

Senate Bill 285

By: Senator Robertson of the 29th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Part 1 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia
 2 Annotated, relating to general provisions regarding telephone service, so as to dedicate funds
 3 derived from public safety support surcharges to the Peace Officers' Annuity and Benefit
 4 Fund for the benefit of their membership; to provide for the remittance of such collected
 5 surcharges to the fund; to provide for definitions; to provide for exceptions; to amend Article
 6 4 of Chapter 17 of Title 47 of the Official Code of Georgia Annotated, relating to revenues
 7 collected from fines and fees, so as to provide for a public safety support surcharge to be paid
 8 to the fund; to provide for related matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Part 1 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated,
 12 relating to general provisions regarding telephone service, is amended by adding a new Code
 13 section to read as follows:

14 "46-5-29.

15 (a) As used in this Code section, the term:

16 (1) 'Call' means any communication, message, signal, or transmission.

17 (2) 'Exchange access facility' means the access from a particular telephone subscriber's
18 premises to the telephone system of a service supplier. Exchange access facilities include
19 service supplier provided access lines, PBX trunks, and Centrex network access registers,
20 all as defined by tariffs of the telephone companies as approved by the commission or,
21 in the case of detariffed services, as defined in publicly available guidebooks or other
22 publicly available service supplier publications. Such term also includes Voice over
23 Internet Protocol service suppliers and any other communication, message, signal, or
24 information delivery system capable of initiating a 9-1-1 emergency call. Exchange
25 access facilities do not include service supplier owned and operated telephone pay station
26 lines, Wide Area Telecommunications Services (WATS), Foreign Exchange (FX), or
27 incoming only lines.

28 (3) 'Mobile telecommunications service' means commercial mobile radio service, as such
29 term is defined in 47 C.F.R. Section 20.3.

30 (4) 'Prepaid wireless service' means any method where a telephone subscriber pays in
31 advance for a wireless telecommunications connection:

32 (A) That is sold in predetermined units or dollars:

33 (i) The number of which declines with use in a known amount; and

34 (ii) Which expire without an additional retail purchase of units or dollars;

35 (B) That is not offered in conjunction with other communications services for which
36 the terms permit payment in arrears; and

37 (C) The charges for which are:

38 (i) Not billed to any telephone subscriber or other person; or

39 (ii) Not provided to a telephone subscriber or other person in a monthly statement.

40 Such term shall include, without limitation, calling or usage privileges included with the
41 purchase of a wireless telephone as well as additional calling or usage privileges
42 purchased by any means, including, without limitation, a calling card, a call, or an
43 internet transaction.

44 (5) 'Public safety support surcharge' means the surcharge created pursuant to this Code
45 section to be appropriated to the Peace Officers' Annuity and Benefit Fund provided for
46 in Chapter 17 of Title 47.

47 (6) 'Retail transaction' means the purchase of prepaid wireless service from a seller for
48 any purpose other than resale.

49 (7) 'Service supplier' means a person or entity that provides telephone service to a
50 telephone subscriber.

51 (8)(A) 'Telephone service' means any method by which a call is delivered to one or
52 more other telephone subscribers. Such term shall include local exchange access
53 facilities or other telephone communication service, wireless service, mobile
54 telecommunications service, computer service, Voice over Internet Protocol service, or
55 any technology that delivers a call to one or more other telephone subscribers and that
56 is:

57 (i) A telecommunications service as such term is defined in Code Section 48-8-2; and

58 (ii) Neither a prepaid calling service nor a prepaid wireless calling service as such
59 terms are defined in Code Section 48-8-2.

60 (B) When a service supplier provides to the same person, business, or organization the
61 voice channel capacity to make more than one simultaneous outbound call from an
62 exchange access facility, then each such separate outbound call voice channel capacity,
63 regardless of technology, shall constitute a separate telephone service.

64 (C) When the same person, business, or organization has several wireless telephones,
65 each wireless telecommunications connection shall constitute a separate telephone
66 service; provided, however, that multiple wireless devices that share a single telephone
67 number and which are generally offered for use primarily by a single individual shall
68 constitute a single telephone service.

69 (D) A broadband connection used for telephone service shall not constitute a separate
70 voice channel capacity subscription for purposes of the public safety support surcharge.

71 (9) 'Telephone subscriber' means a person or entity to which retail telephone service,
72 either residential or commercial, is provided.

73 (10) 'Voice over Internet Protocol service' includes any technology that permits a voice
74 conversation through any device using a voice connection to a computer, whether through
75 a microphone, a telephone, or other device that sends a digital signal over the internet
76 through a broadband connection to be converted back to the human voice at a distant
77 terminal and that delivers a call to a public safety answering point. Voice over Internet
78 Protocol service shall also include interconnected Voice over Internet Protocol service,
79 which is service that enables real-time, two-way voice communications, requires a
80 broadband connection from the user's location, requires Internet Protocol compatible
81 customer premises equipment, and allows users to receive calls that originate on the
82 public service telephone network and to terminate calls to the public switched telephone
83 network.

