

AMENDED IN ASSEMBLY SEPTEMBER 6, 2007

AMENDED IN ASSEMBLY JULY 10, 2007

AMENDED IN ASSEMBLY JUNE 25, 2007

**SENATE BILL**

**No. 1040**

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**Introduced by ~~Committee on Energy, Utilities and Communications~~  
(~~Senators Kehoe (Chair), Battin, Calderon, Cox, Dutton, Padilla,  
Ridley-Thomas, Simitian, and Wiggins~~) *Senator Kehoe*  
(*Coauthor: Senator Oropeza*)  
(*Coauthor: Assembly Member Eng*)**

March 8, 2007

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An act to amend Sections 25302.5 and 25534 of the Public Resources Code, to amend Sections 5, 20, 216, 353.11, 366.2, 380, 387, 387.5, 394.5, 395.5, 399.12, 701.8, 761.3, 776, 848, 2774.5, 2827, 2852, 2872.5, 2892.1, 3302, 7000, 8340, and 9604 of, to amend and renumber Sections 228.5 and 399.25 of, to add Section 224.3 to, to repeal Section 399.1 of, to repeal the heading of Article 15 of Chapter 2.3 of, and to repeal the heading of Article 5 of Chapter 2.5 of, Part 1 of Division 1 of, the Public Utilities Code, relating to public utilities.—*An act to amend Sections 41007, 41009, 41011, 41016, 41020, 41025, 41030, 41031, 41046, 41050 of, and to add Sections 41016.5, 41019.5, and 41152 to, the Revenue and Taxation Code, relating to telecommunications.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1040, as amended, ~~Committee on Energy, Utilities and Communications~~ *Kehoe. Public utilities.— Telecommunications: Emergency Telephone Users Surcharge Act.*

(1) 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. Existing law also defines a “service user,” as meaning any person using intrastate telephone communication services in this state who is required to pay a surcharge under the act.*

*This bill would expand the definition of a “service supplier,” for purposes of the “911” surcharge act, to include any person supplying Voice over Internet Protocol (VoIP) service to any service user in this state and providing access to the “911” emergency system by utilizing the digits 9-1-1. This bill would also expand the definition of a “service user,” to include any person using VoIP service in this state who is required to pay a surcharge under the act. This bill would specify that the “911” surcharge act applies to VoIP service, as defined, commencing on July 1, 2008, but would provide that the surcharge does not apply to customers whose primary place of using the service is outside the state. This bill would also specify that charges not subject to the surcharge may be calculated by a service supplier based upon books and records kept in the regular course of business, and for purposes of calculating the interstate revenue portion not subject to the surcharge, a service supplier may also choose a reasonable and verifiable method, as specified.*

*This bill would state that it is not the intent of the Legislature to regulate telephone quality communication utilizing VoIP, as defined, but rather its sole purpose is to ensure that all forms of telephonic*

*quality communication that connect to the “911” emergency system contribute to the State Emergency Telephone Number Account. The bill would also make conforming changes to other provisions of the act to include VoIP service.*

*(2) This bill would incorporate additional changes to Sections 41030 and 41031 of the Revenue and Taxation Code, proposed by AB 1748, to be operative only if AB 1748 and this bill are both enacted, each bill amends the respective sections, and this bill is enacted after AB 1748.*

~~(1) Under existing law, the Public Utilities Commission (PUC) has regulatory authority over public utilities, including electrical corporations. The existing Public Utilities Code and Public Utilities Act define certain terms for purposes of the code and the act, respectively.~~

~~This bill would provide that the definitions contained in the act govern the construction of the code unless the provision or context otherwise requires. The bill would define the term “Energy Commission” as meaning the State Energy Resources Conservation and Development Commission for purposes of the code, and would define the term “local publicly owned electric utility” within the act.~~

~~(2) The existing definition of a “public utility” within the act provides that ownership or operation of a facility that has been certified by the Federal Energy Regulatory Commission (FERC) as an exempt wholesale generator pursuant to a specified section of the Public Utility Holding Company Act of 1935 does not make a corporation or person a public utility solely due to the ownership or operation of the facility. The existing definition of an “exempt wholesale generator” defined the term by incorporating the definition from the Public Utility Holding Company Act of 1935. The federal Energy Policy Act of 2005 repealed the Public Utility Holding Company Act of 1935 and adopted the Public Utility Holding Company Act of 2005, which includes a definition for “exempt wholesale generator.” The definition of a “public utility” provides that ownership, control, operation, or management of an electric plant used for sales into the Power Exchange does not make a corporation or person a public utility solely because of that ownership, participation, or sale.~~

