
**SENATE COMMITTEE ON ENERGY, UTILITIES AND
COMMUNICATIONS**

Senator Steven Bradford, Chair

2023 - 2024 Regular

Bill No:	AB 286	Hearing Date:	6/20/2023
Author:	Wood		
Version:	4/11/2023 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Sarah Smith		

SUBJECT: Broadband infrastructure: mapping

DIGEST: This bill requires the California Public Utilities Commission (CPUC) to update its public, interactive broadband map to include specified information, including certain information self-reported by consumers about their personal broadband services. This bill also exempts certain broadband consumer data from existing public disclosure restrictions.

ANALYSIS:

Existing law:

- 1) Defines broadband as any service meeting the most recent definition of broadband adopted by the Federal Communications Commission (FCC) pursuant to the Telecommunications Act of 1996. (Public Utilities Code §5830)
- 2) Establishes a telecommunications customer right of privacy by requiring telephone and telegraph corporations to first obtain written consent from a residential subscriber before disclosing information about that residential subscriber, including information about the broadband services purchased from a telephone corporation or an internet service provider (ISP) that uses the telephone corporation's lines to provide services to the consumer. (Public Utilities Code §2891)
- 3) Requires the CPUC to maintain and update a publicly accessible, statewide, interactive map showing the availability of broadband service in the state. Existing law specifies that this map must identify the percentage of each census block that has broadband service meeting federal and state standards. Existing law specifies that for the purposes of establishing and updating this map, the following applies:

- a) The CPUC may collect information necessary to update the map from broadband providers.
- b) The CPUC must create a feature enabling a user to sign up for updates about the map.
- c) The CPUC may collect information from broadband providers at the address level.
- d) The CPUC may not disclose residential subscriber information protected by existing telecommunications consumer privacy rights.

This bill:

- 1) Requires the CPUC to update a publicly accessible, interactive map to include a list of each broadband provider that serves each address in the state and the maximum speed of broadband services offered by each of those providers at each address.
- 2) Requires the CPUC to update the publicly accessible, interactive broadband map to enable users to self-report any of the following:
 - a) A qualified speed test for the user's location.
 - b) The amount the user pays for standalone or bundled broadband service.
 - c) The maximum speed of the user's broadband service.
 - d) The identity of the user's broadband provider and a consumer satisfaction rating from the consumer for their provider.
 - e) Information from the user refuting the speed or technology that an ISP claims to offer at any address.
 - f) Information from users on barriers to broadband access.
- 3) Defines a "qualified broadband speed test" as a broadband speed performance test result that was measured using a reputable or verifiable application intended for that purpose.
- 4) Specifies that the CPUC must make any of the self-reported data collected pursuant to this bill public and disclose to users that any information they provide will be made public at the address level.
- 5) Exempts self-reported information and address-level data collected from ISPs from existing telecommunications consumer privacy requirements.

Background

Data, data everywhere...but to what end? This bill requires the CPUC to expand an existing broadband map to allow individual consumers to self-report specified data, including information that identifies the consumer's broadband provider, the maximum speed of broadband services, and prices paid by the consumer for broadband services. This bill specifies that self-reported information may be publicly mapped at the address level.

This bill does not specify how self-reported information will be used; however, this bill implies that the self-data may be used to refute broadband providers' advertised speeds, services, and coverage. Specifically, this bill requires the CPUC to update the statewide, interactive broadband map to allow consumers to refute the speed or technology that an ISP indicates is available at an address and allow the consumer to rate the consumer's broadband provider.

While consumer-reported data may help identify larger trends in the broadband marketplace, this bill's information does not require the CPUC to verify this consumer data or require the CPUC to provide greater specificity to compare consumer data with information reported by ISPs before making consumer data public. As a result, it may be impossible to draw conclusions from discrepancies between data reported by ISP and data reported by consumers unless self-reported data is subsequently verified. Additionally, false or misleading information may also be submitted. Multiple websites exist to collect consumer ratings and complaints about consumer goods, services, and products. In some cases, websites (such as that of the Better Business Bureau) can help guide consumers to more reliable products and services and help encourage businesses to resolve complaints. Many factors influence consumer ratings, including factors beyond a service provider's control. However, this bill does not affect the CPUC's authority to resolve consumer complaints about broadband services or require the CPUC to take any action to address discrepancies between self-reported data and data collected by the CPUC from ISPs.

