

AMENDED IN SENATE AUGUST 13, 2019

AMENDED IN ASSEMBLY MAY 20, 2019

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AMENDED IN ASSEMBLY MARCH 25, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1366

Introduced by Assembly Member Gonzalez

February 22, 2019

An act to add Chapter 26.5 (commencing with Section 22765) to Division 8 of the Business and Professions Code, *to amend Section 53121 of the Government Code*, and to amend Section 710 of the Public Utilities Code, relating to communications.

LEGISLATIVE COUNSEL'S DIGEST

AB 1366, as amended, Gonzalez. Voice over Internet Protocol and Internet Protocol enabled communications services.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Existing law, until January 1, 2020, prohibits the commission, a department, an agency, or a political subdivision of the state from regulating Voice over Internet Protocol (VoIP) and Internet Protocol enabled service, as defined, except as required or delegated by federal law or as expressly directed to do so by statute.

This bill would extend until January 1, ~~2030~~, 2025, the qualified prohibition upon the commission, a department, an agency, or a political subdivision of the state regulating VoIP and Internet Protocol enabled service, with the additional qualification that the commission, a

department, an agency, or a political subdivision of the state would be authorized to exercise regulatory jurisdiction and control as expressly and specifically directed by the Legislature in the interest of public safety or consumer protection. ~~The bill would require the commission to annually report to the Legislature and the Attorney General the number and type of complaints the commission received from VoIP customers about VoIP service.~~

Existing law ~~explicitly~~ expressly exempts from the qualified prohibition certain of the commission's powers, including those relative to the construction and maintenance of underground facilities and overhead electric lines, as specified.

This bill would also expressly exempt from the prohibition the commission's authority relative to the safety of those lines and facilities, ~~and its the commission's authority relative to certain network outage reporting requirements and, for participating VoIP providers, state lifeline program requirements.~~ *requirements, and requirements adopted by the commission for VoIP providers voluntarily participating in the state's lifeline program. The bill would expressly authorize the Office of Emergency Services to establish requirements relative to the terms of service of a Next Generation 911 emergency communication system, including the costs, services, and terms and conditions for contractors providing Next Generation 911 services. The bill would authorize the Office of Emergency Services to direct the commission to implement the terms of service requirements adopted by the office for the delivery of Next Generation 911 services.*

Existing law establishes various reporting requirements for the commission.

This bill would require the commission to annually report to the Attorney General the number and type of complaints received from VoIP customers about VoIP service and require the commission to forward any customer complaint to the Attorney General. The bill would require the commission to annually report to the Legislature information relative to the number and type of complaints received from VoIP customers about VoIP service, information relative to resolution of those complaints, and recommendations based upon those complaints and resolution of those complaints.

This bill would require a provider of residential interconnected VoIP service to disclose to each new residential customer any backup power requirements established in state and federal law, ~~law~~ and to advise the customer that they may submit a complaint regarding service to the

commission and obtain information relative to alternative communication services from the commission. The bill would require the provider to include in its terms of service for residential customers a provision stating that the provider will provide to a customer, upon request, a bill credit when the customer experiences a service outage for more than 24 hours, except as provided. The bill, subject to the same exceptions, would require the provider to initiate steps to restore service within 24 hours of receiving a report of a service outage and would require the provider to restore service within 72 hours of receiving a report of the service outage. *The bill would authorize the Attorney General to institute and prosecute actions or proceedings to enforce these requirements.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 26.5 (commencing with Section 22765)
2 is added to Division 8 of the Business and Professions Code, to
3 read:

4
5 CHAPTER 26.5. VOICE OVER INTERNET PROTOCOL (VoIP)
6 SERVICES
7

8 22765. For purposes of this article, “VoIP” means Voice over
9 Internet Protocol.

10 22765.5. (a) A provider of residential interconnected VoIP
11 service shall disclose to each new residential customer any backup
12 power requirements established in state and federal law. The
13 disclosure shall advise the customer that the customer may contact
14 the Public Utilities Commission—~~for~~ *to submit a complaint*
15 *regarding their VoIP service and to obtain* additional information
16 regarding alternative communication services, including the
17 customer’s right to basic telephone service.

18 (b) (1) A provider of residential interconnected VoIP service
19 shall include in its terms of service for residential customers a
20 provision stating that the provider will provide to a customer, upon
21 request, a bill credit when the customer experiences a service
22 outage for more than 24 hours, excluding Sundays, federal

1 holidays, or periods of outage due to circumstances beyond the
2 provider's control.

3 (2) A provider of residential interconnected VoIP service shall
4 initiate steps to restore service within 24 hours of receiving a report
5 of a service outage. The 24-hour period shall not include Sundays,
6 federal holidays, or periods of outage due to circumstances beyond
7 the provider's control.

