

## House Bill 168 (RULES COMMITTEE SUBSTITUTE)

By: Representatives Cox of the 102<sup>nd</sup>, Martin of the 47<sup>th</sup>, Reese of the 98<sup>th</sup>, Parsons of the 42<sup>nd</sup>, and May of the 111<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 4 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated,  
2 relating to telecommunications and competition development, so as to modernize  
3 telecommunications competition by eliminating artificial and outdated subsidy mechanisms  
4 in the form of contributions to the Universal Access Fund; to provide for related matters; to  
5 provide for an effective date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 4 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated, relating to  
9 telecommunications and competition development, is amended by revising Code Section  
10 46-5-162, relating to definitions relative to "The Telecommunications and Competition  
11 Development Act of 1995," as follows:

12 "46-5-162.

13 As used in this article, the term:

14 (1) 'Alternative regulation' means a form of regulation pursuant to which the rates, terms,  
15 and conditions for telecommunications services provided by a local exchange company  
16 are set pursuant to the rules specified in this article.

17 (2) 'Basic local exchange ~~services~~ service' or 'universal access local exchange ~~services~~  
18 service' ~~mean~~ means the provision to residential and single line business customers in  
19 Georgia of services composed of a touch tone switched access line and dial tone; of a  
20 quality sufficient for ~~two-way~~ two-way voice and 9600 baud data/fax communications.

21 This service shall include 1+ dialing for access to competitive providers of  
22 telecommunications services by January 1, 1997. The elements of universal access local  
23 exchange services are subject to subsequent review and modification by the commission.

24 (3) 'Caller identification service' means a type of telephone service which permits  
25 telephone customers to see the telephone number of incoming telephone calls.

26 (4) 'Commission' means the Georgia Public Service Commission.

27 (5) 'Electing company' means a local exchange company subject to the alternative  
28 regulation described in this article.

29 ~~(6) 'Fund' means the Universal Access Fund created in Code Section 46-5-167.~~

30 ~~(7)~~ 'Gross domestic product-price index' or 'GDP-PI' means the gross domestic product  
31 fixed weight price index calculated by the United States Department of Commerce.

32 ~~(8)~~(7) 'Interconnection service' means the service of providing access to a local exchange  
33 company's facilities for the purpose of enabling another telecommunications company  
34 to originate or terminate telecommunications service.

35 ~~(9)~~(8) 'Local calling area' means the geographic area encompassing one or more local  
36 ~~exchanges~~ exchange services as described in commission orders or in maps, tariffs, and  
37 rate schedules reviewed and approved by the commission.

38 ~~(10)~~(9) 'Local exchange company' means a telecommunications company authorized to  
39 provide local exchange service as described in this article. For purposes of this article,  
40 there shall be two categories of local exchange companies:

41 (A) Tier 1 companies are those companies with 2 million or more access lines within  
42 Georgia holding a certificate of public convenience and necessity issued by the  
43 commission; and

44 (B) Tier 2 companies are those companies with less than 2 million access lines within  
45 Georgia holding a certificate of public convenience and necessity issued by the  
46 commission.

47 ~~(11)~~(10) 'Local exchange ~~services~~ service' means ~~services~~ service offered for the  
48 transmission and utilization of two-way interactive communications and associated usage  
49 with the local calling area.

50 ~~(12)~~(11) 'Local interconnection ~~services~~ service' means that part of switched  
51 interconnection service provided for the purpose of originating or terminating a call  
52 which originates and terminates within the local calling area.

53 ~~(13)~~(12) 'Portability' means the technical capability that permits a customer to retain the  
54 same local number at the same customer location regardless of the provider of the local  
55 exchange service.

56 ~~(14)~~(13) 'Switched access' means that part of switched interconnection service provided  
57 for the purpose of originating or terminating a toll service.

58 ~~(15)~~(14) 'Switched interconnection service' means that part of interconnection service  
59 which utilizes the local exchange company's switching facilities to provide line or  
60 trunkside access or both to the local exchange company's end office or tandem switches  
61 for the purpose of originating and terminating the telecommunications services of other  
62 telecommunications companies.

63 ~~(16)~~(15) 'Tariff' means the schedule or other writing filed with the commission that  
 64 describes the rates, terms, and conditions of certain telecommunications services provided  
 65 by the telecommunications company.

66 ~~(17)~~(16) 'Telecommunications company' means any person, firm, partnership,  
 67 corporation, association, or municipal, county, or local governmental entity offering  
 68 telecommunications services to the public for hire.