~~This bill would delete references to facilities certified by the FERC as “exempt wholesale generators” pursuant to the Public Utility Holding Company Act of 1935, and would instead reference the definition of that term in the Public Utility Holding Company Act of 2005. The bill would replace the provision in the definition of a “public utility” that provides that ownership, control, operation, or management of an electric~~

~~plant used for sales into the Power Exchange does not make a corporation or person a public utility with a provision that ownership, control, operation, or management of an electric plant used for sales into a market established and operated by the Independent System Operator or any other wholesale electricity market does not make a corporation or person a public utility solely due to the ownership, participation, or sale.~~

~~(3) The act defines an “electric service provider” as an entity that offers electrical service to customers within the service territory of an electrical corporation, as defined. Pursuant to the act, an “electric service provider” does not include an electrical corporation or a local publicly owned electric corporation, but does include the unregulated affiliates and subsidiaries of an electrical corporation.~~

~~Existing law relative to private energy producers defines an “electric service provider” as an electrical corporation, electrical cooperative, or local publicly owned electric utility, excluding a local publicly owned electric utility that serves more than 750,000 customers and that also conveys water to its customers. Existing law relative to private energy producers requires every electric service provider, upon request, to make available to eligible customer-generators contracts or tariffs for net energy metering on a first-come-first-served basis until the time that the total rated generating capacity used by eligible customer-generators exceeds a specified amount.~~

~~This bill would replace the definition of “electric service provider” in existing law relative to private energy producers with a definition of “electricity distribution utility or cooperative,” which would not include local publicly owned electric utilities, for which there are separate provisions.~~

~~(4) A decision of the PUC adopted the California Solar Initiative. Existing law requires the PUC to undertake certain steps in implementing the California Solar Initiative, defines what is an eligible solar energy system for purposes of the program, and regulates the use of funds under the California Solar Initiative, including ensuring that not less than 10% of the funds for the California Solar Initiative are utilized for the installation of solar energy systems, as defined, on low-income residential housing, as defined.~~

~~This bill would conform those definitions of a “solar energy system,” as specified.~~

(5) ~~This bill would extend by 3 months, the deadline for the submission of certain reports required to be prepared by the PUC, and would make other technical, nonsubstantive changes.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-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. (a) ~~“Service supplier” shall mean any person supplying~~  
4 ~~intrastate telephone communication services pursuant to California~~  
5 ~~intrastate tariffs to any service user in this state. both of the~~  
6 *following:*

7 (1) *Any person supplying intrastate telephone communication*  
8 *services to any service user in this state pursuant to California*  
9 *intrastate tariffs and providing access to the “911” emergency*  
10 *system by utilizing the digits 9-1-1.*

11 (2) *Any person supplying Voice over Internet Protocol (VoIP)*  
12 *service to any service user in this state and providing access to*  
13 *the “911” emergency system by utilizing the digits 9-1-1.*

14 (b) On and after January 1, 1988, “service supplier” also includes  
15 any person supplying intrastate telephone communications services  
16 for whom the Public Utilities Commission, by rule or order,  
17 modifies or eliminates the requirement for that person to prepare  
18 and file California intrastate tariffs.

19 *SEC. 2. Section 41009 of the Revenue and Taxation Code is*  
20 *amended to read:*

21 41009. “Service user” means any person using intrastate  
22 telephone communication services *or VoIP service* in this state  
23 who is required to pay a surcharge under the provisions of this  
24 part.

25 *SEC. 3. Section 41011 of the Revenue and Taxation Code is*  
26 *amended to read:*

27 41011. (a) “Charges for services” means all charges billed by  
28 a service supplier to a service user for intrastate telephone  
29 communications services and shall mean local telephone service  
30 and include monthly service flat-rate charges for usage, message  
31 unit charges and shall mean toll charges, and include  
32 ~~intra-state-wide~~ *intrastate wide* area telephone service charges *and*

1 *also means all charges billed by a service supplier to a service*  
 2 *user for VoIP service.*~~Charges~~

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

10 ~~Charges~~  
 11 (2) *“Charges for services” shall not include charges for*  
 12 *intrastate toll calls where bills for such calls originate out of*  
 13 *California.*

