

# Deregulation of Telecommunications in California

*"No price too high, no lie too big..."*



- Telecommunications and information infrastructure rely on the Internet and IP/VoIP platforms.
- The California Public Utilities Commission must exercise regulatory oversight to provide equal access, basic protections and to overcome the Digital Divide.
- SB 1161 (Padilla) is an anti-consumer, anti-labor giveaway to major telecommunications corporations that seek to cut the regulatory powers of the California Public Utilities Commission.
- SB 1161 does nothing to stimulate innovation in Internet services; it claims deregulation will somehow do this, but it is a completely unproven article of faith, and a deceptive pretext for this special-interest legislation.

June, 2012  
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## SB1161, Deregulation of Telecommunications in California

For decades we have seen a steady erosion of government and regulatory oversight of telecommunications and media across the United States to the almost exclusive benefit of the industries and the detriment of labor and consumers. SB 1161 was introduced in February in the California State Senate and would represent another nail in the coffin of oversight of vital information infrastructure and services. It is crafted in a manner similar to measures that have been implemented in over 20 states, although in California, with Democrat majorities in the legislature, it took many of us by surprise.

### Stealth Campaign

SB 1161 has moved forward with the transparency of a stealth bomber. Subtitled, “Communications: Voice over Internet Protocol and Internet Protocol enabled communications service” one must cut through the complex legalistic and technical wording to get to the core thrust of the legislation. Section 1 opens with statements that it is both a job creator and a staunch protector of the “Open Internet”. These false and misleading claims reveal much about its sponsors and their objectives.



**Claim:** Section 1. (a)(3) finds and declares, “*California’s innovation economy is leading the state’s economic recovery. Silicon Valley alone added 42,000 jobs in 2011, an increase of 3.8 percent versus a national job growth rate of 1.1 percent. The newly designated “app,” for application, economy has resulted in 466,000 new jobs nationwide, with 25 percent of that total created in California.*”

**Fact:** Silicon Valley and IT based industries are extremely volatile and unsafe bets:

- In 2011, San Jose based Cisco Systems announced the layoffs of 6500 employees.
- In March of 2012, Sunnyvale-based Yahoo announced layoffs of 1000 or more employees.
- In May of 2012, Palo Alto based HP announced they would lay off 27,000 workers. This follows layoffs in previous years totaling over 20,000 workers.
- In a more recent development that received much attention and undeserved glory, Facebook had a public offering that started with a stock price of \$38 dollars and within days dropped to \$32. Not only is this a “black eye” for Silicon Valley; it will have ripple effects throughout the industry, including underwriters in the banking sector, led by Morgan Stanley. To make matters worse, budget projections for the State of California were based on more than a billion dollars in tax revenues, which have disappeared in the devalued stock price.

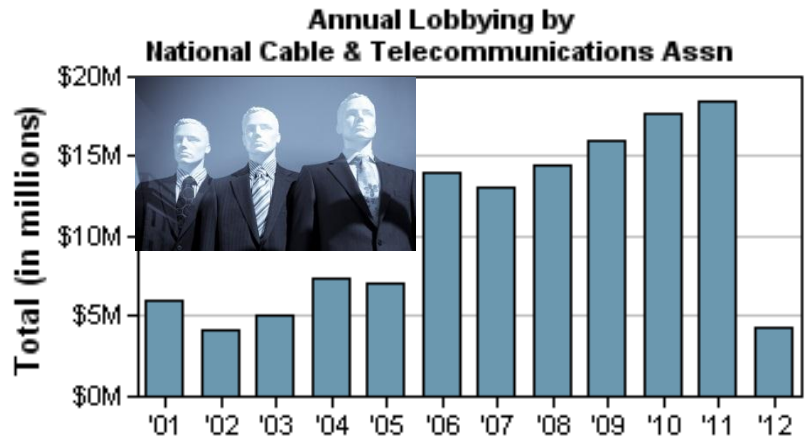
### “Creative Destruction”

In Silicon Valley it is known as “creative destruction”, a long term pattern of ups and downs. Startups and their CEO’s run the gamut of “quick launch”, stellar short-term profits, and bust, as a new “product” hits the market. That phenomenon has been present in California’s past cycles of economic crisis when certain industries, including IT and housing were overvalued and propped up by a market of false expectations, speculation and greed. They gambled with California’s future by placing our hopes and economic prosperity on unsustainable, volatile market schemes. Californians would benefit far more from a stable approach based on solar and other sustainable energy sources, optical fiber broadband, public transportation, infrastructure improvement and other creative and traditional, incremental, value added industries.



