall be appointed for a term of three years, two
 27 members shall be appointed for a term of two years, and one member shall be appointed for
 28 a term of one year. Thereafter, all appointments shall be made for terms of three years and
 29 until successors are appointed and qualified. Immediately after such appointments the
 30 members of the authority shall enter upon their duties. To be eligible for appointment as a
 31 member of the authority, a person shall be at least 21 years of age, shall reside in Talbot or
 32 Meriwether County and shall not have been convicted of a felony. Any member of the
 33 authority may be selected and appointed to succeed himself or herself.

34 (c) The city council may provide by resolution for compensation for the services of the
 35 members of the authority in such amounts as it may deem appropriate; provided, however,
 36 that such members shall be reimbursed for their actual expenses necessarily incurred in the
 37 performance of their duties.

38 (d) The members of the authority shall elect one of their number as chairperson and another
 39 as a vice chairperson. The members of the authority shall also elect a secretary, who need
 40 not be a member of the authority, and may also elect a treasurer, who need not be a member
 41 of the authority. The secretary may also serve as treasurer. If the secretary or treasurer are
 42 not members of the authority, such officer shall have no voting rights. Each of such officers
 43 shall serve for a period of one year and until their successors are duly elected and qualified.

44 (e) Three members of the authority shall constitute a quorum. No vacancy on the authority
 45 shall impair the right of the quorum to exercise all of the rights and perform all of the duties
 46 of the authority.

47 **SECTION 3.**

48 **Definitions.**

49 As used in this Act, the term:

50 (a) "Authority" means the Manchester Public Utilities Authority created by this Act.

51 (b) "City council" means the mayor and council of the City of Manchester.

52 (c) "Costs of the project" means and embraces the cost of construction; the cost of all
 53 lands, properties, rights, easements and franchises acquired; the cost of acquiring an
 54 existing public or private utility; the cost of all machinery and equipment; financing
 55 charges; interest prior to and during construction and for six months after completion of
 56 construction; the cost of engineering, architectural, fiscal agents, accounting, legal, plans
 57 and specifications, and other expenses necessary or incidental to determining the feasibility
 58 or practicability of the project; administrative expenses, and such other expenses as may

59 be necessary or incident to the financing herein authorized; working capital; and all other
60 costs necessary to acquire, construct, add to, extend, improve, equip, operate and maintain
61 the project.

62 (d) "Project" means any "undertaking" permitted by the 'Revenue Bond Law' and cable
63 services.

64 (e) "Revenue Bond Law" means Article 3 of Chapter 82 of Title 36 of the O.C.G.A., the
65 'Revenue Bond Law' of the State of Georgia, as amended, or any other similar law
66 hereinafter enacted.

67 (f) "Revenue bonds" means revenue bonds authorized to be issued pursuant in this Act.

68 (g) "Self liquidating" means any project which the revenues and earnings to be derived by
69 the authority therefrom, including but not limited to any contractual payments with
70 governmental or private entities, and all properties used, leased, and sold in connection
71 therewith, together with any grants, will be sufficient to pay the costs of operating,
72 maintaining and repairing the project and to pay the principal and interest on the revenue
73 bonds or other obligations which may be issued for the purpose of paying the costs of the
74 project.

75 (h) "State" means the State of Georgia.

76 SECTION 4.

77 Powers.

78 The authority shall have the power:

79 (a) To have a seal and alter the same at its pleasure;

80 (b) To acquire by purchase, lease, gift, condemnation, or otherwise, and to hold, operate,
81 maintain, lease, and dispose of real and personal property of every kind and character for
82 its corporate purposes;

83 (c) To acquire in its own name by purchase, on such terms and conditions and in such
84 manner as it may deem proper, or by condemnation in accordance with the provisions of
85 any and all existing laws applicable to the condemnation of property for public use, real
86 property or rights or easements therein, or franchises necessary or convenient for its
87 corporate purposes, and to use the same so long as its corporate existence shall continue,
88 and to lease or make contracts with respect to the use of or dispose of the same in any
89 manner it deems to the best advantage of the authority, the authority being under no
90 obligation to accept and pay for any property condemned under this Act, except from the
91 funds provided under the authority of this Act, and in any proceedings to condemn, such
92 orders may be made by the court having jurisdiction of the suit, action or proceedings as
93 may be just to the authority and to the owners of the property to be condemned, and no

