

## **BILL ANALYSIS**

Senate Research Center  
82R5546 JXC-D

S.B. 985  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Voice over Internet Protocol (VoIP) is a telephone call that travels over the Internet. It is an application that uses a broadband Internet connection to transmit voice telecommunications service. With the exception of one contract arbitration case delegated to the Public Utilities Commission of Texas (PUC) from the Federal Communications Commission (FCC), PUC has not taken action relative to VoIP. S.B. 985 codifies longstanding state policy by explicitly exempting Internet Protocol (IP)-enabled services and VoIP from state regulation regarding rates, service, terms, conditions, or market entry.

In 2004, the FCC ruled that a type of Internet telephone service offered by Vonage (Digital Voice) is not subject to traditional state public utility regulation, and indicated that other types of IP-enabled services with basic characteristics similar to DigitalVoice also would not be subject to state regulation. This rule was upheld by the Eighth Circuit Court of Appeal in March 2007, with a decision that the agency charged with overseeing the industry, the FCC, should make the decisions regarding regulations.

S.B. 985 creates Sections 51.002(3-a) and (13) to define IP-enabled services and VoIP. The bill also codifies standing state policy by prohibiting state regulation of rates, service, terms, conditions or market entry for IP-enabled services and VoIP. The bill clarifies that new sections do not affect payment of right-of-way fees on VoIP under Chapter 283 (Management of Public Right-of-Way Used by Telecommunications Provider in Municipality), Local Government Code, obligations for the provision of video service, or require or prohibit assessment of enhanced 9-1-1, relay access service, or universal service fund fees on VoIP. Furthermore, the bill provides that inter-carrier compensation for VoIP, like switched access rates, shall be determined through FCC rules or commercial agreements.

As proposed, S.B. 985 amends current law relating to the regulation of Voice over Internet Protocol service.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly prohibited to a department, agency, or political subdivision of this state in SECTION 2 (Section 52.002, Utilities Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 51.002, Utilities Code, by adding Subdivisions (3-a) and (13), to define, respectively, "Internet protocol enabled service" and "Voice over Internet Protocol service."

SECTION 2. Amends Section 52.002, Utilities Code, by adding Subsections (c) and (d), as follows:

(c) Prohibits a department, agency, or political subdivision of this state, notwithstanding any other law, by rule, order, or other means from directly or indirectly regulating rates charged for, service or contract terms for, conditions for, or requirements for entry into the market for Voice over Internet Protocol (VoIP) services or other Internet Protocol (IP)-enabled services. Provides that this subsection does not:

(1) affect payment of rights-of-way fees applicable to VoIP services under Chapter 283 (Management of Public Right-of-Way Used by Telecommunications Provider in Municipality), Local Government Code;

(2) affect any person's obligation to provide video service, as defined by Section 66.002 (Definitions), under any applicable state or federal law; or

(3) require or prohibit assessment of enhanced 9-1-1, relay access service, or universal service fund fees on VoIP service.

(d) Requires that payment of switched access rates, as applicable, with respect to VoIP services or other IP-enabled services or other intercarrier compensation rates be as determined through commercial agreements or by the Federal Communications Commission.

SECTION 3. Effective date: September 1, 2011.