AMENDED IN SENATE APRIL 27, 2005

AMENDED IN SENATE MARCH 30, 2005

SENATE BILL No. 1068

Introduced by Senators Escutia and Bowen
(Coauthors: Senators Alarcon ~~and Figueroa~~*, Alquist, Ashburn, Dunn, Figueroa, Kuehl, and Speier*)

February 22, 2005

An act to add Article 11 (commencing with Section 905) to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

SB 1068, as amended, Escutia. Telecommunications: consumer protection.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including telephone corporations. Pursuant to existing law, the commission adopted a general order applicable to all commission-regulated telecommunications utilities known as the telecommunications consumers' Bill of Rights.

This bill would state the intent of the Legislature to establish consumer protections that are at a minimum, as protective as those originally adopted by the commission in the telecommunications consumers' Bill of Rights. The bill would require that the commission, by July 1, 2006, develop and enforce consumer protection rules for telecommunications service, including mobile telephony services, as defined, that achieve certain policies and meet specified requirements. The bill would additionally require that the commission, by July 1, 2006, develop and enforce consumer protection rules for charges for noncommunications services on telephone corporation billings, that meet specified requirements.

Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

Certain provisions of this bill would be part of the act and an order or other action of the commission would be required to implement certain of the provisions. Because a violation of the bill's provisions or of an implementing order or decision of the commission would be a crime, this bill would impose a state-mandated local program by creating new crimes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

SECTION 1. Article 11 (commencing with Section 905) is added to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, to read:

Article 11. Telecommunications Bill of Rights

905. (a) It is the intent of the Legislature to establish consumer protections that are at a minimum, as protective as those originally adopted by the commission in Decision 04-05-057.

(b) For purposes of this section, the following terms have the following meanings:

(1) "Mobile telephony services" means commercially available interconnected mobile phone services that provide access to the public switched telephone network (PSTN) via mobile communication devices employing radiowave technology to transmit calls, including cellular radiotelephone, broadband Personal Communications Services (PCS), and digital Specialized Mobile Radio (SMR). "Mobile telephony services" does not include mobile satellite services or mobile data services

used exclusively for the delivery of nonvoice information to a mobile device.

(2) "Contract" means an agreement to supply products or perform services for compensation, and includes a customer service agreement for tariffed services.

(c) The commission shall, by July 1, 2006, develop and enforce consumer protection rules for telecommunications service, including mobile telephony services, that achieve all of the following policies:

(1) A consumer has a right to receive clear and complete information about rates, terms, and conditions for available products and services, and to be charged only according to the rates, terms, and conditions to which the consumer has agreed. This includes the right to receive available contracts and disclosures in the same language as used in the marketing of the product or service.

(2) A consumer has a right to select services and vendors, and to have the consumer's choices respected by telecommunications service providers.

(3) A consumer has a right to personal privacy, to be protected from unauthorized use of the consumer's records and personal information, and to reject intrusive communications and technology.

(4) A consumer has a right to participate in public policy proceedings, to be informed of his or her rights and what agencies enforce those rights, and to have effective recourse if his or her rights are violated.

(5) A consumer has a right to accurate and understandable bills for products and services authorized by the consumer, and to fair, prompt, and courteous redress for problems the consumer encounters.

(6) A consumer has the right to be treated equally with all other similarly situated consumers, free of prejudice or disadvantage.

(7) A consumer has a right to safety and security of person and property.

(d) The rules adopted by the commission pursuant to subdivision (c) shall include all of the following requirements:

(1) A telephone corporation shall disclose its rates, terms, and conditions of service and, upon request, provide its customers

with a complete explanation of the charges comprising the customer's bill. A telephone corporation shall publish, and keep current on an Internet Web site, the rates, terms, and conditions for services it offers for services for which it currently has customers.

(2) A telephone corporation shall make no statement about rates and services that is deceptive, untrue, or misleading.

(3) (A) A customer may cancel, without termination fees or penalties, any new service or contract for service within 30 days after the new service or contract for service is initiated.

(B) A telephone corporation shall provide a customer with written confirmation of every order for service and a written copy of each contract between the telephone corporation and the customer.

(C) A contract for service may not incorporate other information by reference, except where the referenced information is provided in a separate document provided simultaneously with the contract.

(D) A written confirmation shall include the rates, terms, and conditions of service, including the customer's right to cancel the service within 30 days.

