

AMENDED IN SENATE MARCH 28, 2007

SENATE BILL

No. 1024

Introduced by Senator Kehoe

February 23, 2007

An act to amend Sections 41007, 41010, 41011, 41016, and 41020 of, and to add Sections 41011.5 and 41152 to, the Revenue and Taxation Code, relating to telecommunications, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1024, as amended, Kehoe. Telecommunications: Emergency Telephone Users Surcharge Act.

Existing provisions of the Warren-911-Emergency Assistance Act establishes the number "911" as the primary emergency telephone number of use in the state. The existing Emergency Telephone Users Surcharge Act ("911" surcharge act) generally imposes a surcharge on amounts paid by every person in the state for intrastate telephone service and is imposed at a percentage rate, not less than 0.5% nor more than 0.75% that is annually estimated to provide revenues sufficient to fund "911" emergency telephone system costs for the current fiscal year. Surcharge amounts are paid to the State Board of Equalization on a monthly basis by the telephone service supplier and are deposited into the State Treasury to the credit of the State Emergency Telephone Number Account in the General Fund, to be expended for limited purposes, including to pay the Department of General Services for its costs in administration of the "911" emergency telephone number system. Existing law defines a "service supplier," for purposes of the "911" surcharge act, as meaning a person supplying intrastate telephone communication services, as defined, pursuant to California intrastate

tariffs to any service user, as defined, in the state and includes any person supplying intrastate telephone communications services for whom the Public Utilities Commission has eliminated the requirement for filing an intrastate tariff.

This bill would define a “service supplier,” for purposes of the “911” surcharge act, as meaning any person supplying intrastate telephone communication services capable of originating a “911” emergency telephone call from any service user in the state. The bill would include “bundled services,” as defined, within the definition of intrastate telephone communication services. *This bill would specify that the “911” surcharge act applies to telephonic quality voice communications services, but would provide that the surcharge does not apply to customers whose primary place of using the services is outside the state.* The bill would incorporate, in the “911” surcharge act, certain definitions from federal law and other state law and would make other *conforming*, technical, nonsubstantive changes.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

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

- 1 SECTION 1. Section 41007 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 41007. “Service supplier” shall mean any person supplying
- 4 intrastate telephone communication services capable of originating
- 5 a “911” emergency telephone call from any service user in this
- 6 state.
- 7 SEC. 2. Section 41010 of the Revenue and Taxation Code is
- 8 amended to read:
- 9 41010. (a) “Intrastate telephone communication services”
- 10 means all local or toll telephone services where the point or points
- 11 of origin and the point or points of destination of the service are
- 12 all located in this state.
- 13 (b) When bundled services include an intrastate telephone
- 14 communication service or services, the bundled services are
- 15 “intrastate telephone communication services” under this part.
- 16 SEC. 3. Section 41011 of the Revenue and Taxation Code is
- 17 amended to read:

1 41011. (a) “Charges for services” means all charges billed by
2 a service supplier to a service user for intrastate telephone
3 communications services and local telephone service, and includes
4 monthly service flat-rate charges for usage, message unit charges,
5 ~~mean~~ toll charges, intrastate ~~statewide~~ *wide* area telephone service
6 charges, and bundled service charges.

7 (b) (1) “Charges for services” shall not include any tax imposed
8 by the United States or by any charter city, charges for service
9 paid by inserting coins in a public coin-operated telephone, and
10 shall not apply to amounts billed to nonsubscribers for coin
11 shortages. Where a coin-operated telephone service is furnished
12 for a guarantee or other periodic amount, such amount is subject
13 to the surcharge imposed by this part.

14 (2) “Charges for services” shall not include charges for intrastate
15 toll calls where bills for such calls originate out of California.

16 (3) “Charges for services” shall not include charges for any
17 nonrecurring, installation, service connection or one-time charge
18 for service or directory advertising, and shall not include private
19 communication service charges, charges for other than
20 communications service, or any charge made by a hotel or motel
21 for service rendered in placing calls for its guests regardless of
22 how such hotel or motel charge is denominated or characterized
23 by an applicable tariff of the Public Utilities Commission of this
24 state.

25 (4) “Charges for services” shall not include charges for basic
26 exchange line service for lifeline services.

27 SEC. 4. Section 41011.5 is added to the Revenue and Taxation
28 Code, to read:

29 41011.5. (a) “Bundled service” means telecommunications
30 ~~services, as defined in Section 153 of Title 47 of the United States~~
31 ~~Code, that includes multiple communications services that are not~~
32 ~~services or telephonic quality voice communication services that~~
33 ~~are not billed separately, and includes, but is not limited to, all of~~
34 the following:

35 (1) ~~Telecommunications service~~ *Service* supplied pursuant to a
36 plan that does not separately state the charge for the local telephone
37 service or calling features.