69 ~~(18)~~(17) 'Telecommunications ~~services~~ service' means the ~~services~~ service for the  
 70 transmission of two-way interactive communications to the public for hire. For purposes  
 71 of illustration, the term 'telecommunications ~~services~~ service' includes without limitation  
 72 local exchange services and interconnection services.

73 ~~(19)~~(18) 'Toll service' means the transmission of two-way interactive switched  
 74 communications between local calling areas.

75 ~~(20)~~(19) 'Universal access provider' means a local exchange company that is obligated  
 76 to provide basic local exchange service in all of its local calling areas in response to  
 77 reasonable requests for such service and which, in consideration of such obligation, may  
 78 have its rates for local ~~switched~~ interconnection service established as provided in this  
 79 article."

80

## SECTION 2.

81 Said article is further amended by revising subsection (e) of Code Section 46-5-164, relating  
 82 to interconnection among certificated local exchange companies, as follows:

83 "(e) The commission is authorized to allow local exchange companies to resell the services  
 84 purchased from other local exchange companies pursuant to rules determining when and  
 85 under what circumstances such resale shall be allowed; ~~provided, however, that the resale~~  
 86 ~~of basic local exchange services supported by the Universal Access Fund shall be limited~~  
 87 ~~to users and uses conforming to the definition of basic local exchange services set forth in~~  
 88 ~~paragraph (2) of Code Section 46-5-162.~~ Any local exchange company or  
 89 telecommunications company desiring to purchase or to resell services purchased from  
 90 another local exchange company may petition the commission for the authorization to  
 91 purchase or to resell such services. In cases where the purchase or resale of services  
 92 purchased is authorized by the commission, the commission shall determine the reasonable  
 93 rates, terms, or conditions for the purchase or resale of such local exchange services such  
 94 that no local exchange company or telecommunications company gains an unfair market  
 95 position. The commission shall render a final decision in any proceeding initiated pursuant  
 96 to the provisions of this subsection no later than 60 days after the close of the record except  
 97 that the commission, by order, may extend such period in any case in which it shall find  
 98 that the complexity of the issues and the length of the record require an extension of such

99 period, in which event, the commission shall render a decision at the earliest date  
 100 practicable. In no event shall the commission delay the rendering of a final decision in such  
 101 proceeding beyond the earlier of 120 days after the close of the record or 180 days from  
 102 the filing of the notice of petition under this subsection. The commission, at its discretion  
 103 or upon a petition filed by either party, may modify a ruling rendered under this subsection,  
 104 provided that a petition for modification ~~may~~ shall not be filed more than once in any 18  
 105 month period."

106 **SECTION 3.**

107 Said article is further amended by revising Code Section 46-5-167, relating to the Universal  
 108 Access Fund, as follows:

109 "46-5-167.

110 ~~(a) The commission shall create a Universal Access Fund to assure the provision of~~  
 111 ~~reasonably priced access to basic local exchange services throughout Georgia. The fund~~  
 112 ~~shall be administered by the commission under rules to be promulgated by the commission~~  
 113 ~~as needed to assure that the fund operates in a competitively neutral manner between~~  
 114 ~~competing telecommunications providers.~~

115 ~~(b) The commission shall require all telecommunications companies providing~~  
 116 ~~telecommunications services within Georgia to contribute quarterly to the fund in a~~  
 117 ~~proportionate amount to their gross revenues from sale to end users of such~~  
 118 ~~telecommunications services as determined by rules to be promulgated by the commission.~~

119 ~~(c) The commission may also require any telecommunications company to contribute to~~  
 120 ~~the fund if, after notice and opportunity for hearing, the commission determines that the~~  
 121 ~~company is providing private local exchange services or radio based local exchange~~  
 122 ~~services in this state that compete with a telecommunications service provided in this state~~  
 123 ~~for which a contribution to the fund is required under this Code section.~~

124 ~~(d) Contributions to the fund shall be determined by the commission based upon estimates~~  
 125 ~~as to the difference in the reasonable actual costs of basic local exchange services~~  
 126 ~~throughout Georgia and the amounts established by law or regulations of the commission~~  
 127 ~~as to the maximum amounts that may be charged for such services.~~

128 ~~(e) Moneys in the fund shall be distributed quarterly to all providers of basic local~~  
 129 ~~exchange services upon application and demonstration that the reasonable costs as~~  
 130 ~~determined by the commission to provide basic local exchange services exceed the~~  
 131 ~~maximum fixed price permitted for such basic local exchange services. The commission~~  
 132 ~~may take into account the possibility that a competing local exchange company is~~  
 133 ~~providing or could provide lower cost basic local exchange services. Competitive providers~~  
 134 ~~shall be entitled to obtain a similar subsidy from the fund to the extent that they provide~~