8 (3) A provider of residential interconnected VoIP service shall,
9 within 72 hours of receiving a report of a residential interconnected
10 VoIP service outage, restore service, which may include restoring
11 service remotely. The 72-hour period shall not include Sundays,
12 federal holidays, or periods of outage due to circumstances beyond
13 the provider's control.

14 (4) For purposes of this subdivision, "circumstances beyond the
15 provider's control" ~~include, but are not limited to,~~ *include* an
16 electrical outage, catastrophic event, natural disaster, emergency
17 proclaimed by the Governor, cable theft, cable cut by a third party,
18 lack of access to the premises, or absence of customer support to
19 test the facilities.

20 (5) For purposes of this subdivision, "service outage" means
21 the inability of an end user to place or receive a VoIP call as a
22 result of a failure in the performance of the end user's
23 interconnected VoIP service provider's network.

24 (6) This subdivision shall not apply ~~to a provider of residential~~
25 ~~interconnected VoIP service that is subject to any other law or~~
26 ~~regulation governing outage response or repair time.~~ *if the same*
27 *or similar standards are established in state or federal statute or*
28 *regulations for the same providers.*

29 22766. (a) *The Attorney General may institute and prosecute*
30 *actions or proceedings to enforce this chapter.*

31 (b) *Nothing in this chapter confers jurisdiction or authority to*
32 *the Public Utilities Commission to enforce this chapter.*

33 SEC. 2. *Section 53121 of the Government Code is amended to*
34 *read:*

35 53121. (a) The Office of Emergency Services shall develop a
36 plan and timeline of target dates for the testing, implementation,
37 and operation of a Next Generation 911 emergency communication
38 system, including text to 911 service, throughout California.

39 (b) In order to maximize efficiency and contain costs, the Next
40 Generation 911 emergency communication system shall

1 incorporate, where consistent with public safety and technologically
2 feasible, shared infrastructure and elements of other public safety
3 and emergency communications networks, including, but not
4 limited to, all of the following:

5 (1) Public safety communications identified in the annual plan
6 required by subdivision (b) of Section 15277.

7 (2) Local and regional public safety broadband networks
8 authorized by the federal American Recovery and Reinvestment
9 Act of 2009 (Public Law 111-5).

10 (3) Public safety broadband networks authorized by the federal
11 Middle Class Tax Relief and Job Creation Act of 2012 (Public
12 Law 112-96).

13 (4) Public safety radio and communications facilities used for
14 the purpose of public warnings pursuant to Section 15254.

15 (c) *The Office of Emergency Services may establish requirements*
16 *relative to the terms of service of a Next Generation 911 emergency*
17 *communication system established pursuant to this section,*
18 *including the costs, services, and terms and conditions for*
19 *contractors providing Next Generation 911 services. The Office*
20 *of Emergency Services may direct the Public Utilities Commission*
21 *to implement the terms of service requirements adopted by the*
22 *office.*

23 ~~SEC. 2.~~

24 SEC. 3. Section 710 of the Public Utilities Code is amended
25 to read:

26 710. (a) (1) The commission shall not exercise regulatory
27 jurisdiction or control over Voice over Internet Protocol and
28 Internet Protocol enabled services except in accordance with one
29 of the following:

30 (A) As required or expressly delegated by federal law.

31 (B) As expressly directed to do so by statute or as set forth in
32 ~~subdivision (c): this section.~~

33 (C) As expressly and specifically directed by the Legislature in
34 the interest of public safety or consumer protection.

35 (2) This section does not expand the commission's jurisdiction
36 beyond the exceptions in paragraph (1).

37 (b) (1) No department, agency, commission, or political
38 subdivision of the state shall enact, adopt, or enforce any law, rule,
39 regulation, ordinance, standard, order, or other provision having

1 the force or effect of law, that regulates VoIP or other IP enabled
2 service, except in accordance with one of the following:

3 (A) As required or expressly delegated by federal law.

4 (B) As expressly authorized by statute or pursuant to subdivision
5 ~~(e)~~; *this section*.

6 (C) As expressly and specifically directed by the Legislature in
7 the interest of public safety or consumer protection.

8 (2) This section does not expand a department's, agency's,
9 commission's, or political subdivision's jurisdiction beyond the
10 exceptions in paragraph (1).

11 (c) This section does not affect or supersede any of the
12 following:

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

17 (2) The Digital Infrastructure and Video Competition Act of
18 2006 (Division 2.5 (commencing with Section 5800)) or a franchise
19 granted by a local franchising entity, as those terms are defined in
20 Section 5830.