Referring again to SB1161’s sponsors and their objectives, these became even more apparent in the key meeting of the Senate Appropriations Committee held on 5/14/2012. The members were addressed by an army of “suits” representing all the usual suspects. They were executives, lawyers and lobbyists from ATT, Verizon, Comcast, Time Warner Cable, E-Bay, Qualcomm, the Silicon Valley Leadership Group, Microsoft (Skype) and Cisco Systems, to name a few.

In his presentation to Appropriations, Alex Padilla had the audacity to state, “This week’s Facebook IPO, most estimate a \$900 billion dollar IPO, would result in a \$500 million dollar benefit this year and an additional \$500 million next year.” He was referring to the revenue that would accrue to the California state budget; almost \$1 billion dollars that disappeared overnight in “creative destruction”.



**Claim:** Section 1(b)(2) finds and declares it will *“Ensure a vibrant and competitive open Internet that allows California’s technology businesses to continue to flourish and contribute to economic development throughout the state.”*

**Fact:** Beyond Section 1, there is nothing in this bill that even mentions the “Internet” open or closed, regulated or not. In fact, the only language that has anything to do with the “Internet” is “Voice over Internet Protocol” (VoIP) and “Internet Protocol” (IP) based platforms for telecommunications services.

**Claim:** In Section 2 (a)(2), the bill purports to preserve the traditional copper based Plain Old Telephone Service (POTS), by excluding any *“service that uses ordinary customer premises equipment with no enhanced functionality that originates and terminates on the public switched telephone network, undergoes no net protocol conversion, and provides no enhanced functionality to end users due to the provider’s use of Internet Protocol technology...”*

**Fact:** In the same section, it describes VoIP and IP enabled service as any service that: *“Permits a user generally to receive a call that originates on the public switched telephone network and to terminate a call to the public switched telephone network” and “any service, capability, functionality, or application using existing Internet Protocol, or any successor Internet Protocol, that enables an end user to send or receive a communication in existing Internet Protocol format, or any successor Internet Protocol format through a broadband connection, regardless of whether the communication is voice, data, or video.”*

The legalistic play in the wording makes it difficult for the non-expert reader to see that SB1161 could potentially apply to any call that travels for any portion of its trip over an IP based platform, whether originating, terminating or “IP in the Middle”. At this time, VoIP phone service makes up over one quarter of California’s 10.4 million residential telephone subscriptions, although the volume of calls is much higher. The goal of the industry is to switch all phone service to this network. Long before that is achieved; no call made in California will fall under regulatory oversight.

**Claim:** In regards to the California Public Utilities Commission the bill, *“...does not affect any existing regulation of or existing commission authority over, non-VoIP and other non-IP enabled wireline or wireless service, including regulations governing universal service and the offering of basic service and lifeline service.”*

**Fact:** In the May meeting of the CPUC in Fresno, the majority of the commissioners were very clear in their opposition to SB 1161 because they understood that it would remove oversight. However in a slick maneuver, Alex Padilla launched a last minute protest of a staff report that placed the cost of implementation at \$1 billion dollars. He said the data had not been “vetted” and caused the CPUC to postpone their vote.

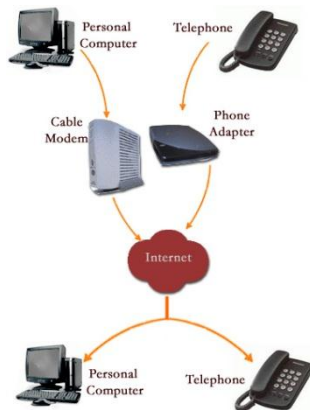


If SB 1161 prevails, it will definitely have a negative impact on the CPUC's oversight of the landline quality of service and consumer protections. Also, in regards to VoIP/IP communications services, in 2011, the Consumer Protection and Safety Division of the CPUC submitted a motion for modification of the scope of rulemaking to extend consumer protection. According to this motion, VoIP and IP based services fall within the definition of telecommunications and as such, are subject to the Service Quality Measurements and other reporting procedures designed to protect consumers.

It has long been the position of consumer groups that not only telecommunications but access to broadband and other internet-based information services should be regulated to assure equitable treatment of poor, rural and inner-city communities. SB 1161 would be another blow to the regulatory framework for oversight of access to broadband and internet-based information services, potentially increasing the digital divide.

