Date of Hearing: May 16, 2019

## ASSEMBLY COMMITTEE ON APPROPRIATIONS Lorena Gonzalez, Chair AB 1366 (Gonzalez) – As Amended April 29, 2019

Policy Committee:	Communications and Conveyance	Vote:	12 - 0

Urgency: No	State Mandated Local Program:	No	Reimbursable:	No

## SUMMARY:

This bill extends, until January 1, 2030, the existing general statutory prohibition on the California Public Utilities Commission (CPUC) and any other entity or subdivision of state government to regulate Voice over Internet Protocol (VOIP) and Internet Protocol (IP) enabled services. The bill expands an area of exception to this general prohibition by specifying it does not affect the CPUC's authority to regulate utility support structures, such as poles, whereas existing law authorizes the CPUC to regulate only the construction of such structures.

## FISCAL EFFECT:

No new state costs as this bill extends a general prohibition against state regulatory action over VOIP and IP-enabled services.

## COMMENTS:

1) **Purpose.** According to the author:

In 2012, the Legislature codified a policy of reserving any state regulation of [VoIP] and IP-enabled services for the Legislature. Since then, Californians have continued benefiting from these services...However, the clarity provided with the Legislature's exclusive authority over these services will sunset on January 1, 2020 unless legislation extends the provisions. If allowed to sunset without further legislative direction, this will create an environment of regulatory uncertainty and potential for costly litigation on all sides, potentially delaying further expansion and innovation of these services...[Extension of the sunset] allow[s] for continued legislative action on issues that may arise, particularly regarding consumer protection and public safety, while still allowing these services regulatory clarity.

2) Background. The California Constitution and statute charge the California Public Utilities Commission (CPUC) with regulating the rates and service of public utilities. This charge has included the regulation of telephone service, which was consistent with the CPUC's regulation of natural monopolies that provide essential services. Overtime, however, the telecommunications industry has come to be less characterized by monopoly provision of service and more characterized by competition among rival service providers. Nonetheless, the CPUC regulated many aspects of the telecommunications service, mainly because the CPUC possessed the experience, expertise and regulatory framework to do so.

Earlier this century, a variety of telecommunications service providers began to offer telephone service through the use of VOIP. Through VOIP, providers could offer many more services than were available through the use of a landline-dependent telephone, such as text messages, email and web browsing. Crucially, VOIP telephone service does not require installation of a direct connection to a fixed location.

In 2012, the Legislature generally prohibited the CPUC, or any other state entity, from regulating VOIP service. (See SB 1161, (Padilla), Chapter 733, Statutes of 2012.) The bill asserted to goals of the prohibition:

- a) Preservation of 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.
- b) Ensuring a vibrant and competitive open internet that allows California's technology businesses to continue to flourish and contribute to economic development throughout the state.

SB 1161's general prohibition expires on January 1, 2020.

At the time the Legislature passed SB 1161, there were 13 million landline telephones in California and over 4 million VOIP subscribers. Today, there are fewer than 6 million landlines in the state and over 8 million VOIP customers. (There are over 41 million wireless subscriptions in California, which are, for the most part, regulated by the federal government, not the state government.) The author views this increasing adoption of VOIP service, as well of the existence of popular and useful applications, such as WhatsApp, as evidence the state's generally hands-off regulatory approach is working. Opponents contend the increasing reliance of VOIP service make it an essential service and, therefore, in need of regulatory oversight. The author counter the Legislature, not the slow-moving, quasi-judicial CPUC, is the appropriate body to ensure VOIP consumers are protected.

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