(4) A telephone corporation shall provide a contract to a customer and make the disclosures required pursuant to paragraphs (1) and (2) in the same language used to advertise the product or service, upon the customer's request.

(5) Every advertisement of the price, rate, or unit value of a prepaid calling card or prepaid calling service shall include a disclosure of any geographic limitation on the advertised price, any minimum charges, any expiration policies, and any relevant fees or surcharges. If any language other than English is used in the advertising or promotion of the prepaid calling card or prepaid calling service the disclosure shall be in that language.

(6) A telephone corporation may not require a deposit to establish or reestablish service unless a customer is unable to demonstrate acceptable credit. No deposit imposed by a telephone corporation may exceed twice the estimated monthly bill for basic service. Every deposit shall be refunded after one continuous year of timely payments for basic service by the customer, and not later than 30 days after basic service is discontinued.

(7) Every telephone corporation billing statement shall be clearly organized and contain a clear and concise description of the product or service for which the charges are imposed. Every billing statement may only contain charges for products and services which have been authorized by the customer. All mandated government taxes, surcharges, and fees required to be collected from customers and to be remitted to federal, state, or local governments shall be separately listed and identified as "government fees and taxes." This section of the billing shall not include any charges for which the telephone corporation is not required to remit the moneys to the government.

(8) A telephone corporation shall credit payments effective the business day payments are received by the telephone corporation or its agent. No billing shall include any previously unbilled charge for intrastate service furnished more than three months immediately preceding the date of the billing, except that the billing may include roaming charges for mobile telephony services on a system other than the subscriber's home system for up to four months immediately preceding the date of the billing, and the billing may include charges for collect, third-party, and calling card calls for up to the five months immediately preceding the date of the billing. Telephone corporations shall prorate charges for basic service for partial months. Billings shall be based on the rates in effect at the time the service was used.

(9) A telephone corporation shall not change a customer's contract in a way that results in higher rates or more restrictive terms or conditions without the express consent of the customer.

(10) A telephone corporation shall provide written notice to any customer whose payments are overdue not less than seven calendar days prior to terminating service for nonpayment. Basic exchange service may not be disconnected on any day that telephone corporation representatives are not available to assist customers.

(11) A telephone corporation shall investigate a customer billing dispute and reach a determination and communicate that determination to the customer within 30 days. During the investigation of the customer billing dispute, no late charge or penalty may be collected from the customer, the charge in dispute may not be sent to collection, and no adverse credit report may be filed as to the customer. Disputes shall be resolved

pursuant to California law and the forum for adjudication of disputes shall be the county in California in which the customer receives the billing or the customer's primary place of use of the service. A telephone corporation shall not hold customers liable for costs resulting from complaints before the commission, other agencies, or arbitrators.

(12) A telephone corporation shall designate one or more representatives to be available during regular business hours to accept Consumer Affairs Branch inquires from the commission. The telephone corporation shall provide all documents and information requested by the branch.

(13) A telephone corporation shall issue an identification card to every employee who has occasion to enter the premises of customers on behalf of the telephone corporation. No telephone corporation shall misrepresent, or allow its employees to misrepresent, its association or affiliation with the corporation when soliciting or implementing the customer's agreement to purchase products or services.

(14) A telephone corporation shall provide every residential customer, and every mobile telephony handset that is technologically compatible with its system, with access to the 9-1-1 emergency dialing system regardless of whether an account has been established.

(e) The commission shall, by July 1, 2006, develop and enforce consumer protection rules for charges for noncommunications services on telephone corporation billings, that include all of the following:

(1) A telephone corporation billing may not contain noncommunications related charges unless the telephone corporation obtains the express written authorization of the customer and the telephone corporation uses a ~~Personal Identification Number~~ *personal identification number* (PIN) or other equally reliable security procedure approved by the commission, that is designed to prevent persons or entities other than the customer and individuals authorized by the customer, from placing charges.

(2) A telephone corporation shall take reasonable precautions to screen vendors and billing agents before agreeing to provide billing services for noncommunications related charges by the

vendor or billing agent, in order to screen out unreliable or untrustworthy business entities.

(3) A telephone corporation shall not disconnect basic telephone service for nonpayment of noncommunications related charges.

(4) A telephone corporation shall separately identify all noncommunications related charges on every billing, with clear and concise descriptions of the product or service for which a charge has been imposed.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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