38 (2) ~~Telecommunications service utilizing Voice over Internet~~

39 (2) *Service utilizing Interconnected Voice over Internet Protocol*
40 (VoIP).

1 (3) ~~Telecommunications service~~ Service supplied to a service
 2 user utilizing a prepaid telephone card or prepaid ~~mobile~~
 3 ~~telecommunications wireless~~ service.

4 (4) ~~Telecommunications service~~ Service provided to a service
 5 user pursuant to a plan that provides both local and toll telephone
 6 services and, if included, calling features for either a flat monthly
 7 fee or a charge that varies with the elapsed transmission time for
 8 which the services are used.

9 ~~(5) Telecommunications service under a plan for both local~~

10 (5) Service under a plan for local exchange services and mobile
 11 telecommunications services.

12 (b) “Calling features” include, *but are not limited to*, all of the
 13 following:

14 (1) Three-way calling.

15 (2) Call forwarding.

16 (3) Caller identification functions, including identification
 17 blocking.

18 (4) Call waiting.

19 (5) Centralized telephone messaging, including voicemail.

20 SEC. 5. Section 41016 of the Revenue and Taxation Code is
 21 amended to read:

22 41016. “Toll telephone service” means either of the following:

23 ~~(a) Telecommunications service, as that term is defined in~~
 24 ~~Section 153 of Title 47 of the United States Code, for which (1)~~
 25 ~~there is a toll charge which varies in amount with the distance and~~
 26 ~~elapsed transmission time of each individual communication, or~~
 27 ~~(2) the charge is paid within the United States, and includes~~
 28 ~~“telephone toll service” as defined in Section 153 of the United~~
 29 ~~States Code.~~

30 (a) A telephonic quality voice communication service, regardless
 31 of the means by which it is transmitted, that meets both of the
 32 following criteria:

33 (1) There is a toll charge for the service that varies in amount
 34 with the distance or elapsed transmission time of each individual
 35 communication.

36 (2) The charge is paid within the United States.

37 (b) A service which entitles the subscriber, upon payment of a
 38 periodic charge (determined as a flat amount or upon the basis of
 39 total elapsed transmission time), to the privilege of an unlimited
 40 number of telephonic communications to or from all or a substantial

1 portion of the persons having telephone or radiotelephone stations
2 in a specified area which is outside the local telephone system area
3 in which the station provided with this service is located.

4 SEC. 6. Section 41020 of the Revenue and Taxation Code is
5 amended to read:

6 41020. (a) A surcharge is hereby imposed on amounts paid
7 by every person in the state for intrastate telephone communication
8 service in this state commencing on July 1, 1977.

9 (b) The surcharge imposed shall be at the rate of one-half of 1
10 percent of the charges made for such services to and including
11 November 1, 1982, and thereafter at a rate fixed pursuant to Article
12 2 (commencing with Section 41030).

13 (c) The surcharge shall be paid by the service user as hereinafter
14 provided.

15 (d) In accordance with the Mobile Telecommunications Sourcing
16 Act (P.L. 106-252), which is incorporated herein by reference, the
17 surcharge imposed under this section does not apply to any charges
18 for mobile telecommunications services billed to a customer where
19 those services are provided, or deemed provided, to a customer
20 whose place of primary use is outside this state. Mobile
21 telecommunications services shall be deemed provided by a
22 customer's home service provider to the customer if those services
23 are provided in a taxing jurisdiction to the customer, and the
24 charges for those services are billed by or for the customer's home
25 service provider.

26 (e) For purposes of this section:

27 (1) "Charges for mobile telecommunications services" means
28 any charge for, or associated with, the provision of mobile
29 telephony service, as defined in Section 224.4 of the Public Utilities
30 Code, that is billed to the customer by or for the customer's home
31 service provider, regardless of whether individual transmissions
32 originate or terminate within the licensed service area of the home
33 service provider.

34 (2) "Customer" means (A) the person or entity that contracts
35 with the home service provider for mobile telecommunications
36 services *or telephonic quality voice communication services*, or
37 (B) if the end user of mobile telecommunications services *or*
38 *telephonic quality voice communication services* is not the
39 contracting party, the end user of the mobile telecommunications
40 service *or telephonic quality voice communication services*. This

1 paragraph applies only for the purpose of determining the place
2 of primary use. The term “customer” does not include (A) a reseller
3 of mobile telecommunications service *or telephonic quality voice*
4 *communication services*, or (B) a serving carrier under an
5 arrangement to serve the customer outside the home service
6 provider’s licensed service area.