- 94 property shall be acquired under the provisions of this Act upon which any lien or
95 encumbrance exists, unless at the time such property is so acquired a sufficient sum of
96 money is to be deposited in trust to pay and redeem the fair value of such lien or
97 encumbrance;
- 98 (d) To appoint, select and employ officers, agents and employees, including engineering
99 architectural and construction experts, fiscal agents and attorneys, and fix their respective
100 compensations;
- 101 (e) To execute contracts, leases, installment sale agreements and other agreements and
102 instruments necessary or convenient in connection with the acquisition, construction,
103 addition, extension, improvement, equipping, operation or maintenance of a project; and
104 any and all persons, firms and corporations, municipalities and political subdivisions,
105 including, but not limited to the City of Manchester, Meriwether County, and Talbot
106 County, are hereby authorized to enter into contracts, leases, installment sale agreements
107 and other agreements or instruments with the authority upon such terms and for such
108 purposes as they deem advisable and as they are authorized by law;
- 109 (f) To acquire, construct, add to, extend, improve, equip, hold, operate, maintain, lease and
110 dispose of projects;
- 111 (g) To pay the costs of the project with the proceeds of revenue bonds or other obligations
112 issued by the authority or from any grant or contribution from the United States of America
113 or any agency or instrumentality thereof or from the state or any agency or instrumentality
114 or other municipality or political subdivision thereof or from any other source whatsoever;
- 115 (h) To accept loans and grants of money or materials or property of any kind from the
116 United States of America or any agency or instrumentality thereof, upon such terms and
117 conditions as the United States of America or such agency or instrumentality may require;
- 118 (i) To accept loans and grants of money or materials or property of any kind from the state
119 or any agency or instrumentality or municipality or political subdivision thereof, upon such
120 terms and conditions as the state or such agency or instrumentality or political subdivision
121 may require;
- 122 (j) To borrow money for any of its corporate purposes and to issue revenue bonds, and to
123 provide for the payment of the same and for the rights of the holders thereof;
- 124 (k) To exercise any power usually possessed by private corporations performing similar
125 functions, including the power to incur short-term debt and to approve, execute, and deliver
126 appropriate evidence of any such indebtedness; and
- 127 (l) To do all things necessary or convenient to carry out the powers expressly given in this
128 Act.

129 **SECTION 5.**

130 Revenue bonds.

131 The authority shall have power and is hereby authorized to provide by resolution for the
132 issuance of revenue bonds of the authority for the purpose of paying all or any part of the
133 costs of the project and for the purpose of refunding revenue bonds or other obligations
134 previously issued. The principal of and interest on such revenue bonds shall be payable
135 solely from the special fund hereby provided for such payment. The revenue bonds of each
136 issue shall be dated, shall bear interest at such rate or rates per annum, payable at such time
137 or times, shall mature at such time or times not exceeding 40 years from their date or dates,
138 shall be payable in such medium of payment as to both principal and interest as may be
139 determined by the authority, and may be redeemable before maturity, at the option of the
140 authority, at such price or prices and under such terms and conditions as may be fixed by the
141 authority in the resolution for the issuance of such revenue bonds.

142 **SECTION 6.**

143 Same; form; denomination; registration; place of payment.

144 The authority shall determine the form of the revenue bonds and shall fix the denomination
145 or denominations of the revenue bonds. The revenue bonds may be issued in coupon or
146 registered form, or both, as the authority may determine, and provision may be made for
147 registration and exchangeability privileges. The authority shall fix the place or places of
148 payment of principal and interest thereon.

