

1-1 By: Carona S.B. No. 985  
1-2 (In the Senate - Filed February 28, 2011; March 8, 2011,  
1-3 read first time and referred to Committee on Business and Commerce;  
1-4 March 31, 2011, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; March 31, 2011,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 985 By: Carona

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the regulation of Voice over Internet Protocol service.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 51.002, Utilities Code, is amended by  
1-13 adding Subdivisions (3-a) and (13) to read as follows:

1-14 (3-a) "Internet Protocol enabled service" means a  
1-15 service, capability, functionality, or application that uses  
1-16 Internet Protocol or a successor protocol to allow an end user to  
1-17 send or receive a data, video, or voice communication in Internet  
1-18 Protocol or a successor protocol.

1-19 (13) "Voice over Internet Protocol service" means a  
1-20 service that:

1-21 (A) uses Internet Protocol or a successor  
1-22 protocol to enable a real-time, two-way voice communication that  
1-23 originates from or terminates to the user's location in Internet  
1-24 Protocol or a successor protocol;

1-25 (B) requires a broadband connection from the  
1-26 user's location; and

1-27 (C) permits a user generally to receive a call  
1-28 that originates on the public switched telephone network and to  
1-29 terminate a call to the public switched telephone network.

1-30 SECTION 2. Section 52.002, Utilities Code, is amended by  
1-31 adding Subsections (c) and (d) to read as follows:

1-32 (c) The commission may not require a telecommunications  
1-33 utility that is not a public utility, including a deregulated or  
1-34 transitioning company, to comply with a requirement or standard  
1-35 that is more burdensome than a requirement or standard the  
1-36 commission imposes on a public utility.

1-37 (d) Notwithstanding any other law, a department, agency, or  
1-38 political subdivision of this state may not by rule, order, or other  
1-39 means directly or indirectly regulate rates charged for, service or  
1-40 contract terms for, conditions for, or requirements for entry into  
1-41 the market for Voice over Internet Protocol services or other  
1-42 Internet Protocol enabled services. This subsection does not:

1-43 (1) affect requirements pertaining to use of a  
1-44 right-of-way or payment of right-of-way fees applicable to Voice  
1-45 over Internet Protocol services under Chapter 283, Local Government  
1-46 Code;

1-47 (2) affect any person's obligation to provide video or  
1-48 cable service, as defined under applicable state or federal law;

1-49 (3) require or prohibit assessment of enhanced 9-1-1,  
1-50 relay access service, or universal service fund fees on Voice over  
1-51 Internet Protocol service;

1-52 (4) affect any entity's obligations under Sections 251  
1-53 and 252, Communications Act of 1934 (47 U.S.C. Sections 251 and  
1-54 252), or a right granted to an entity by those sections;

1-55 (5) affect any applicable wholesale tariff;

1-56 (6) grant, modify, or affect the authority of the  
1-57 commission to implement, carry out, or enforce the rights or  
1-58 obligations provided by Sections 251 and 252, Communications Act of  
1-59 1934 (47 U.S.C. Sections 251 and 252), or of an applicable wholesale  
1-60 tariff through arbitration proceedings or other available  
1-61 mechanisms and procedures;

1-62 (7) require or prohibit payment of switched network  
1-63 access rates or other intercarrier compensation rates, as

2-1 applicable;  
2-2 (8) limit any commission authority over the subjects  
2-3 listed in Subdivisions (1)-(7) or grant the commission any  
2-4 authority over those subjects; or  
2-5 (9) affect the assessment or collection of a tax or fee  
2-6 over which the comptroller has authority.  
2-7 SECTION 3. This Act takes effect September 1, 2011.

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