

House Bill 1272

By: Representatives Martin of the 49<sup>th</sup>, Parsons of the 44<sup>th</sup>, Drenner of the 85<sup>th</sup>, and Houston of the 170<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 4 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia  
2 Annotated, relating to the emergency telephone number 9-1-1 system, so as to clarify  
3 language related to fees; to provide for related matters; to repeal conflicting laws; and for  
4 other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Part 4 of Article 2 of Chapter 5 of Title 46 of the Official Code of Georgia Annotated,  
8 relating to the emergency telephone number 9-1-1 system, is amended by revising Code  
9 Section 46-5-134, relating to billing of subscribers, liability of subscriber for service charge,  
10 taxes on service, establishment of Emergency Telephone System Fund, cost recovery fee,  
11 records, and use of funds, as follows:

12 "46-5-134.

13 (a)(1)(A)(i) Unless exempt, the telephone subscriber of any telephone service shall  
14 be billed for the monthly 9-1-1 charge, if any, imposed with respect to such telephone  
15 service by the service supplier. Such 9-1-1 charge shall be \$1.50 per month per

16 telephone service provided to the telephone subscriber except as reduced pursuant to  
17 paragraph (4) of subsection (d) of this Code section.

18 (ii) In computing the amount due under this subsection, the number of 9-1-1 charges  
19 a telephone subscriber shall be assessed shall not exceed the number of simultaneous  
20 outbound calls that can be made from voice channels the service supplier has  
21 activated and enabled. For telephone service that provides to multiple locations  
22 shared simultaneous outbound voice channel capacity configured to and capable of  
23 accessing a 9-1-1 system in different states, the monthly 9-1-1 charge shall be  
24 assessed only for the portion of such shared voice channel capacity in this state as  
25 identified by the service supplier's books and records. In determining the portion of  
26 shared capacity in this state, a service supplier may rely on, among other factors, a  
27 customer's certification of its allocation of capacity in this state, which may be based  
28 on each end user location, the total number of end users, and the number of end users  
29 at each end user location.

30 (B) All telephone services billed to federal, state, or local governments shall be exempt  
31 from the 9-1-1 charge. Each service supplier shall, on behalf of the local government,  
32 collect the 9-1-1 charge from those telephone subscribers to whom it provides  
33 telephone service in the area served by the emergency 9-1-1 system. As part of its  
34 normal billing process, the service supplier shall collect the 9-1-1 charge for each  
35 month a telephone service is in service, and it shall list the 9-1-1 charge as a separate  
36 entry on each bill. Nothing in this Code section shall be construed to require a service  
37 supplier to list the 9-1-1 charge as a surcharge or separate entry on each bill. Service  
38 suppliers that do not list the 9-1-1 charge as a separate entry on each bill shall remit the  
39 9-1-1 charge for each telephone subscriber that pays the bill; provided, however, that  
40 this such information shall be maintained in a form auditors can access. If a service  
41 supplier receives a partial payment for a bill from a telephone subscriber, the service

42 supplier shall apply the payment against the amount the telephone subscriber owes the  
43 service supplier first.

44 (C) This paragraph shall not apply to wireless service or prepaid wireless service or the  
45 telephone subscribers or service suppliers of such services.

46 (2)(A) If the governing body of a local government operates or contracts for the  
47 operation of a public safety answering point that is capable of providing or provides  
48 automatic number identification of a wireless telecommunications connection and the  
49 location of the base station or cell site which receives a 9-1-1 call from a wireless  
50 telecommunications connection, the subscriber of a wireless telecommunications  
51 connection whose place of primary use is within the geographic area that is served by  
52 the local government or that would be served by the local government for the purpose  
53 of such a public safety answering point may be billed for the monthly wireless  
54 enhanced 9-1-1 charge, if any, imposed with respect to that connection by the wireless  
55 service supplier. Such wireless enhanced 9-1-1 charge shall be \$1.50 per month per  
56 wireless telecommunications connection provided to the telephone subscriber except  
57 as otherwise provided in paragraph (4) of subsection (d) of this Code section.

58 (B) If the governing body of a local government operates or contracts for the operation  
59 of an emergency 9-1-1 system which is capable of providing or provides automatic  
60 number identification and automatic location identification of a wireless  
61 telecommunications connection, the subscriber of a wireless telecommunications  
62 connection whose place of primary use is within the geographic area that is served by  
63 the local government or that would be served by the local government for the purpose  
64 of such an emergency 9-1-1 system may be billed for the monthly wireless enhanced  
65 9-1-1 charge, if any, imposed with respect to that connection by the wireless service  
66 supplier. Such wireless enhanced 9-1-1 charge may not exceed the amount of the  
67 monthly 9-1-1 charge imposed upon other telephone subscribers pursuant to paragraph

68 (1) of this subsection and shall be imposed on a monthly basis for each wireless  
69 telecommunications connection provided to the telephone subscriber.