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

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

27 *SEC. 4. Section 41016 of the Revenue and Taxation Code is*  
 28 *amended to read:*

29 41016. *“Toll telephone service”~~shall mean~~ means either of*  
 30 *the following:*

31 (a) *A telephonic quality communication for which (1) there is*  
 32 *a toll charge which varies in amount with the distance and elapsed*  
 33 *transmission time of each individual communication and (2) the*  
 34 *charge is paid within the United States, and that meets both of the*  
 35 *following requirements:*

36 (1) *There is a toll charge for the service that varies in amount*  
 37 *with either the distance or elapsed transmission time, or the*  
 38 *distance and elapsed transmission time, of each individual*  
 39 *communication.*

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

1 (b) A service which entitles the subscriber, upon payment of a  
2 periodic charge (determined as a flat amount or upon the basis of  
3 total elapsed transmission time), to the privilege of *a predetermined*  
4 *amount of units or dollars of telephonic communications* or an  
5 unlimited number of telephonic communications to or from all or  
6 a substantial portion of the persons having telephone or  
7 radiotelephone stations in a specified area which is outside the  
8 local telephone system area in which the station provided with this  
9 service is located.

10 SEC. 5. Section 41016.5 is added to the Revenue and Taxation  
11 Code, to read:

12 41016.5. (a) “VoIP service” means any service that satisfies  
13 the requirements set forth in paragraph (1) and (2).

14 (1) Does all of the following:

15 (A) Enables real-time, two-way voice communication that  
16 originates from and terminates to the user’s location using Internet  
17 Protocol (IP) or any successor protocol.

18 (B) Requires a broadband connection from the user’s location.

19 (C) Permits users, generally, to receive calls that originate on  
20 the public switched telephone network and to terminate calls to  
21 the public switched telephone network.

22 (2) Does at least one of the following:

23 (A) Requires Internet protocol-compatible customer premises  
24 equipment (CPE).

25 (B) When necessary, is converted to or from transmission control  
26 protocol (TCP)/IP by the service user’s service supplier before or  
27 after being switched by the public switched telephone network.

28 (C) Is a service that the Federal Communications Commission  
29 (FCC) has affirmatively required to provide 911 or E911 service.

30 (b) This definition shall only apply to this part.

31 SEC. 6. Section 41019.5 is added to the Revenue and Taxation  
32 Code, to read:

33 41019.5. (a) It is the intent of the Legislature that telephone  
34 quality communication utilizing VoIP shall not be regulated by  
35 the enactment of Senate Bill 1040 of the 2007–08 Regular Session.  
36 The sole purpose of this act is to ensure that all forms of telephonic  
37 quality communications that connect to the “911” emergency  
38 system contribute to the State Emergency Telephone Number  
39 Account and that this act may not be used by a court or

1 *administrative body for any purpose other than to interpret and*  
2 *apply this part.*

3 *(b) For purposes of this section only, “VoIP” means any service*  
4 *that:*

5 *(1) Enables real-time or two-way voice communication that*  
6 *originates or terminates from the user’s location using IP or any*  
7 *successor protocol.*

8 *(2) Uses a broadband connection from the user’s location,*  
9 *including any service that permits users, generally, to receive calls*  
10 *that originate on the public switched telephone network and to*  
11 *terminate calls to the public switched telephone network.*

12 *SEC. 7. Section 41020 of the Revenue and Taxation Code is*  
13 *amended to read:*

14 *41020. (a) A surcharge is hereby imposed on amounts paid*  
15 *by every person in the state for intrastate both of the following:*

16 *(1) Intrastate telephone communication service in this state*  
17 *commencing on July 1, 1977.*

18 *(2) VoIP service that provides access to the “911” emergency*  
19 *system by utilizing the digits 9-1-1 by any service user in this state*  
20 *commencing on July 1, 2008. The surcharge shall not apply to*  
21 *charges for VoIP service where any point of origin or destination*  
22 *is outside of this state.*

23 *(b) (1) Notwithstanding Section 41025, charges not subject to*  
24 *the surcharge may be calculated by a service supplier based upon*  
25 *books and records kept in the regular course of business, and, for*  
26 *purposes of calculating the interstate revenue portion not subject*  
27 *to the surcharge, a service supplier may also choose a reasonable*  
28 *and verifiable method from the following:*