149 **SECTION 7.**

150 Same; signatures; seal.

151 All such revenue bonds shall bear the manual or facsimile signature of the chairperson or
152 vice chairperson of the authority and the attesting manual or facsimile signature of the
153 secretary, assistant secretary, or secretary-treasurer of the authority, and the official seal of
154 the authority shall be impressed or imprinted thereon. Any revenue bonds may bear the
155 manual or facsimile signature of such persons as at the actual time of the execution of such
156 revenue bonds shall be duly authorized or hold the proper office, although at the date of
157 issuance of such revenue bonds such person may not have been so authorized or shall not
158 have held such office. In case any officer whose signature shall appear on any revenue bond
159 shall cease to be such officer before the delivery of such revenue bond, such signature shall

160 nevertheless be valid and sufficient for all purposes, the same as if that person had remained
161 in office until such delivery.

162 **SECTION 8.**

163 Same; negotiability; exemption from taxation.

164 All revenue bonds shall have and are hereby declared to have all the qualities and incidents
165 of negotiable instruments under the laws of the state. All revenue bonds, their transfer and
166 the income therefrom shall be exempt from all taxation within the state.

167 **SECTION 9.**

168 Same; sale; price; proceeds.

169 The authority may sell revenue bonds in such manner and for such price as it may determine
170 to be in the best interest of the authority. The proceeds derived from the sale of revenue
171 bonds shall be used solely for the purpose or purposes provided in the resolutions and
172 proceedings authorizing the issuance of such revenue bonds.

173 **SECTION 10.**

174 Same; interim receipts and certificates or temporary bonds.

175 Prior to the preparation of any definitive revenue bonds, the authority may, under like
176 restrictions, issue interim receipts, interim certificates or temporary revenue bonds, with or
177 without coupons, exchangeable for definitive revenue bonds upon the issuance of the latter.

178 **SECTION 11.**

179 Same; replacement of lost or mutilated bonds.

180 The authority may provide for the replacement of any revenue bonds which shall become
181 mutilated or be destroyed or lost.

182 **SECTION 12.**

183 Same; conditions precedent to issuance.

184 The authority shall adopt a resolution authorizing the issuance of the revenue bonds. In the
185 resolution, the authority shall determine that the project financed with the proceeds of the
186 revenue bonds is self-liquidating. Revenue bonds may be issued without any other

187 proceedings or the happening of any other conditions or things other than those proceedings,
188 conditions and things which are specified or required by this Act. Any resolution providing
189 for the issuance of revenue bonds under the provisions of this Act shall become effective
190 immediately upon its passage and need not be published or posted, and any such resolution
191 may be passed at any regular or special or adjourned meeting of the authority by a majority
192 of its members at such meeting.

193 **SECTION 13.**

194 Credit not pledged.

195 Revenue bonds shall not be deemed to constitute a debt of the City of Manchester nor a
196 pledge of the faith and credit of said city. Such revenue bonds shall be payable solely from
197 the fund hereinafter provided for. The issuance of such revenue bonds shall not directly,
198 indirectly or contingently obligate said city to levy or to pledge any form of taxation
199 whatsoever for payment of such revenue bonds or to make any appropriation for their
200 payment, and all such revenue bonds shall contain recitals on their face covering
201 substantially the foregoing provisions of this section. Notwithstanding the foregoing
202 provisions, this Act shall not affect the ability of the authority and any political subdivision
203 or municipality to enter into an intergovernmental contract pursuant to which the political
204 subdivision or municipality agrees to pay amounts sufficient to pay operating charges and
205 other costs of the authority or any project including, without limitation, the principal of and
206 interest on revenue bonds in consideration for services or facilities of the authority.

207 **SECTION 14.**

208 Trust indenture as security.

209 In the discretion of the authority, any issuance of revenue bonds may be secured by a trust
210 indenture by and between the authority and a corporate trustee, which may be any trust
211 company or bank having the powers of a trust company within or without the state. Either
212 the resolution providing for the issuance of the revenue bonds or such trust indenture may
213 contain such provisions for protecting and enforcing the rights and remedies of the
214 bondholders as may be reasonable and proper and not in violation of law, including
215 covenants setting forth the duties of the authority in relation to the acquisition and
216 construction of the project, the maintenance, operation, repair and insuring of the project, and
217 the custody, safeguarding and application of all monies.

