



SB-1161 Communications: Voice over Internet Protocol and Internet Protocol enabled communications service.
(2011-2012)

AMENDED IN SENATE MARCH 26, 2012

CALIFORNIA LEGISLATURE— 2011–2012 REGULAR SESSION

SENATE BILL

No. 1161

Introduced by Senator Padilla

(Principal Coauthor(s): Assembly Member Bradford)

(Coauthor(s): Senator Fuller, Rubio, Strickland)

February 22, 2012

**An act to ~~amend Section 709 of~~ add Sections 239 and 710 to the Public Utilities Code,
relating to communications.**

LEGISLATIVE COUNSEL'S DIGEST

SB 1161, as amended, Padilla. Communications: ~~state policies:~~ *Voice over Internet Protocol and Internet Protocol enabled communications service.*

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations, as defined.

This bill would prohibit the commission from regulating Voice over Internet Protocol (VoIP) and Internet Protocol enabled service (IP enabled service), as defined, providers unless expressly provided otherwise in statute. The bill would prohibit any department, agency, commission, or political subdivision of the state from enacting, adopting, or enforcing any law, rule, regulation, ordinance, standard, order, or other provision having the force or effect of law, that regulates or has the effect of regulating VoIP or other IP enabled service, unless expressly authorized by statute. The bill would specify certain areas of law that are expressly applicable to VoIP and IP enabled service providers.

~~Existing law declares the policies for telecommunications for California, including to encourage the development and deployment of new technologies and the equitable provision of services in a way that efficiently meets consumer need and encourages the ubiquitous availability of a wide choice of state-of-the-art services.~~

~~This bill would make a technical, nonsubstantive change to the above-described statement of policy.~~

Vote: majority Appropriation: no Fiscal Committee: ~~no~~yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) The continued vitality and success of California's technology and innovation sector of the economy is dependent on a business climate that supports the national and international nature of the Internet.

(2) The Legislature is empowered to develop future state policy and actions regarding Internet-based technology to further innovation, consumer choice and protection, and economic benefits to California.

(3) California's innovation economy is leading the state's economic recovery. Silicon Valley alone added 42,000 jobs in 2011, an increase of 3.8 percent versus a national job growth rate of 1.1 percent. The newly designated "app," for application, economy has resulted in 466,000 new jobs nationwide, with 25 percent of that total created in California.

(4) The Internet and Internet Protocol-based (IP-based) services have flourished to the benefit of all Californians under the current regulatory structure. The success of the innovation economy is a result of an open, competitive environment that has provided California consumers and businesses with a wide array of choices, services, and prices.

(5) California-based entrepreneurs and businesses are the global leaders in IP-based services and technologies. These leading technology companies, including content, services and infrastructure providers, represent some of the largest employers in California, contributing billions of dollars of economic benefit to the state.

(6) California consumers and businesses are driving the demand for faster networks, new and innovative apps and software, and continued innovation. As a result of this demand, network infrastructure companies invested billions of dollars in California in 2011. Internet voice communications connections are up over 22 percent, and entrepreneurs and innovators have launched close to a million apps to meet consumer demand.

(7) The Internet and innovative IP-based services have the power to address critical policy issues facing California and the nation including new telemedicine initiatives to address health care access and affordability, educational tools to improve opportunity and success, IP-based energy solutions to promote conservation and efficiency, and improved Internet access to support rural economic development and sustainability.

(b) It is the intent of this act to reaffirm California's current policy of regulating Internet-based services only as specified by the Legislature and thereby achieve both of the following:

(1) Preserve the future of the Internet by encouraging continued investment and technological advances and supporting continued consumer choice and access to innovative services that benefit California.

(2) Ensure a vibrant and competitive open Internet that allows California's technology businesses to continue to flourish and contribute to economic development throughout the state.

~~SECTION 1. Section 709 of the Public Utilities Code is amended to read: 709.~~

~~The Legislature hereby finds and declares that the policies for telecommunications in California are as follows:~~

~~(a) To continue our universal service commitment by assuring the continued affordability and widespread availability of high-quality telecommunications services to all Californians.~~

~~(b) To focus efforts on providing educational institutions, health care institutions, community-based organizations, and governmental institutions with access to advanced telecommunications services in recognition of their economic and societal impact.~~

~~(c) To encourage the development and deployment of new technologies and the equitable provision of communications services in a way that efficiently meets consumer need and encourages the ubiquitous availability of a wide choice of state-of-the-art services.~~

~~(d) To assist in bridging the "digital divide" by encouraging expanded access to state-of-the-art technologies for rural, inner-city, low-income, and disabled Californians.~~

~~(e) To promote economic growth, job creation, and the substantial social benefits that will result from the rapid implementation of advanced information and communications technologies by adequate long-term investment in the necessary infrastructure.~~

~~(f) To promote lower prices, broader consumer choice, and avoidance of anticompetitive conduct.~~

~~(g) To remove the barriers to open and competitive markets and promote fair product and price competition in a~~

~~way that encourages greater efficiency, lower prices, and more consumer choice.~~

~~(h) To encourage fair treatment of consumers through provision of sufficient information for making informed choices, establishment of reasonable service quality standards, and establishment of processes for equitable resolution of billing and service problems.~~

SEC. 2. *Section 239 is added to the Public Utilities Code, to read:*

239. *(a) "Voice over Internet Protocol" or "VoIP" means voice communications service that does all of the following:*

(1) Uses Internet Protocol or a successor protocol to enable real-time, two-way voice communication that originates from or terminates at the user's location in Internet Protocol or a successor protocol.

(2) Requires a broadband connection from the user's location.

(3) Permits a user generally to receive a call that originates on the public switched telephone network and to terminate a call to the public switched telephone network.

(b) "Internet Protocol enabled service" or "IP enabled service" means any service, capability, functionality, or application using Internet Protocol, or any successor protocol, that enables an end user to send or receive a communication in Internet Protocol format, or any successor format, regardless of whether the communication is voice, data, or video.

SEC. 3. *Section 710 is added to the Public Utilities Code, to read:*

710. *(a) The commission shall not exercise regulatory jurisdiction or control over Voice over Internet Protocol and Internet Protocol enabled service providers except as expressly directed to do so by statute or as set forth in subdivision (c).*

(b) No department, agency, commission, or political subdivision of the state shall enact, adopt, or enforce, either directly or indirectly, any law, rule, regulation, ordinance, standard, order, or other provision having the force or effect of law, that regulates or has the effect of regulating VoIP or other IP enabled service, unless expressly authorized by statute or pursuant to subdivision (c).

(c) Nothing in this section affects or supersedes any of the following:

(1) The Emergency Telephone Users Surcharge Law (Part 20 (commencing with Section 41001) of Division 2 of the Revenue and Taxation Code) and the state's universal service programs (Section 285).

(2) The Digital Infrastructure and Video Competition Act of 2006 (Division 2.5 (commencing with Section 5800)) or a franchise granted by a local franchising entity, as those terms are defined in Section 5830.

(3) The commission's authority to implement and enforce Sections 251 and 252 of the federal Communications Act of 1934, as amended (47 U.S.C. Secs. 251 and 252).

(4) The commission's authority to require data and other information pursuant to Section 716.

(5) The commission's authority to address or affect the resolution of disputes regarding intercarrier compensation, including for the exchange of traffic that originated, terminated, or was translated at any point into Internet Protocol format.

(6) The enforcement of criminal or civil laws of general applicability, including unfair or deceptive trade practice laws, that apply to the conduct of business.