29 *(A) Books and records kept in the regular course of business.*

30 *(B) Traffic or call pattern studies representative of the service*  
31 *supplier’s business within California.*

32 *(C) For VoIP service only, the VoIP safe harbor factor*  
33 *established by the FCC to be used to calculate the service*  
34 *supplier’s contribution to the federal Universal Service Fund. The*  
35 *FCC safe harbor factor in effect for VoIP service on September 1*  
36 *of each year shall apply for the period of January 1 through*  
37 *December 31, inclusive, of the next succeeding calendar year for*  
38 *purposes of this method. At such time as the FCC establishes a*  
39 *safe harbor factor for the federal Universal Service Fund for VoIP*  
40 *service that is greater than 75 percent for interstate revenue or*

1 *abolishes the safe harbor factor applicable to VoIP service, this*  
2 *method shall become void and of no effect, in which case a VoIP*  
3 *service supplier may use an alternative method approved in*  
4 *advance by the board, which shall be available to all VoIP service*  
5 *suppliers. The FCC safe harbor factor applicable to VoIP service,*  
6 *as described in this subparagraph, is used solely as a mechanism*  
7 *to calculate the charges not subject to the surcharge for VoIP*  
8 *service and is not necessarily reflective of the intrastate portion*  
9 *of VoIP service. The use of the FCC safe harbor factor authorized*  
10 *by this subdivision shall not be interpreted to permit application*  
11 *of any intrastate requirement, other than the surcharge imposed*  
12 *under this part, upon VoIP service suppliers.*

13 (2) *Any method chosen by a service supplier shall remain in*  
14 *effect for at least one calendar year.*

15 (3) *If a service supplier reasonably relies upon books and*  
16 *records kept in the regular course of business or any*  
17 *documentation that satisfies the reasonable and verifiable method,*  
18 *then the service supplier's determination of the portion of the billed*  
19 *amount attributable to services not subject to the surcharge shall*  
20 *be rebuttably presumed to be correct. The service supplier's choice*  
21 *of books and records or other method and surcharge billing*  
22 *practice shall also be rebuttably presumed to be fair and legal*  
23 *business practices.*

24 (4) *It is the intent of the Legislature that the provisions of*  
25 *subparagraph (C) shall not be considered to be a precedent for*  
26 *the application of the surcharge or any other tax or fee where a*  
27 *person is required to collect a tax or fee imposed upon another.*

28 ~~(b)~~

29 (c) *The surcharge imposed shall be at the rate of one-half of 1*  
30 *percent of the charges made for such services to and including*  
31 *November 1, 1982, and thereafter at a rate fixed pursuant to Article*  
32 *2 (commencing with Section 41030).*

33 ~~(e)~~

34 (d) *The surcharge shall be paid by the service user as hereinafter*  
35 *provided.*

36 ~~(d) In~~

37 (e) *The surcharge imposed shall not apply to either of the*  
38 *following:*

39 (1) *In accordance with the Mobile Telecommunications Sourcing*  
40 *Act (P.L. (Public Law 106-252), which is incorporated herein by*

1 reference, ~~the surcharge imposed under this section does not apply~~  
2 to any charges for mobile telecommunications services billed to  
3 a customer where those services are provided, or deemed provided,  
4 to a customer whose place of primary use is outside this state.  
5 Mobile telecommunications services shall be deemed provided by  
6 a customer's home service provider to the customer if those  
7 services are provided in a taxing jurisdiction to the customer, and  
8 the charges for those services are billed by or for the customer's  
9 home service provider.

10 (2) *To any charges for VoIP service billed to a customer where*  
11 *those services are provided to a customer whose place of primary*  
12 *use of VoIP service is outside this state.*

13 (e)

14 (f) For purposes of this section:

15 (1) "Charges for mobile telecommunications services" means  
16 any charge for, or associated with, the provision of commercial  
17 mobile radio service, as defined in Section 20.3 of Title 47 of the  
18 Code of Federal Regulations, as in effect on June 1, 1999, or any  
19 charge for, or associated with, a service provided as an adjunct to  
20 a commercial mobile radio service, that is billed to the customer  
21 by or for the customer's home service provider, regardless of  
22 whether individual transmissions originate or terminate within the  
23 licensed service area of the home service provider.