218 **SECTION 15.**

219 To whom proceeds of bonds shall be paid.

220 In the resolution providing for the issuance of revenue bonds or in the trust indenture, the
221 authority shall provide for the payment of the proceeds of the sale of the revenue bonds to
222 any officer or person who, or any agency, bank, or trust company which, shall act as
223 depository of such funds and shall hold and apply the same to the purposes thereof subject
224 to such regulations as this Act and such resolution or trust indenture may provide.

225 **SECTION 16.**

226 Sinking fund.

227 The moneys received pursuant to an intergovernmental contract and the revenues, fees, tolls,
228 charges, and earnings derived from any particular project or projects, regardless of whether
229 or not such revenues, fees, tolls, fines, charges, and earnings were produced by a particular
230 project for which revenue bonds have been issued, unless otherwise pledged and allocated,
231 may be pledged and allocated by the authority to the payment of the principal and interest
232 on revenue bonds of the authority as the resolution authorizing the issuance of the revenue
233 bonds or in the trust indenture may provide, and such funds so pledged from whatever source
234 received shall be set aside at regular intervals as may be provided in the resolution or trust
235 indenture, into a sinking fund, which said sinking fund shall be pledged to and charged with
236 the payment of the interest upon such revenue bonds as such interest shall fall due, the
237 principal or purchase price of such revenue bonds as the same shall fall due, any premium
238 upon such revenue bonds as the same shall fall due, the purchase of such revenue bonds in
239 the open market, and the necessary charges of the paying agent for paying principal and
240 interest. The use and disposition of such sinking fund shall be subject to such regulations as
241 may be provided in the resolution authorizing the issuance of the revenue bonds or in the
242 trust indenture, but, except as may otherwise be provided in such resolution or trust
243 indenture, such sinking fund shall be maintained as a trust account for the benefit of all
244 revenue bonds without distinction or priority of one over another.

245 **SECTION 17.**

246 Remedies of bondholders.

247 Any holder of revenue bonds or any of the coupons appertaining thereto, and the trustee
248 under the trust indenture, if any, except to the extent the rights herein given may be restricted
249 by resolution passed before the issuance of the revenue bonds or by the trust indenture, may,

250 either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce
251 any and all rights under the laws of the state, including specifically but without limitation,
252 the 'Revenue Bond Law,' or granted hereunder or under such resolution or trust indenture,
253 and may enforce and compel performance of all duties required by this Act or by such
254 resolution or trust indenture to be performed by the authority or any officer thereof, including
255 the fixing, charging and collecting of revenues, fees, tolls, fines, and other charges for the use
256 of the facilities and services furnished.

257 **SECTION 18.**

258 Validation.

259 Revenue bonds and the security therefor shall be confirmed and validated in accordance with
260 the procedure of the 'Revenue Bond Law.' The petition for validation shall also make party
261 defendant to such action the state, and any institution, department or other agency thereof,
262 and any municipality, political subdivision or authority of the state which has contracted with
263 the authority for services or facilities relating to the project for which revenue bonds are to
264 be issued and sought to be validated, and such defendant shall be required to show cause, if
265 any exists, why such contract or contracts shall not be adjudicated as a part of the basis for
266 the security for the payment of any such revenue bonds. The revenue bonds when validated,
267 and the judgment of validation shall be final and conclusive with respect to such revenue
268 bonds and the security for the payment thereof and interest thereon and against the authority
269 and all other defendants.

270 **SECTION 19.**

271 Venue and jurisdiction.

272 Any action to protect or enforce any rights under the provisions of this Act or any suit or
273 action against such authority shall be brought in the Superior Court of Meriwether County,
274 and any action pertaining to validation of any revenue bonds issued under the provisions of
275 this Act shall likewise be brought in said court which shall have exclusive, original
276 jurisdiction of such actions.

