



information that may not be shared without a customer's consent, including the services purchased by a residential subscriber from the telephone corporation or independent information services that use the telephone corporation's facilities to serve the customers. (Public Utilities Code §2891)

This bill:

- 1) Adds the following information to the list of data that must be included in the CPUC's interactive broadband map:
  - a) All developed last-mile broadband service connections from the statewide open-access middle-mile broadband network.
  - b) The average cost paid by consumers or subscribers for broadband service by census block.
  - c) The average consumer price for broadband service advertised by broadband service providers to consumers or subscribers by census block.
- 2) Specifies that the CPUC must publish on its website the average cost paid by subscribers for broadband service on a census block basis while insuring that no individually identifiable customer or subscriber information is publicly disclosed.
- 3) Defines "Statewide open-access middle-mile broadband network" as the broadband infrastructure that is funded pursuant to Item 7502-062-8506 of the Budget Act of 2021.

## Background

*Mapping unserved households continues to pose a challenge.* In 2021, the Legislature made a historic investment in broadband infrastructure by allocating \$6 billion in federal funds to help expand access to broadband infrastructure. However, targeting funds for last-mile services to unserved households remains a challenge due to the lack of accurate information about which households continue to lack access to infrastructure capable of providing broadband services. To address the need for greater detail regarding the locations of households unserved by advanced communications, the Legislature passed SB 28 (Caballero, Chapter 673, Statutes of 2021) and AB 41 (Wood, Chapter 659, Statutes of 2021). While SB 28 required the CPUC to collect more granular information about the actual locations served by cable franchises. AB 41 required the CPUC to update a publicly accessible broadband map with more specific information about service at

the census block level. Since the enactment of these two bills, the Governor has designated the CPUC as the entity responsible for verifying broadband access data for the Federal Communications Commission (FCC) household broadband mapping. Pursuant to the Infrastructure Investment and Jobs Act of 2021 (IIJA), this household data will be used to determine states' share of over \$42 billion in federal broadband infrastructure funding for last mile broadband networks. Despite the passage of AB 41 and SB 28, cable franchises and ISPs have indicated that existing law does not clearly require the CPUC to collect information about the degree to which an address is served by a franchise or ISP. This bill requires the CPUC to collect additional data for broadband mapping; however, it does not modify existing law to clarify whether the data can be collected by address-level. Several ISPs have indicated that they do not maintain data on a census-block level; however, they do maintain service data on an address level.

*Bill expands information included in CPUC broadband maps to include data maintained by the California Department of Technology (CDT).* The CPUC already maintains a publicly accessible interactive online broadband map. Currently, this map includes a variety of information about broadband projects and service in California, including the locations of broadband infrastructure funded by CPUC programs such as the California Advanced Services Fund (CASF). This bill expands the types of data that must be included in the CPUC's broadband map to include developed last-mile broadband service connections from the state-owned middle mile broadband network. However, the CPUC does not oversee the construction of the middle-mile network. Under SB 156 (Committee on Budget, Chapter 112, Statutes of 2021), the CDT is responsible for overseeing the construction of the state-owned middle mile broadband network. While CDT has published a list of projects intended to be part of its first phase of middle-mile projects, CDT has not yet determined the amount of miles of construction associated with each of these projects. SB 156 tasked the CPUC with recommending locations for construction of the state-owned middle mile; however, it did not require CDT to adhere to CPUC's recommendations when determining where to construct middle-mile infrastructure. As a result, CDT's construction plans may differ from data maintained by the CPUC for middle mile infrastructure.

*What are last-mile broadband service connections?* While this bill defines the statewide open-access middle-mile broadband network, it does not identify what would constitute a last-mile broadband service connection from that middle-mile network. In the absence of a definition for these connections, it is unclear if this bill is intended to require the CPUC to map addresses served by internet service providers (ISPs) that lease access to the middle mile or locations at which last mile networks can interconnect with the state-owned middle mile.

*Potential safety and privacy issues.* This bill requires the CPUC to collect information about the prices paid by customers at specific locations, and it requires the CPUC to publish average prices paid on a census block level. Collecting data regarding addresses served by specific ISPs is necessary to accurately map broadband needs, target infrastructure funding, and measure progress towards meeting state broadband deployment goals. However, collecting cost information from customers' actual bills may violate existing law that prohibits telecommunications providers from disclosing personal consumer information. To the extent that this bill would require the public disclosure of specific addresses at which an ISP provides a service, the types of services received by specific customers, customers' billing information, or the locations of sensitive infrastructure, this bill could pose privacy or public safety concerns.

*Need for Amendments.* As currently drafted, this bill requires the CPUC to include data regarding the state-owned middle mile in its interactive broadband map; however, the bill does not clearly define the data that must be included. Additionally, this data may not be held by the CPUC. This bill also requires the CPUC to publicly report the price that consumers pay for broadband service while requiring the CPUC to keep personally identifiable or subscriber information confidential; however, it is not clear how reporting the charges from real customer bills tied to specific can be publicly reported without including personally identifiable and consumer data. *As a result, the author and committee may wish to amend this bill to instead clarify the existing data reporting requirements established by AB 41 (Wood, Chapter 659, Statutes of 2021) and SB 28 (Caballero, Chapter 673, Statutes of 2021) to ensure that providers' data reporting requirements for address-level data are clear.*

### **Prior/Related Legislation**

SB 28 (Caballero, Chapter 673, Statutes of 2021) required the CPUC to collect more granular data from cable franchises on the actual locations they serve and adopt customer service requirements for cable franchises.

AB 41 (Wood, Chapter 659, Statutes of 2021) required the CPUC to update an existing broadband map to include specified information about local broadband service and it required the California Department of Transportation (Caltrans) to install conduit for fiber communications as part of its construction of a state-owned middle-mile broadband network.

SB 156 (Committee on Budget and Fiscal Review, Chapter 112, Statutes of 2021) made various changes necessary to implement the Budget Act of 2021. The bill provided federal funding for the construction of state-owned middle mile

broadband infrastructure and allocated \$2 billion of federal funds to the California Advanced Services Fund for the purpose of funding projects that deploy last-mile broadband infrastructure.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

**SUPPORT:**

Electronic Frontier Foundation

**OPPOSITION:**

California Cable & Telecommunications Association

**ARGUMENTS IN SUPPORT:** According to the author:

Today, we lack the basic data needed to inform crucial broadband policy decisions. Whether it is access or affordability, we fail to capture the magnitude of the digital divide felt by Californians. This bill ensures that the data collected by the CPUC considers the reality of access in each household. Despite what opponents might suggest, there will be no infringement on state or federal rights to privacy. Reporting this data is foundational to identifying and eliminating the barriers that keep Californians disconnected from essential broadband service.

**ARGUMENTS IN OPPOSITION:** The California Cable and Telecommunications Association (CCTA) opposes this bill because it claims the bill would require the disclosure of personally identifiable information (PII). CCTA states:

...the bill does not address conflicting federal and state privacy laws that prohibit disclosure in the first place. Moreover, the bill has no overall restriction on how the CPUC may use the subscriber PII – in stark contrast to state privacy laws that allow transfer of PII to a third party only if consumers are informed, provide written consent, and are given an option to opt out, among other requirements.

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