70 (C) All wireless telecommunications connections billed to federal, state, or local  
71 governments shall be exempt from the wireless enhanced 9-1-1 charge. Each wireless  
72 service supplier shall, on behalf of the local government, collect the wireless enhanced  
73 9-1-1 charge from those telephone subscribers whose place of primary use is within the  
74 geographic area that is served by the local government or that would be served by the  
75 local government for the purpose of such an emergency 9-1-1 system. As part of its  
76 normal billing process, the wireless service supplier shall collect the wireless enhanced  
77 9-1-1 charge for each month a wireless telecommunications connection is in service,  
78 and it may list the wireless enhanced 9-1-1 charge as a separate entry on each bill.  
79 Nothing in this Code section shall be construed to require a wireless service supplier  
80 to list the 9-1-1 charge as a separate entry on each bill. Wireless service suppliers that  
81 do not list the 9-1-1 charge as a separate entry on each bill shall remit the 9-1-1 charge  
82 for each telephone subscriber that pays the bill; provided, however, that this  
83 information shall be maintained in a form auditors can access. If a wireless service  
84 supplier receives partial payment for a bill from a telephone subscriber, the wireless  
85 service supplier shall apply the payment against the amount the telephone subscriber  
86 owes the wireless service supplier first.

87 (D) Notwithstanding the foregoing, the application of any 9-1-1 service charge with  
88 respect to a mobile telecommunications service, as defined in 4 U.S.C. Section 124(7),  
89 shall be governed by the provisions of Code Section 48-8-6.

90 (E) This paragraph shall not apply to prepaid wireless service or the telephone  
91 subscribers or service suppliers of such service.

92 (b) Every telephone subscriber in the area served by the emergency 9-1-1 system shall be  
93 liable for the 9-1-1 charges and the wireless enhanced 9-1-1 charges imposed under this  
94 Code section until it has been paid to the service supplier. A service supplier shall have no

95 obligation to take any legal action to enforce the collection of the 9-1-1 charge or wireless  
96 enhanced 9-1-1 charge. The service supplier shall provide the governing authority within  
97 60 days with the name and address of each subscriber who has refused to pay the 9-1-1  
98 charge or wireless enhanced 9-1-1 charge after such 9-1-1 charge or wireless enhanced  
99 9-1-1 charge has become due. A collection action may be initiated against the subscriber  
100 by the authority and reasonable costs and attorneys' fees associated with that collection  
101 action may be awarded to the authority.

102 (c) The local government contracting for the operation of an emergency 9-1-1 system shall  
103 remain ultimately responsible to the service supplier for all emergency 9-1-1 system  
104 installation, service, equipment, operation, and maintenance charges owed to the service  
105 supplier. Any taxes due on emergency 9-1-1 system service provided by the service  
106 supplier will be billed to the local government subscribing to the service. State and local  
107 taxes do not apply to the 9-1-1 charge or wireless enhanced 9-1-1 charge billed to  
108 telephone subscribers under this Code section.

109 (d)(1) Each service supplier that collects 9-1-1 charges or wireless enhanced 9-1-1  
110 charges on behalf of the local government is entitled to retain as an administrative fee an  
111 amount equal to 1 percent of the gross 9-1-1 or wireless enhanced 9-1-1 charge receipts  
112 to be remitted to the local government; provided, however, that such amount shall not  
113 exceed 1¢ for every dollar so remitted.

114 (2) The 9-1-1 charges and the wireless enhanced 9-1-1 charges collected by the service  
115 supplier and transmitted to the authority for distribution to local governments pursuant  
116 to Code Section 38-3-185 shall, upon being received by a local government, be deposited  
117 and accounted for in a separate restricted revenue fund known as the Emergency  
118 Telephone System Fund maintained by the local government. The local government may  
119 invest the money in the fund in the same manner that other moneys of the local  
120 government may be invested and any income earned from such investment shall be  
121 deposited into the Emergency Telephone System Fund.

122 (3) On or before July 1, 2005, any funds that may have been deposited in a separate  
123 restricted wireless reserve account required by this Code section prior to such date shall  
124 be transferred to the Emergency Telephone System Fund required by paragraph (2) of  
125 this subsection.