24 (2) "Customer" means (A) the person or entity that contracts  
25 with the home service provider for mobile telecommunications  
26 services, *or with a VoIP service provider for VoIP service*, or (B)  
27 if the end user of mobile telecommunications services *or VoIP*  
28 *service* is not the contracting party, the end user of the mobile  
29 telecommunications service *or VoIP service*. This paragraph applies  
30 only for the purpose of determining the place of primary use. The  
31 term "customer" does not include (A) a reseller of mobile  
32 telecommunications service *or VoIP communication service*, or  
33 (B) a serving carrier under an arrangement to serve the *mobile*  
34 customer outside the home service provider's licensed service  
35 area.

36 (3) "Home service provider" means the facilities-based carrier  
37 or reseller with which the customer contracts for the provision of  
38 mobile telecommunications services.

1 (4) “Licensed service area” means the geographic area in which  
2 the home service provider is authorized by law or contract to  
3 provide commercial mobile radio service to the customer.

4 (5) “Mobile telecommunications service” means commercial  
5 mobile radio service, as defined in Section 20.3 of Title 47 of the  
6 Code of Federal Regulations, as in effect on June 1, 1999.

7 (6) “Place of primary use” means the street address  
8 representative of where the customer’s use of the mobile  
9 telecommunications service *or VoIP service* primarily occurs, that  
10 must be:

11 (A) The residential street address or the primary business street  
12 address of the customer.

13 (B) ~~Within~~ *With respect to mobile telecommunications service,*  
14 *within* the licensed service area of the home service provider.

15 (7) (A) “Reseller” means a provider who purchases  
16 telecommunications services *or VoIP service* from another  
17 telecommunications service provider *or VoIP service* and then  
18 resells the services, or uses the services as a component part of,  
19 or integrates the purchased services into, a mobile  
20 telecommunications service *or VoIP service*.

21 (B) “Reseller” does not include a serving carrier with which a  
22 home service provider arranges for the services to its customers  
23 outside the home service provider’s licensed service area.

24 (8) “Serving carrier” means a facilities-based carrier providing  
25 mobile telecommunications service to a customer outside a home  
26 service provider’s or reseller’s licensed area.

27 (9) “Taxing jurisdiction” means any of the several states, the  
28 District of Columbia, or any territory or possession of the United  
29 States, any municipality, city, county, township, parish,  
30 transportation district, or assessment jurisdiction, or any other  
31 political subdivision within the territorial limits of the United States  
32 with the authority to impose a tax, charge, or fee.

33 (10) “*VoIP service provider*” means *that provider of VoIP*  
34 *service with whom the end user customer contracts for the*  
35 *provision of VoIP services for the customer’s own use and not for*  
36 *resale.*

37 *SEC. 8. Section 41025 of the Revenue and Taxation Code is*  
38 *amended to read:*

39 41025. If a bill is rendered to persons using intrastate telephone  
40 services *or VoIP service*, the amount on which the surcharge with

1 respect to such services shall be based shall be the sum of all  
 2 charges for such services included in the bill; except that if the  
 3 person who renders the bill groups individual items for purposes  
 4 of rendering the bill and computing the surcharge, then the amount  
 5 on which the surcharge with respect to each such group shall be  
 6 based; shall be the sum of all items within that group, and the  
 7 surcharge on the remaining items not included in any such group;  
 8 shall be based on the charge for each item separately.

9 *SEC. 9. Section 41030 of the Revenue and Taxation Code is*  
 10 *amended to read:*

11 41030. The Department of General Services shall determine  
 12 annually, on or before September 1, a surcharge rate that it  
 13 estimates will produce sufficient revenue to fund the current fiscal  
 14 year's 911 costs. The surcharge rate shall be determined by dividing  
 15 the costs (including incremental costs) the Department of General  
 16 Services estimates for the current fiscal year of 911 plans approved  
 17 pursuant to Section 53115 of the Government Code, less the  
 18 available balance in the State Emergency Telephone Number  
 19 Account in the General Fund, by its estimate of the charges for  
 20 intrastate telephone communications services *and VoIP service* to  
 21 which the surcharge will apply for the period of November 1 of  
 22 the current calendar year to October 31, *inclusive*, of the next  
 23 succeeding calendar year, but in no event shall such surcharge rate  
 24 in any year be greater than three-quarters of 1 percent nor less than  
 25 one-half of 1 percent.

