

Senator Alex Padilla

Fact Sheet

SB 1161 – PADILLA **(as amended March 26, 2012)** **Internet-Based Services**

Summary

SB 1161 reaffirms California's current policy of fostering investment and innovation in the Internet and new "app" economy and widespread availability of Internet-based services that benefit consumers and stimulate economic growth. This bill would continue California's current policy of not regulating these services unless authorized by federal law and specified by the Legislature. It would not affect current law that authorizes the California Public Utilities Commission (CPUC) to take specified actions that impact these services. It also would not affect generally applicable business, taxation, and consumer protection laws.

Background

California is the epicenter of the global Internet economy. Innovators developing new "apps" and Internet-based services are leading the state's economic recovery with new investment and hiring, even as other sectors continue to struggle. Innovation and competition are increasing to meet consumer demand for voice, video and data services using the Internet and Internet Protocol (IP) technology. For example, Skype is an IP-enabled service that allows inexpensive "face-to-face" connection between grandparents and their grandchildren, military families and soldiers abroad, students and teachers, doctors and patients, and businesses and their customers around the world.

These consumer benefits and economic growth have been fostered by state and federal policies that promote an open and competitive Internet. Federal law governs the Internet because it crosses state and international borders, which means the Federal Communications Commission (FCC) has primary authority, rather than state commissions. The FCC has declined from regulating IP-enabled services and from treating Voice over Internet Protocol (VoIP) as a traditional telephone service. Instead, it has let the market flourish and, on a case-by-case basis, identified specific regulations that apply. These include requiring VoIP to offer 911 service and collect 911 fees, provide law enforcement access to facilities, make facilities accessible to disabled users, protect customers' proprietary information, allow customers to keep their telephone number, contribute to universal service programs, and report network outages.

Likewise, at the state level, the CPUC has declined from applying legacy utility regulation to Internet-based services and has imposed requirements only as authorized by federal law and pursuant to express authority from the Legislature. In 2006 the Legislature applied state privacy protections to calling records of VoIP customers and authorized the CPUC to adopt backup power requirements, in 2008 it required VoIP to pay fees for 911 service, in 2010 it authorized the CPUC to obtain specified data from VoIP providers related to proceedings under federal law, and in 2011 it required VoIP to pay fees for state universal service programs. In short, the Legislature has acted when necessary to

grant the CPUC authority but otherwise has allowed competition and innovation to flourish for the benefit of consumers and the state's economy.

Existing Law

Federal law authorizes the FCC to regulate interstate communications services and preempts conflicting state regulation. The FCC has determined that Internet-based services generally are not subject to traditional telephone regulation but, on a case-by-case basis, has applied specific public safety and consumer protection requirements to VoIP and IP-enabled services.

The California Constitution grants the CPUC its regulatory authority "subject to control by the Legislature." The CPUC has not applied traditional telephone regulation to VoIP, but the Legislature has granted the CPUC authority, as authorized by federal law, to require payment of fees for 911 service and state universal service programs, adopt backup power requirements, and obtain specified data from VoIP providers related to proceedings under federal law.

Statutes in 23 states and the District of Columbia generally prohibit state regulation of VoIP and IP-enabled services except as authorized by federal law.

This Bill

SB 1161 would do all of the following:

- Reaffirm California's current policy of not regulating VoIP and IP-enabled services unless authorized by federal law and specified by the Legislature.
- Not affect existing law that authorizes the CPUC to take specified actions that impact VoIP and IP-enabled services, and empower the Legislature to enact future legislation as needed to benefit California consumers if authorized by federal law.

- Not affect generally applicable laws, including business, taxation, and consumer protection laws.
- Foster continued investment, job creation, and innovation in California's technology sector and the new "app" economy.
- Ensure continued development and widespread availability at affordable prices of communications technologies and services that meet consumer demand and provide solutions to challenges in health care, education, energy, public safety, and economic development.
- Ensure that California does not lose its position among the states as the epicenter of the global Internet economy.

Support

TechAmerica (Sponsor)
TechNet (Sponsor)
Asian Business Association
Bay Area Council
Cal Chamber
California Asian Pacific Chamber of Commerce
California Cable & Telecommunications Association
CENIC
QUALCOMM
Microsoft
Mobile Future
Silicon Valley Leadership Group
South Bay Association of Chambers of Commerce
Telecom Council of Silicon Valley

(Rev. 4-9-12)