126 (4) The governing body of a local government shall be required to reduce such monthly  
127 9-1-1 charge or wireless enhanced 9-1-1 charge at any time the projected revenues from  
128 9-1-1 charges or wireless enhanced 9-1-1 charges will cause the unexpended revenues in  
129 the Emergency Telephone System Fund at the end of the fiscal year to exceed by one and  
130 one-half times the unexpended revenues in such fund at the end of the immediately  
131 preceding fiscal year or at any time the unexpended revenues in such fund at the end of  
132 the fiscal year exceed by one and one-half times the unexpended revenues in such fund  
133 at the end of the immediately preceding fiscal year. Such reduction in the 9-1-1 charge  
134 or wireless enhanced 9-1-1 charge shall be in an amount which will avert the  
135 accumulation of revenues in such fund at the end of the fiscal year which will exceed by  
136 one and one-half times the amount of revenues in the fund at the end of the immediately  
137 preceding fiscal year.

138 (e)(1) A service supplier may recover its costs expended on the implementation and  
139 provision of 9-1-1 services to subscribers by imposing a cost recovery fee not to exceed  
140 45¢ per month or including such costs in existing cost recovery or regulatory recovery  
141 fees billed to the subscriber. In no event shall a service supplier deduct any amounts for  
142 cost recovery or otherwise from the charges to be remitted to the authority pursuant to  
143 Code Section 38-3-185 or 46-5-134.2.

144 (2) A wireless service supplier shall not be authorized to recover any costs under  
145 paragraph (1) of this subsection with respect to any prepaid wireless services.

146 (f)(1) In addition to cost recovery as provided in subsection (e) of this Code section,  
147 money from the Emergency Telephone System Fund shall be used only to pay for:

- 148 (A) The lease, purchase, or maintenance of emergency telephone equipment, including  
149 necessary computer hardware, software, and data base provisioning; addressing; and  
150 nonrecurring costs of establishing a 9-1-1 system;
- 151 (B) The rates associated with the service supplier's 9-1-1 service and other service  
152 supplier's recurring charges;
- 153 (C) The actual cost, according to generally accepted accounting principles, of salaries  
154 and employee benefits incurred by the local government for employees hired by the  
155 local government solely for the operation and maintenance of the emergency 9-1-1  
156 system and employees who work as directors as that term is defined in Code Section  
157 46-5-138.2, whether such employee benefits are purchased directly from a third-party  
158 insurance carrier, funded by the local government's self-funding risk program, or  
159 funded by the local government's participation in a group self-insurance fund. As used  
160 in this paragraph, the term 'employee benefits' means health benefits, disability benefits,  
161 death benefits, accidental death and dismemberment benefits, pension benefits,  
162 retirement benefits, workers' compensation, and such other benefits as the local  
163 government may provide. Said term shall also include any post-employment benefits  
164 the local government may provide;
- 165 (D) The actual cost, according to generally accepted accounting principles, of training  
166 employees hired by the local government solely for the operation and maintenance of  
167 the emergency 9-1-1 system and employees who work as directors as that term is  
168 defined in Code Section 46-5-138.2;
- 169 (E) Office supplies of the public safety answering points used directly in providing  
170 emergency 9-1-1 system services;
- 171 (F) The cost of leasing or purchasing a building used as a public safety answering  
172 point. Moneys from the fund shall not be used for the construction or lease of an  
173 emergency 9-1-1 system building until the local government has completed its street  
174 addressing plan;

175 (G) The lease, purchase, or maintenance of computer hardware and software used at  
176 a public safety answering point, including computer-assisted dispatch systems and  
177 automatic vehicle location systems;

178 (H) Supplies directly related to providing emergency 9-1-1 system services, including  
179 the cost of printing emergency 9-1-1 system public education materials; and

180 (I) The lease, purchase, or maintenance of logging recorders used at a public safety  
181 answering point to record telephone and radio traffic.

182 (2)(A) In addition to cost recovery as provided in subsection (e) of this Code section,  
183 money from the Emergency Telephone System Fund may be used to pay for those  
184 purposes set forth in subparagraph (B) of this paragraph, if:

185 (i) The local government's 9-1-1 system provides enhanced 9-1-1 service;

186 (ii) The revenues from the 9-1-1 charges or wireless enhanced 9-1-1 charges in the  
187 local government's Emergency Telephone System Fund at the end of any fiscal year  
188 shall be projected to exceed the cost of providing enhanced 9-1-1 services as  
189 authorized in subparagraphs (A) through (I) of paragraph (1) of this subsection and  
190 the cost of providing enhanced 9-1-1 services as authorized in subparagraphs (A)  
191 through (I) of paragraph (1) of this subsection includes a reserve amount equal to at  
192 least 10 percent of the previous year's expenditures; and

193 (iii) Funds for such purposes are distributed pursuant to an intergovernmental  
194 agreement between the local governments whose citizens are served by the  
195 emergency 9-1-1 system proportionately by population as determined by the most  
196 recent decennial census published by the United States Bureau of the Census at the  
197 time such agreement is entered into.