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

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

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

30 (6) The commission's authority to enforce ~~existing~~ requirements
31 regarding backup power systems ~~established in commission~~
32 ~~Decision 10-01-026 (January 22, 2010), Decision Adopting~~
33 ~~Guidelines for Customer Education Programs Regarding Backup~~
34 ~~Power Systems Pursuant to Assembly Bill 2393, adopted pursuant~~
35 ~~to Section 2892.1.~~

36 (7) The commission's authority relative to access to support
37 structures, including pole attachments, or to the construction,
38 safety, and maintenance of facilities pursuant to commission
39 General Order ~~95~~ and 95, General Order ~~128~~; 128, *and any*
40 *successor decisions*.

(8) ~~The Warren-911-Emergency authority of the Office of Emergency Services related to 911 emergency communications, including, but not limited to, both the following:~~

(A) ~~The duties and authority of the office pursuant to the Warren-911-Emergency Assistance Act (Article 6 (commencing with Section 53100) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code).~~

(B) ~~The development, implementation, and administration of a Next Generation 911 system including the establishment and enforcement of the terms and conditions for contracts for the delivery of Next Generation 911 services. The Office of Emergency Services may direct the Public Utilities Commission to implement the terms of service requirements adopted by the office for the delivery of Next Generation 911 services.~~

(9) ~~The requirement that facilities-based interconnected VoIP service providers submit to the commission a copy of each network outage reporting system report submitted to the Federal Communications Commission pursuant to Public Utilities Commission Decision 16-08-021 (August 29, 2016), Decision Adopting General Order 133-D, Commission.~~

(10) ~~The requirements applicable to any VoIP service provider that voluntarily participates in the state's lifeline program pursuant to commission Decision 16-10-039 (November 1, 2016), Decision Adopting Revisions to Modernize and Expand the California Lifeline Program by Allowing Voluntary Participation by Fixed-Voice Over Internet Protocol Service Providers Without a Certificate of Public Convenience and Necessity. program.~~

(d) This section does not affect the enforcement by the Attorney General or any other applicable entity of any state or federal criminal or civil law or any local ordinances of general applicability, including, but not limited to, consumer protection and unfair or deceptive trade practice laws or ordinances, that apply to the conduct of business, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), local utility user taxes, federal requirements regarding enhanced 911 emergency telephone service, and state and local authority governing the use and management of the public rights-of-way.

(e) This section does not affect any existing regulation of, proceedings governing, or existing commission authority over,

~~1 non-VoIP and other non-IP-enabled wireline or wireless service,
2 including regulations governing universal service and the offering
3 of basic service and lifeline service, and any obligations to offer
4 basic service, over any of the following:~~

~~5 (1) Non-VoIP and non-IP-enabled wireline or wireless service.~~

~~6 (2) Rules governing universal service, including lifeline service.~~

~~7 (3) Rules governing the offering of basic service.~~

~~8 (4) The obligation of a carrier of last resort regarding the
9 provision of basic service, regardless of the technology used.~~

10 (f) (1) This section does not limit the commission's ability to
11 continue to monitor and discuss VoIP services, to track and report
12 to the Federal Communications Commission and the Legislature
13 pursuant to this subdivision the number and type of complaints
14 received by the commission from customers, *and recommendations*
15 *based on those complaints*, to respond informally to customer
16 complaints, and to provide VoIP customers who contact the
17 commission information regarding available options under state
18 and federal law for addressing complaints.

19 (2) (A) The commission shall annually report to the Attorney
20 General the number and type of complaints received by the
21 commission from VoIP customers about VoIP service.

22 (B) ~~The commission shall include in its annual report to the~~
23 ~~Legislature the number and type of complaints received by the~~
24 ~~commission from VoIP customers about VoIP service, forward to~~
25 ~~the Attorney General any customer complaint received by the~~
26 ~~commission regarding VoIP and IP-enabled services.~~

27 (3) *The commission shall include in its annual report to the*
28 *Legislature made pursuant to Section 910 all of the following:*

29 (A) *The number and type of complaints received by the*
30 *commission from VoIP customers about VoIP and IP-enabled*
31 *services.*

32 (B) *The number of complaints resolved and the average duration*
33 *for resolution based on reports from service providers.*

34 (C) *Any recommendations based on the customer complaints*
35 *and complaint resolutions described in subparagraphs (A) and*
36 *(B).*

37 (g) This section does not affect the establishment or enforcement
38 of standards, requirements, or procedures, including procurement
39 policies, applicable to any department, agency, commission, or
40 political subdivision of the state, or to the employees, agents, or

1 contractors of a department, agency, commission, or political
2 subdivision of the state, relating to the protection of intellectual
3 property.

4 (h) This section shall remain in effect only until January 1, ~~2030~~,
5 2025, and as of that date is repealed.

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