277 **SECTION 20.**

278 Interest of bondholders protected.

279 While any of the revenue bonds issued by the authority remain outstanding, the powers,
280 duties or existence of said authority or its officers, employees, or agents, shall not be

281 diminished or impaired in any manner that will affect adversely the interests and rights of the
282 holders of such revenue bonds, and no other entity, department, agency, or authority will be
283 created which will compete with the authority to such an extent as to affect adversely the
284 interest and rights of the holders of such revenue bonds, nor will the state itself so compete
285 with the authority. The provisions of this Act shall be for the benefit of the authority and the
286 holders of any such revenue bonds, and upon the issuance of such revenue bonds under the
287 provisions hereof, shall constitute a contract with the holders of such revenue bonds.

288 **SECTION 21.**

289 Monies received considered trust funds.

290 All monies received pursuant to the authority of this Act, whether as proceeds from the sale
291 of revenue bonds, as grants or other contributions, or as revenue, income, fees and earnings,
292 shall be deemed to be trust funds to be held and applied solely as provided in this Act.

293 **SECTION 22.**

294 Purpose of the authority.

295 Without limiting the generality of any provision of this Act, the general purpose of the
296 authority is declared to be that of providing public utilities for the citizens in the City of
297 Manchester and environs, including, but not limited to, Talbot County and Meriwether
298 County.

299 **SECTION 23.**

300 Rates, charges and revenues; use.

301 The authority is hereby authorized to prescribe and fix rates and to revise same from time to
302 time and to collect revenues, tolls, fees, and charges for the services, facilities, and
303 commodities furnished, and in anticipation of the collection of the revenues, to issue revenue
304 bonds or other types of obligations as herein provided to finance, in whole or in part, the
305 costs of the project, and to pledge to the punctual payment of said revenue bonds or other
306 obligations, all or any part of the revenues.

307 **SECTION 24.**

308 Rules, regulations, service policies,
309 and procedures for operation of projects.

310 It shall be the duty of the authority to prescribe or cause to be prescribed rules, regulations,
311 service policies, and procedures for the operation of any project or projects constructed or
312 acquired under the provisions of this Act. The authority may adopt bylaws.

313 **SECTION 25.**

314 Tort immunity.

315 To the extent permitted by law, the authority shall have the same immunity and exemption
316 from liability for torts and negligence as the City of Manchester, and the officers, agents, and
317 employees of the authority when in the performance of the work of the authority shall have
318 the same immunity and exemption from liability for torts and negligence as the officers,
319 agents, and employees of the City of Manchester when in the performance of their public
320 duties or work of the city.

321 **SECTION 26.**

322 Provisional tax-exempt status of authority.

323 The properties of the authority, both real and personal, are declared to be public properties
324 used for the benefit and welfare of the people of the state and not for purposes of private or
325 corporate benefit and income, and such properties and the authority shall be exempt from all
326 taxes and special assessments of any municipality, county, or the state and any political
327 subdivision thereof only if otherwise provided by general law and only to the extent provided
328 by general law.

329 **SECTION 27.**

330 Effect on other governments.

331 This Act shall not and does not in any way take from the City of Manchester or any political
332 subdivision or municipality the authority to own, operate and maintain public facilities or to
333 issue revenue bonds as provided by the 'Revenue Bond Law.'

334 **SECTION 28.**

335 Liberal construction of act.

336 This Act being for the welfare of various political subdivisions and municipalities of the state
337 and its inhabitants, shall be liberally construed to effect the purposes hereof.

338 **SECTION 29.**

339 Severability; effect of partial invalidity of act.

340 The provisions of this Act are severable, and if any of its provisions shall be held
341 unconstitutional by any court of competent jurisdiction, the decision of such court shall not
342 affect or impair any of the remaining provisions.

343 **SECTION 30.**

344 Effective date.

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

347 **SECTION 31.**

348 Repealer.

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