198 (B) Pursuant to subparagraph (A) of this paragraph, the Emergency Telephone System  
199 Fund may be used to pay for:

200 (i) The actual cost, according to generally accepted accounting principles, of  
201 insurance purchased by the local government to insure against the risks and liability



202 in the operation and maintenance of the emergency 9-1-1 system on behalf of the  
203 local government or on behalf of employees hired by the local government solely for  
204 the operation and maintenance of the emergency 9-1-1 system and employees who  
205 work as directors as that term is defined in Code Section 46-5-138.2, whether such  
206 insurance is purchased directly from a third-party insurance carrier, funded by the  
207 local government's self-funding risk program, or funded by the local government's  
208 participation in a group self-insurance fund. As used in this division, the term 'cost  
209 of insurance' shall include, but shall not be limited to, any insurance premiums, unit  
210 fees, and broker fees paid for insurance obtained by the local government;

211 (ii) The lease, purchase, or maintenance of a mobile communications vehicle and  
212 equipment, if the primary purpose and designation of such vehicle is to function as  
213 a backup 9-1-1 system center;

214 (iii) The allocation of indirect costs associated with supporting the 9-1-1 system  
215 center and operations as identified and outlined in an indirect cost allocation plan  
216 approved by the local governing authority that is consistent with the costs allocated  
217 within the local government to both governmental and business-type activities;

218 (iv) The lease, purchase, or maintenance of mobile public safety voice and data  
219 equipment, geo-targeted text messaging alert systems, or towers necessary to carry  
220 out the function of 9-1-1 system operations; and

221 (v) The lease, purchase, or maintenance of public safety voice and data  
222 communications systems located in the 9-1-1 system facility that further the  
223 legislative intent of providing the highest level of emergency response service on a  
224 local, regional, and state-wide basis, including equipment and associated hardware  
225 and software that support the use of public safety wireless voice and data  
226 communication systems.

227 (g) All 9-1-1 systems and communication systems provided pursuant to this part shall  
228 conform to the two-step state plan governing enhanced 9-1-1 service as follows:

229 (1) In step one, the governing authority of a local government shall operate or contract  
230 for the operation of an emergency 9-1-1 system that provides or is capable of providing  
231 automatic number identification of a wireless telecommunications connection and the  
232 location of the base station or cell site which received a 9-1-1 call from a wireless  
233 telecommunications connection; and

234 (2) In step two, the governing authority of a local government shall operate or contract  
235 for the operation of an emergency 9-1-1 system that provides or is capable of providing  
236 automatic number identification and automatic location of a wireless telecommunications  
237 connection.

238 (h) The local government may contract with a service supplier for any term negotiated by  
239 the service supplier and the local government for an emergency 9-1-1 system and may  
240 make payments from the Emergency Telephone System Fund to provide any payments  
241 required by the contract, subject to the limitations provided by subsection (e) of this Code  
242 section.

243 (i) The service supplier shall maintain records of the amount of the 9-1-1 charges and  
244 wireless enhanced 9-1-1 charges collected for a period of at least three years from the date  
245 of collection.

246 (j) In order to provide additional funding for the local government for emergency 9-1-1  
247 system purposes, the local government may receive federal, state, municipal, or private  
248 funds which shall be expended for the purposes of this part.

249 (k) Subject to the provisions of Code Section 46-5-133, a telephone subscriber may be  
250 billed for the monthly 9-1-1 charge or wireless enhanced 9-1-1 charge for up to 18 months  
251 in advance of the date on which the 9-1-1 system becomes fully operational.

252 (l) In the event the local government is a federal military base providing emergency  
253 services to telephone subscribers residing on the base, a telephone service supplier is  
254 authorized to apply the 9-1-1 charges collected to the bill for 9-1-1 service rather than remit  
255 the funds to an Emergency Telephone System Fund.

256 (m)(1) Any local government collecting or expending any 9-1-1 charges or wireless  
257 enhanced 9-1-1 charges in any fiscal year beginning on or after July 1, 2005, shall  
258 document the amount of funds collected and expended from such charges. Any local  
259 government collecting or expending 9-1-1 funds shall certify in its audit, as required  
260 under Code Section 36-81-7, that 9-1-1 funds were expended in compliance with the  
261 expenditure requirements of this Code section.

262 (2) Any local government which makes expenditures not in compliance with this Code  
263 section may be held liable for pro rata reimbursement to telephone and wireless  
264 telecommunications subscribers of amounts improperly expended. Such liability may be  
265 established in judicial proceedings by any aggrieved party. The noncompliant local  
266 government shall be solely financially responsible for the reimbursement and for any  
267 costs associated with the reimbursement. Such reimbursement shall be accomplished by  
268 the service suppliers abating the imposition of the 9-1-1 charges and wireless enhanced  
269 9-1-1 charges until such abatement equals the total amount of the rebate."

270

## SECTION 2.

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