26 *SEC. 9.5. Section 41030 of the Revenue and Taxation Code is*  
 27 *amended to read:*

28 41030. The Department of General Services shall determine  
 29 annually, on or before ~~September~~ *October* 1, a surcharge rate that  
 30 it estimates will produce sufficient revenue to fund the current  
 31 fiscal year's 911 costs. The surcharge rate shall be determined by  
 32 dividing the costs (including incremental costs) the Department  
 33 of General Services estimates for the current fiscal year of 911  
 34 plans approved pursuant to Section 53115 of the Government  
 35 Code, less the available balance in the State Emergency Telephone  
 36 Number Account in the General Fund, by its estimate of the charges  
 37 for intrastate telephone communications services *and VoIP service*  
 38 to which the surcharge will apply for the period of ~~November 1~~  
 39 ~~of the current calendar year to October~~ *January 1 to December*  
 40 *31, inclusive*, of the next succeeding calendar year, but in no event

1 shall such surcharge rate in any year be greater than three-quarters  
2 of 1 percent nor less than one-half of 1 percent.

3 *SEC. 10. Section 41031 of the Revenue and Taxation Code is*  
4 *amended to read:*

5 41031. The Department of General Services shall make its  
6 determination of such surcharge rate each year no later than  
7 September 1 and shall notify the board of the new rate, which shall  
8 be fixed by the board to be effective with respect to charges made  
9 for intrastate telephone communication services *and VoIP service*  
10 on or after November 1 of each year.

11 *SEC. 10.5. Section 41031 of the Revenue and Taxation Code*  
12 *is amended to read:*

13 41031. The Department of General Services shall make its  
14 determination of such surcharge rate each year no later than  
15 ~~September~~ *October* 1 and shall notify the board of the new rate,  
16 which shall be fixed by the board to be effective with respect to  
17 charges made for intrastate telephone communication services *and*  
18 *VoIP service* on or after ~~November~~ *January* 1 of ~~each~~ *the next*  
19 *succeeding calendar year.*

20 *SEC. 11. Section 41046 of the Revenue and Taxation Code is*  
21 *amended to read:*

22 41046. There are exempt from the surcharge charges for  
23 intrastate telephone communication services *and VoIP service*  
24 which are exempt from the federal communication services tax  
25 pursuant to Section 4253 of the Internal Revenue Code of 1954.

26 *SEC. 12. Section 41050 of the Revenue and Taxation Code is*  
27 *amended to read:*

28 41050. The surcharge imposed by Section 41020 attaches at  
29 the time *charges for* the intrastate telephone communication  
30 services *and VoIP service* are billed by the service supplier to the  
31 service user and shall be paid by the service user when paying for  
32 such services.

33 *SEC. 13. Section 41152 is added to the Revenue and Taxation*  
34 *Code, to read:*

35 41152. *The Legislature finds and declares all of the following:*

36 (a) *Access to emergency telephone service has been a*  
37 *longstanding goal of the state.*

38 (b) *The Emergency Telephone Users Surcharge Act remains an*  
39 *important means for making emergency telephone service available*  
40 *to every person in this state.*

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

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

12 SEC. 14. (a) Section 9.5 of this bill incorporates amendments  
13 to Section 41030 of the Revenue and Taxation Code proposed by  
14 this bill and AB 1748. It shall only become operative if (1) both  
15 bills are enacted and become effective on or before January 1,  
16 2008, (2) each bill amends Section 41030 of the Revenue and  
17 Taxation Code, and (3) this bill is enacted after AB 1748, in which  
18 case Section 41030 of the Revenue and Taxation Code, as amended  
19 by AB 1748, shall remain operative only until the operative date  
20 of this bill, at which time Section 9.5 of this bill shall become  
21 operative, and Section 9 of this bill shall not become operative.

22 (b) Section 10.5 of this bill incorporates amendments to Section  
23 41031 of the Revenue and Taxation Code proposed by this bill and  
24 AB 1748. It shall only become operative if (1) both bills are enacted  
25 and become effective on or before January 1, 2008, (2) each bill  
26 amends Section 41031 of the Revenue and Taxation Code, and (3)  
27 this bill is enacted after AB 1748, in which case Section 41031 of  
28 the Revenue and Taxation Code, as amended by AB 1748, shall  
29 remain operative only until the operative date of this bill, at which  
30 time Section 10.5 of this bill shall become operative, and Section  
31 10 of this bill shall not become operative.

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**All matter omitted in this version of the bill  
appears in the bill as amended in Assembly,  
7/10/07 (JR11)**

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