84 (11) 'Voice over Internet Protocol service supplier' means a person or entity that provides
85 Voice over Internet Protocol service to subscribers for a fee.

86 (12) 'Wireless service' means 'commercial mobile service' as defined under Section
87 332(D) of the federal Telecommunications Act of 1996 (47 U.S.C. Section 157, et seq.),
88 regulations of the Federal Communications Commission, and the Omnibus Budget
89 Reconciliation Act of 1993 (P.L. 103-66) and includes real-time, two-way interconnected
90 voice service which is provided over networks which utilize intelligent switching
91 capability and offer seamless handoff to customers. Such term does not include one-way
92 signaling service, data transmission service, nonlocal radio access line service, or a
93 private telecommunications service. Such term does include prepaid wireless service.

94 (13) 'Wireless telecommunications connection' means any mobile station for wireless
95 service that connects a provider of wireless service to a provider of telephone service.

96 (b)(1)(A) Unless exempt, the telephone subscriber of any telephone service shall be
97 billed for the monthly public safety support surcharge, if any, imposed with respect to

98 such telephone service by the service supplier. Such public safety support surcharge
99 shall be \$1.00 per month per telephone service provided to the telephone subscriber.
100 (B) In computing the amount due under this subsection, the number of public safety
101 support surcharges a telephone subscriber shall be assessed shall not exceed the number
102 of simultaneous outbound calls that can be made from voice channels the service
103 supplier has activated and enabled. For telephone service that provides to multiple
104 locations shared simultaneous outbound voice channel capacity, the monthly public
105 safety support surcharge shall be assessed only for the portion of such shared voice
106 channel capacity in this state as identified by the service supplier's books and records.
107 In determining the portion of shared capacity in this state, a service supplier may rely
108 on, among other factors, a customer's certification of its allocation of capacity in this
109 state, which may be based on each end user location, the total number of end users, and
110 the number of end users at each end user location.

111 (2) All telephone services billed to federal, state, or local governments shall be exempt
112 from the public safety support surcharge. Each service supplier shall, on behalf of the
113 state, collect the public safety support surcharge from those telephone subscribers to
114 whom it provides telephone service to be remitted to the state for deposit in the general
115 fund of the state treasury. As part of its normal billing process, the service supplier shall
116 collect the public safety support surcharge for each month a telephone service is in
117 service, and it shall list the public safety support surcharge as a separate entry on each
118 bill. If a service supplier receives a partial payment for a bill from a telephone subscriber,
119 the service supplier shall apply the payment against the amount the telephone subscriber
120 owes the service supplier first.

121 (c)(1) There is created a public safety support surcharge, in addition to such surcharge
122 in subsection (b) of this Code section, which imposes an additional charge of \$1.00 per
123 retail transaction.

124 (2) The public safety support surcharge provided for in this subsection shall be collected
125 by the seller from the consumer with respect to each retail transaction occurring in this
126 state. The amount of the public safety support surcharge shall be either separately stated
127 on an invoice, receipt, or other similar document that is provided to the consumer by the
128 seller or otherwise disclosed to the consumer.

129 (3) For the purposes of this subsection, a retail transaction that is effected in person by
130 a consumer at a business location of the seller shall be treated as occurring in this state
131 if such business location is in this state, and any other retail transaction shall be treated
132 as occurring in this state if the retail transaction is treated as occurring in this state for
133 purposes of a prepaid wireless calling service as provided in paragraph (3) of
134 subsection (e) of Code Section 48-8-77.

135 (4) The public safety support surcharge shall be the liability of the consumer and not of
136 the seller or of any provider, except that the seller shall be liable to remit all prepaid
137 public safety support surcharges that the seller collects from consumers to the state for
138 deposit in the general fund of the state treasury, including all such charges that the seller
139 is deemed to collect where the amount of the charge has not been separately stated on an
140 invoice, receipt, or other similar document provided to the consumer by the seller.

141 (5) The amount of the public safety support surcharge that is collected by a seller from
142 a consumer, if such amount is separately stated on an invoice, receipt, or other similar
143 document provided to the consumer by the seller, shall not be included in the base for
144 measuring any tax, fee, surcharge, or other charge that is imposed by this state, any
145 political subdivision of this state, or any intergovernmental agency.

146 (d)(1) All moneys collected as a public safety support surcharge pursuant to this Code
147 section shall be remitted to the Peace Officers' Annuity and Benefit Fund established in
148 Chapter 17 of Title 47 and such funds shall not lapse as otherwise required by Article III,
149 Section IX, Paragraph IV(c) of the Constitution of Georgia.

150 (2) The funds received by the Peace Officers' Annuity and Benefit Fund shall be used
151 for the sole purpose of supporting the benefits paid to members of the Peace Officers'
152 Annuity and Benefit Fund."

153 **SECTION 2.**

154 Article 4 of Chapter 17 of Title 47 of the Official Code of Georgia Annotated, relating to
155 revenues collected from fines and fees, is amended by adding a new Code section to read as
156 follows:

157 "47-17-64.

158 The fund shall receive all moneys collected as a public safety support surcharge pursuant
159 to Code Section 46-5-29."

160 **SECTION 3.**

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