7 (3) “Home service provider” means ~~the~~ *either of the following*:

8 (A) *The facilities-based carrier or reseller with which the*
9 *customer contracts for the provision of mobile telecommunications*
10 *services.*

11 (B) *The carrier or reseller with which the customer contracts*
12 *for the provision of telephonic quality voice communication*
13 *services.*

14 (4) “Licensed service area” means the geographic area in which
15 the home service provider is authorized by law or contract to
16 provide commercial mobile radio service *or telephonic quality*
17 *voice communication service* to the customer.

18 (5) “Mobile telecommunications service” means mobile
19 telephony service as defined in Section 224.4 of the Public Utilities
20 Code.

21 (6) “Place of primary use” means the street address
22 representative of where the customer’s use of the mobile
23 telecommunications service *or telephonic quality voice*
24 *communication service* primarily occurs, that must be:

25 (A) The residential street address or the primary business street
26 address of the customer.

27 (B) Within the licensed service area of the home service
28 provider.

29 (7) (A) “Reseller” means ~~a~~ *either of the following*:

30 (i) *A provider who purchases telecommunications services from*
31 *another telecommunications service provider and then resells the*
32 *services, or uses the services as a component part of, or integrates*
33 *the purchased services into, a mobile telecommunications service.*

34 (ii) *A provider who purchases telephonic quality voice*
35 *communications services from another telephonic quality voice*
36 *communications service provider and then resells the services, or*
37 *uses the services as a component part of, or integrates the*
38 *purchased services into, a communications service.*

39 (B) “Reseller” does not include a serving carrier with which a
40 home service provider arranges for the services to its customers

1 outside the home service provider’s licensed service area *or, in*
2 *the case of telephonic quality voice communications service,*
3 *outside the home service provider’s service area.*

4 (8) “Serving carrier” means ~~a~~ *either of the following:*

5 (A) A facilities-based carrier providing mobile
6 telecommunications service to a customer outside a home service
7 provider’s or reseller’s licensed area.

8 (B) *A carrier providing telephonic quality voice communications*
9 *service to a customer outside a home service provider’s or*
10 *reseller’s service area.*

11 (9) “Taxing jurisdiction” means any of the several states, the
12 District of Columbia, or any territory or possession of the United
13 States, any municipality, city, county, township, parish,
14 transportation district, or assessment jurisdiction, or any other
15 political subdivision within the territorial limits of the United States
16 with the authority to impose a tax, charge, or fee.

17 (10) “Charges for telephonic quality voice communication
18 services” means *any charge for, or associated with, the provision*
19 *of telephonic quality voice communications service that is billed*
20 *to the customer by or for the customer’s home service provider,*
21 *regardless of whether individual transmissions originate or*
22 *terminate within the service area of the home service provider.*

23 (11) “Telephonic quality voice communications service” means
24 *voice communications services, regardless of the means by which*
25 *they are transmitted.*

26 (f) *The surcharge imposed under this section does not apply to*
27 *any charges for telephonic quality voice communications services,*
28 *regardless of the means by which they are transmitted, billed to a*
29 *customer where those services are provided, or deemed provided,*
30 *to a customer whose place of primary use is outside this state.*
31 *Telephonic quality voice communication services shall be deemed*
32 *provided by a customer’s home service provider to the customer*
33 *if those services are provided in a taxing jurisdiction to the*
34 *customer, and the charges for those services are billed by or for*
35 *the customer’s home service provider.*

36 SEC. 7. Section 41152 is added to the Revenue and Taxation
37 Code, to read:

38 41152. The Legislature finds and declares all of the following:

39 (a) Access to emergency telephone service has been a
40 longstanding goal of the state.

1 (b) The Emergency Telephone Users Surcharge Act remains an
2 important means for making emergency telephone service available
3 to every person in this state.

4 (c) Every reasonable means should be employed by telephone
5 corporations and every provider of telephonic quality *voice*
6 communication to ensure that every person using their service is
7 informed of and is afforded the opportunity to use emergency
8 telephone service, regardless of the means by which emergency
9 telephone calls are placed.

10 (d) The furnishing of emergency telephone service is in the
11 public interest and should be supported fairly and equitably by
12 every telephone corporation and every provider of telephonic
13 quality *voice* communication in a way that is equitable,
14 nondiscriminatory, and competitively neutral.

15 SEC. 8. The amendment of Section 41016 of the Revenue and
16 Taxation Code made by this act does not constitute a change in,
17 but is declaratory of, existing law.

18 SEC. 9. This act is an urgency statute necessary for the
19 immediate preservation of the public peace, health, or safety within
20 the meaning of Article IV of the Constitution and shall go into
21 immediate effect. The facts constituting the necessity are:

22 In order to preserve existing funding of the “911” emergency
23 telephone system and to provide continuing public access to
24 emergency response service, it is necessary that this act take effect
25 immediately.