

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 08/13/2019
POSITION: Oppose

BILL NUMBER: AB 1366
AUTHOR: Gonzalez, Lorena

BILL SUMMARY: Voice over Internet Protocol and Internet Protocol enabled communications services.

This bill extends until January 1, 2025, the current prohibition against the Public Utilities Commission (PUC) and the state against regulation of Voice over Internet Protocol (VoIP) and Internet Protocol (IP) enabled service.

The bill authorizes the Office of Emergency Services (CalOES) to establish requirements for a new Next Generation 911 (NG 911) emergency communication system, and authorizes the PUC to implement CalOES's associated terms of service requirements.

This bill contains various reporting requirements and authorizes the Attorney General (AG) to institute and prosecute actions or proceedings to enforce the provisions of this bill.

FISCAL SUMMARY

PUC estimates the fiscal impact of this bill will be \$372,000 PUC Utilities Reimbursement Account and two permanent positions for identifying and advocating for safety-related issues from VoIP service and for recommendations to the Legislature.

The Department of Justice indicates the fiscal impact of this bill will be approximately \$1.2 million Unfair Competition Law Fund in 2019-20, and \$2.2 million ongoing, and require 9 positions for enforcement of VoIP services complaints.

Any requests for additional resources is subject to review and approval through the annual budget process.

COMMENTS

Finance is opposed to this bill because it prevents the PUC from meeting its constitutional mandate to oversee telecommunications within the state by extending the current prohibition on the regulation of VoIP. Because VoIP usage has surpassed traditional landline service within the state, it's increasingly important that the PUC have regulatory authority over VoIP in order to protect customer interests. This bill also results in additional costs to the state, and Finance notes that there are several potential implementation issues with the bill. The bill assigns responsibilities of enforcement to the AG without any authority besides litigation and it establishes certain requirements of VoIP service providers without providing any penalty or enforcement mechanisms if they do not comply.

Chapter 733, Statutes of 2012 (SB 1161), established prohibitions on the regulation of VoIP and IP-enabled services in California until January 1, 2020. Existing federal law prohibits regulatory jurisdiction over VoIP, while exempting the prohibition for 911 services, Universal Service Fund contributions, accessibility needs, number portability, and customer proprietary network information. This bill extends until

Analyst/Principal E.Nalband	Date	Program Budget Manager Erika Li	Date
--------------------------------	------	------------------------------------	------

Department Deputy Director	Date
----------------------------	------

Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

Gonzalez, Lorena

08/13/2019

AB 1366

COMMENTS (continued)

January 1, 2025, the prohibition upon the PUC and the state regulating VoIP and IP enabled service, except as directed by the Legislature, in the interest of public safety or consumer protection. This bill largely continues current practice in regards to the prohibition against VoIP regulation by the state, but addresses new issues that have arisen from the maturity and expansion of VoIP technology.

VoIP utilizes broadband internet connection to transmit and receive calls. California has seen a significant decline in traditional landline service coupled with a significant growth in VoIP service over the last decade. When legislation establishing VoIP and IP-based regulatory prohibitions passed the Legislature, most telephone lines were wireline service and the prohibition was intended to protect a new industry. However, data from the FCC shows that the number of VoIP lines has exceeded the number of regulated wireline telephone lines. The companies that used to provide wireline service now provide VoIP; those companies market VoIP as another version of landline service. The service is the same to the customer except that it is compromised by power outages.

It is important for public safety and security concerns that VoIP service providers be regulated to implement appropriate safeguards as they would for any other type of computer systems and networks to ensure the confidentiality, integrity, and availability of phone services. Recent catastrophic wildfires and disasters have demonstrated broader vulnerabilities in the communications grid, highlighted the lack of resiliency, and underscored the need for standards and rules. This bill would continue to prevent the PUC from undertaking investigations or rulemakings that would result in regulations or standards for a large share of the technology used on the communications grid.

The bill will authorize CalOES to establish requirements on the terms of service for the NG 911 emergency communication system and direct the PUC to implement the terms of service requirements. NG 911 is intended to update the 911 system to accommodate communications delivered over an IP network, including text-to-911. Finance notes that CalOES is currently being sued by AT&T over the implementation of its' VoIP based NG 911 system due to the current prohibition of regulatory jurisdiction over VoIP services by the state. The AG is representing CalOES in this lawsuit. CalOES notes that although this bill addresses some aspects of this lawsuit, it states the PUC needs to regulate VoIP as CalOES does not have any enforcement mechanisms to go with the regulatory authority provided by this bill.

Additionally, this bill will require the PUC to annually report to the AG and Legislature, complaints received about VoIP service and require the PUC to forward any customer complaints to the AG. Finance notes the Legislature and AG do not have any mechanism for resolving those complaints outside of legislation or litigation. The Department of Justice's resources will likely be taxed given it has to now enforce VoIP service quality requirements and work through all the issues associated with VoIP.

Further, PUC has expressed concerns as the technology migration to VoIP continues, the extending of the prohibition would prevent the PUC from enforcing the state's carrier of last resort (COLR) policy. A COLR is a telecommunications company that is required to provide service to any customer in a service area that requests it, even if serving that customer would not be economically viable at prevailing rates. Customers who are most at risk of experiencing service abandonment if the COLR requirement is not enforced will be in rural areas where there is no other provider of reliable, affordable telephone service. This represents a significant public safety concern given the increased amount of catastrophic wildfires and disasters in these areas and need to access the communications grid unflinchingly.

Finally, this bill would require a provider of residential interconnected VoIP service to disclose certain backup power requirements, as specified, the notification of options the customer has in the event of an outage, and sets timelines for the restoration of service after an outage. Finance notes these requirements

BILL ANALYSIS--(CONTINUED)**Form DF-43****AUTHOR****AMENDMENT DATE****BILL NUMBER**

Gonzalez, Lorena

08/13/2019

AB 1366

COMMENTS (continued)

do not apply to outages resulting from circumstances beyond the provider's control, which the bill broadly defines, and could be misused to include any circumstance.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)					Fund Code	
	LA	(Dollars in Thousands)						
	CO	PROP						
	RV	98	FC	2019-2020	FC	2020-2021	FC	2021-2022
8660/PUC	SO	No	A	--	C	372	C	372 0462
0820/Justice	SO	No	C	1,235	C	2,191	C	2,191 3087
<u>Fund Code</u>	<u>Title</u>							
0462	Publ Utilities Comm Utilities Reimb Acct							
3087	Unfair Competition Law Fund							