Despite the statement to the contrary, it is the regulatory authority of the CPUC that is the actual target of SB1161 as is revealed in the following paragraph:

*"No department, agency, commission, or political subdivision of the state shall enact, adopt, or enforce any law, rule, regulation, ordinance, standard, order, or other provision having the force or effect of law, that regulates VoIP or other IP enabled service, unless required or expressly delegated by federal law or expressly authorized by statute or pursuant to subdivision..."*



**Note:** In order to cut through the misleading language, one must understand the difference between "Internet" and VoIP/IP. They both require broadband access and use a unique set of numbers and sub-nets i.e. "75.23.145.75" that comprise the IP "address" of the end user. However, "nomadic" services such as Skype, route calls over the Internet, while VoIP/IP calls travel a separate path. VoIP/IP calls begin and/or end at a phone set with a fixed location and use the provider's network as the bridge to the Public Switched Telephone Network and the world. "Nomadic" services connect the user via the Internet, wherever they are. Recently, Skype can connect to the Public Switched Telephone Network at a cost per minute or month, but with spotty results and quality. This is not to be confused with cell phone service.

### Who are Alex Padilla and Steven Bradford?

Alex Padilla is the State Senator for the 20<sup>th</sup> Senate District, Los Angeles area and Chair of the Senate Energy, Utilities and Communications Committee. He wrote SB 1161 on the behalf of ATT, Verizon, Comcast, Time Warner and other companies that as and industry have contributed over \$57,000 to his re-election campaigns.\* Unfortunately he has also received huge sums of money from the labor movement in California. He was known as a friend to Labor, and particularly CWA, but now should be considered "the Senator from ATT".

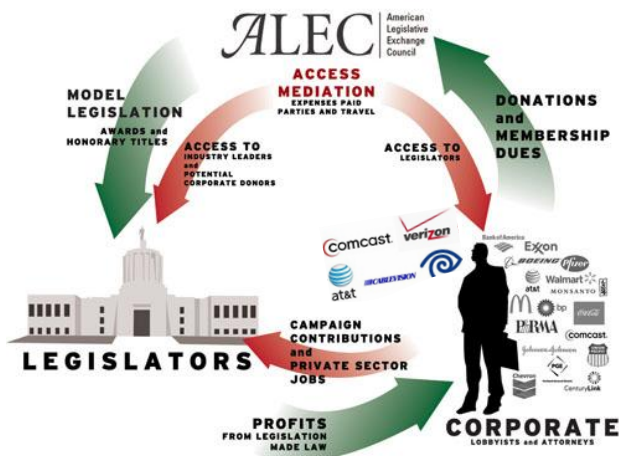


Steven Bradford is the California Assembly Representative from the 51<sup>st</sup> Assembly District, Gardena, and the Chair of the Assembly Utilities and Commerce Committee which has to clear the bill before it goes to the full Assembly. He is also the principal co-author of the bill. In this case he could be considered the "Assembly Representative from ATT" who has received ample support both from the industry and from labor.

\*MapLight's Money & Politics



## The American Legislative Exchange Commission (ALEC) and Deregulation



One important discovery in the investigation of deregulation across the United States is the deep collaboration between ALEC and ATT. ALEC is the largest membership association of state legislators in the United States, with over 98% of its revenue coming from corporations and corporate foundations. In the 2010 congressional elections, ALEC boasted 3 of 4 new Senators were ALEC alumni, and 27 of 42 newly elected to the U.S. House of Representatives.

In 2010 ATT gave \$3.7 million to federal candidate Political Action Committees; of that, \$1,612,582 to Democrats and \$2,035,949 to Republicans. The ties between ALEC and ATT go beyond campaign

donations. ATT is on the corporate Private Enterprise Board and Pete Hernandez, California Executive Director of Legislative Affairs for ATT is the Private Sector Chair.

Model telecommunications bills have been an important part of ALEC operations in several states including efforts to block utilities from placing optical fiber to a "hands-off approach" to telecom regulation. Legislation to block VoIP regulation was first launched as far back as 2008. Could it be the California legislators leading this effort are trying to curry favor with ALEC in anticipation of future runs for federal office?

### What is the Labor Movement's position?

The powerful California Labor Federation is unable to take a position due to an archaic protocol triggered when a Local of the International Brotherhood of Electrical Workers chose to side with the industry. This was communicated in a letter from high power California lobbyist Scott Wetch to Alex Padilla which mimics the misleading claims found in the text of the Bill, including, "California is a global leader in internet technologies because it has not attempted to place unnecessary and duplicative restrictions on the internet." It concludes with, "It is an investment in infrastructure deployment that is creating jobs for our members."