135 ~~basic local exchange services; provided, however, that such subsidy shall not exceed 90~~  
 136 ~~percent of the per line amount provided the incumbent local exchange company for existing~~  
 137 ~~basic local exchange service or 100 percent of new basic local exchange service.~~

138 ~~(f) The commission shall require any local exchange company seeking reimbursement~~  
 139 ~~from the fund to file the information reasonably necessary to determine the actual and~~  
 140 ~~reasonable costs of providing basic local exchange services.~~

141 ~~(g) The commission shall have the authority to make adjustments to the contribution or~~  
 142 ~~distribution levels based on yearly reconciliations and to order further contributions or~~  
 143 ~~distributions as needed between companies to equalize reasonably the burdens of providing~~  
 144 ~~basic local exchange service throughout Georgia.~~

145 ~~(h) A local exchange company or other company shall not establish a surcharge on~~  
 146 ~~customers' bills to collect from customers' contributions required under this Code section.~~

147 Reserved."

148 **SECTION 4.**

149 Said article is further amended by revising Code Section 46-5-168, relating to jurisdiction  
 150 and authority of commission, as follows:

151 "46-5-168.

152 (a) The jurisdiction of the commission under this article shall be construed to include the  
 153 authority necessary to implement and administer the express provisions of this article  
 154 through rule-making proceedings and orders in specific cases.

155 (b) The commission's jurisdiction shall include the authority to:

156 (1) Adopt reasonable rules governing certification of local exchange companies;

157 (2) Grant, modify, impose conditions upon, or revoke a certificate;

158 ~~(3) Establish and administer the Universal Access Fund including modifications to the~~  
 159 ~~maximum allowable charge for basic local exchange service;~~

160 ~~(4)~~ Adopt reasonable rules governing service quality;

161 ~~(5)~~(4) Resolve complaints against a local exchange company regarding that company's  
 162 service;

163 ~~(6)~~(5) Require a telecommunications company electing alternative regulation under this  
 164 article to comply with the rate adjustment provisions of this article;

165 ~~(7)~~(6) Approve and if necessary revise, suspend, or deny tariffs in accordance with the  
 166 provisions of this article;

167 ~~(8)~~(7) If necessary, elect another comparable measurement of inflation calculated by the  
 168 United States Department of Commerce;

169 ~~(9)~~(8) Establish reasonable rules and methodologies for performing cost allocations  
 170 among the services provided by a telecommunications company; and

171 ~~(10)~~(9) Direct telecommunications companies to make investments and modifications  
 172 necessary to enable portability.

173 (c) The commission shall render a final decision in any proceeding initiated pursuant to  
 174 the provisions of this article no later than 60 days after the close of the record except that  
 175 the commission, by order, may extend such period in any case in which it shall find that  
 176 the complexity of the issues and the length of the record require an extension of such  
 177 period, in which event the commission shall render a decision at the earliest date  
 178 practicable. In no event shall the commission delay the rendering of a final decision in such  
 179 proceeding beyond the earlier of 120 days after the close of the record or 180 days from  
 180 the filing of the notice of rulemaking, petition, or complaint that initiated the proceeding.

181 (d) In conducting any rule-making proceeding under this article, the commission shall  
 182 consider the following factors:

183 (1) The extent to which cost-effective competitive alternatives are available to existing  
 184 telecommunications networks and services; and

185 (2) Requirements necessary to prevent any disadvantage or economic harm to  
 186 consumers, protect universal affordable service, ~~establish and maintain an affordable~~  
 187 ~~Universal Access Fund~~, protect the quality of telecommunications services, prevent  
 188 anticompetitive practices, and prevent abandonment of service to areas where there is no  
 189 competing provider of telecommunications service.

190 (e) Subject to any other provision of law protecting the confidentiality of trade secrets, the  
 191 commission shall have access to the books and records of telecommunications companies  
 192 as may be necessary to ensure compliance with the provisions of this article and with the  
 193 commission's rules and regulations and to carry out its responsibilities under this article.

194 (f) In order to promote economic development and competitive advantage for the State of  
 195 Georgia, the commission shall have the authority to petition, intervene, or otherwise  
 196 commence proceedings before the appropriate federal agencies and courts having specific  
 197 jurisdiction over the regulation of telecommunications seeking to enhance the competitive  
 198 market for telecommunications services within ~~the~~ this state."

199 **SECTION 5.**

200 This Act shall become effective on July 1, 2010.

201 **SECTION 6.**

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