

114TH CONGRESS
1ST SESSION

S. 760

To amend the Communications Act of 1934 to authorize a bipartisan majority of Commissioners of the Federal Communications Commission to hold nonpublic collaborative discussions.

IN THE SENATE OF THE UNITED STATES

MARCH 17, 2015

Mr. HELLER (for himself and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Communications Act of 1934 to authorize a bipartisan majority of Commissioners of the Federal Communications Commission to hold nonpublic collaborative discussions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Communica-
5 tions Commission Collaboration Act of 2015”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Commissioners of the Federal Communica-
2 tions Commission (in this section referred to as the
3 “Commission”), past and present, have stated that,
4 while they support the intent of section 552b of title
5 5, United States Code, the implementation of that
6 section has hindered the ability of the Commission
7 to have a substantive exchange of ideas and hold col-
8 lective deliberations on issues pending before the
9 Commission.

10 (2) The principal purpose of Congress in cre-
11 ating a multimember agency is to obtain the benefits
12 of collegial decisionmaking by the members of the
13 agency, who bring to the decisionmaking process dif-
14 ferent philosophical perspectives, experiences, and
15 areas of expertise.

16 (3) Commissioners have relied primarily on an
17 inefficient combination of written messages, commu-
18 nications among staff, and a series of meetings re-
19 stricted to 2 Commissioners at each such meeting to
20 discuss complex telecommunications matters pending
21 before the Commission.

22 (4) Extensive use of such methods of commu-
23 nication has harmed collegiality and cooperation at
24 the Commission.

1 (5) Numerous regulatory matters have been
 2 pending before the Commission for years, and con-
 3 tinued inaction on these issues has the potential to
 4 hinder innovation and private investment in the do-
 5 mestic communications industry.

6 (6) The Commission must be able to work more
 7 collaboratively and efficiently than in the past to
 8 meet the current challenge of expanding broadband
 9 Internet access to the extent necessary to serve the
 10 business, educational, health, and cultural needs of
 11 all people in the United States.

12 **SEC. 3. NONPUBLIC COLLABORATIVE DISCUSSIONS OF THE**
 13 **FEDERAL COMMUNICATIONS COMMISSION.**

14 Section 4 of the Communications Act of 1934 (47
 15 U.S.C. 154) is amended by adding at the end the fol-
 16 lowing:

17 “(p) NONPUBLIC COLLABORATIVE DISCUSSIONS.—

18 “(1) DEFINITIONS.—In this subsection—

19 “(A) the term ‘agency action’ has the
 20 meaning given the term in section 551 of title
 21 5, United States Code; and

22 “(B) the term ‘bipartisan majority’ means,
 23 when used with respect to a group of Commis-
 24 sioners, that the group—

1 “(i) is a group of 3 or more Commis-
2 sioners; and

3 “(ii) includes—

4 “(I) for each political party of
5 which any Commissioner is a member,
6 not less than 1 Commissioner who is
7 a member of the political party; and

8 “(II) if any Commissioner has no
9 political party affiliation, not less than
10 1 unaffiliated Commissioner.

11 “(2) AUTHORITY TO HOLD MEETINGS.—Not-
12 withstanding section 552b of title 5, United States
13 Code, a bipartisan majority of Commissioners may
14 hold a meeting that is closed to the public to discuss
15 official business if—

16 “(A) a vote or any other agency action is
17 not taken at the meeting;

18 “(B) each person present at the meeting is
19 a Commissioner, an employee of the Commis-
20 sion, a member of a joint board or conference
21 established under section 410, or a person on
22 the staff of such a joint board or conference or
23 of a member of such a joint board or con-
24 ference; and

1 “(C) an attorney from the Office of Gen-
2 eral Counsel of the Commission is present at
3 the meeting.

4 “(3) DISCLOSURE OF NONPUBLIC COLLABO-
5 RATIVE DISCUSSIONS.—Not later than 2 business
6 days after the conclusion of a meeting held under
7 paragraph (2), the Commission shall publish a dis-
8 closure of the meeting, including—

9 “(A) a list of the persons who attended the
10 meeting; and

11 “(B) a summary of the matters discussed
12 at the meeting, except for any matters that the
13 Commission determines may be withheld under
14 section 552b(c) of title 5, United States Code.

15 “(4) PRESERVATION OF OPEN MEETINGS RE-
16 QUIREMENTS FOR AGENCY ACTION.—Nothing in this
17 subsection shall limit the applicability of section
18 552b of title 5, United States Code, with respect to
19 a meeting of Commissioners other than that de-
20 scribed in paragraph (2).”.

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