A staff member in the IBEW Washington D.C. Political Legislative Department responded to an email inquiry regarding this letter and stated in part:

*"We supported the bill for several important reasons:*

- 1) The chair and sponsor of the bill asked us to*
  - 2) AT&T who was extremely helpful to us on past legislation (and an Employer of IBEW members) asked for our help on it*
  - 3) Frontier communications (employer of 1245 in California) asked us to*
- Having said that it wasn't priority for IBEW we only wrote a letter of support. We never did lobby or do and sort of mobilization effort."*

As a result of this "favor" to the industry, any intervention on this bill would be considered meddling in a dispute between two affiliates of the Labor Fed, which under those circumstances, must remain neutral. (\*Note: 1245 identifies the Local of IBEW; the number of members is unknown.)

### Can SB 1161 be stopped?

Wherever deregulation of telecommunications has raised its ugly head, it was soon followed by greater concentration of communication and information network ownership, reduced competition, higher prices and fewer choices for consumers. Labor, particularly the men and women of the Communications Workers of America have suffered the biggest hit in jobs and working conditions.

Where there is oversight by the PUC, Quality Service Measurements pressure the Telcos to perform repairs and restore service within reasonable time frames and mitigate customer abuse.

Where there is no oversight, there are no standards for consumer protection, and Telcos can allow outages to last to the point where customers might abandon landlines for wireless. The wireless divisions compete with the wireline side, eventually causing a loss of customers and reductions in the workforce.

Even with those Service Quality Measurements, ATT and Verizon performed miserably. Nonetheless, millions of California households still desire wireline phone service, especially with the glitches in wireless service due to insufficient capacity, or spectrum, and choke points caused by the data-consuming “apps” boasted by the IT firms.

Several years of regulatory analysis and data from various states where the regulatory framework has been attacked and weakened show a steady, building momentum that will be difficult to stop. But it can be defeated, as was the case in Connecticut, New York, New Jersey and several other states. The astonishing phenomenon is that this bill is being lauded as a major piece of bi-partisan cooperation as indicated by the votes at various stages:

- 4/25/12 - Senate Energy, Utilities and Communications: 12-0
- 5/29/12 - Senate Appropriations: 7-0
- 5/30/12 - Senate Floor: 30-6
- 6/18/12 - Assembly Utilities and Commerce Committee: 13-1
- To be voted out of the full Assembly by July 1

### **Conclusion: Stop SB 1161 Deregulation of Telecommunications**

Communications Workers of America and the communities served by the multi-billion dollar telecommunications industry in California will be the biggest losers in this fight. Despite this, CWA has only begun to mobilize its membership of over 60,000 in California. This is due in part to the intense contract bargaining which is currently taking place with ATT which has become an existential struggle. CWA District 9 members have been working without a contract for over two months. However, deregulation of telecommunications did not begin overnight; it has been on the march, state by state, for over a dozen years. Informed observers admit that inertia and the lack of pro-active analysis and organizing against deregulation have allowed the Telcos and their minions to gain precious ground.

One positive development has been a coalition that has formed between CWA, the Utility Reform Network, AARP, Division of Ratepayer Advocates and over fifty community and consumer groups. It was this type of coalition that beat back deregulation in other states. However, much energy has been lost trying to tweak the language of a bill that in its essence has no redeeming qualities.

You would think that California would be the last bastion to fall to deregulation. But being the biggest state in the union with over 34 million residents, over one-tenth of the population of the U.S., it is also the biggest prize. As such, no price was too high, no lie too big, and no betrayal too great. The Democratic leadership in the legislature, due to ignorance of the technology or other agendas and trade-offs, have turned their backs on labor and California consumers.

**Concerned residents of California should contact their State Assembly Representative and urge them to vote against SB 1161. However, based on its history and “bipartisan” support, it would appear that the only hope may be a veto by Governor Jerry Brown which can only come as a result of intense pressure from a wide coalition of consumer groups with hobbled support from labor. Would he be willing to do so in the face of huge Republican and Democratic votes? On the other hand, can California afford to gamble with our information infrastructure and economic future?**

*(For information sources used in this document contact [comworkeradvocate@gmail.com](mailto:comworkeradvocate@gmail.com))*