Is your speed test reputable or verifiable? The CPUC currently maintains a mobile app, CalSPEED, which uses both sample data and self-reported crowdsourced data to measure broadband speeds. This data is currently included in the statewide, interactive broadband map. The map also allows users to self-report feedback for a specific address, including advertised and real-time broadband speeds. This bill requires the CPUC to modify the statewide map to enable users to submit a "qualified" speed test, which this bill defines as a broadband speed performance test measured using a reputable or verifiable application. However this bill does

not define which speed testing applications are reputable or verifiable. The CPUC currently requires users to download a specific application to deploy the CalSPEED test. This bill does not specify if CalSPEED's existing speed testing application will meet this bill's requirements.

This bill's data reporting requirements also differ from those currently employed by the statewide, interactive broadband map. While the CPUC is currently authorized to collect data on an address level, the CPUC does not publicly report data on an address level. Generally, residential broadband data on the statewide, interactive broadband map is aggregated into at least a census block. This aggregation prevents the disclosure of confidential and personal consumer information.

Bill may expand the CPUC's ability to publicly disclose consumer data. Under existing law, the CPUC is authorized to collect data regarding broadband service at the address level for the purposes of mapping broadband accessibility. Existing law also establishes a telecommunications customer right of privacy and prohibits the CPUC from disclosing residential subscriber information protected by these privacy rights when developing the statewide, interactive broadband map. This bill modifies that consumer privacy protections that apply to consumer's broadband subscription data in a manner that may allow the CPUC to publicly disclose this data as part of updating the statewide, interactive broadband map.

Both federal and state law establish consumer privacy rights for telecommunications customers. These rights generally prohibit telecommunications providers from providing certain consumer information without the consumer's express consent. Under existing state law, these privacy rights prevent certain telecommunications providers from disclosing the services to which a consumer has subscribed. Public disclosure of information about service subscriptions, prices paid for services, and other consumer-specific data may enable entities to infer certain personal information about a consumer. For example, the disclosure of a consumer's address, services provided at that address, and prices paid for those services may be used to infer the income of a consumer at that address and the extent to which the consumer participates in any low-income broadband rate support programs. Information about bundled subscription services at an address can be used to infer consumer preferences based on the types of products and channels to which the consumer has subscribed.

Need for amendments: As currently drafted, this bill may interpreted to allow the CPUC to publicly disclose a variety of data collected from ISPs about consumers' telecommunications subscriptions without obtaining consent from those

consumers. This bill also requires a verifiable or reputable speed test without specifying whether existing tests meet this bill's definition. This bill further requires the CPUC to enable consumers to rate their ISPs on the interactive broadband map in a manner that may be duplicative with other consumer rating websites. This bill also requires the CPUC to publicly post information that may not be verified without specifying how such information may be subsequently used before the CPUC in related proceedings. *As a result, the author and committee may wish to amend this bill to do the following:*

- *Clarify that consumer privacy exemptions do not apply to data collected from broadband providers.*
- *Clarify that speed tests must be complete using a reputable and verifiable application specified by the CPUC.*
- *Delete the requirement that the CPUC must enable consumers to rate their ISP on the interactive broadband map.*
- *Clarify that self-reported information may not be used as evidence in subsequent CPUC rulemakings or enforcement proceedings unless the CPUC verifies the validity of the self-reported information.*

Prior/Related Legislation

AB 2752 (Wood, Chapter 801, Statutes of 2022) clarified that the CPUC can collect data from broadband providers at the address level for the purposes of mapping access to broadband services and prohibited the CPUC from disclosing personal consumer information protected by existing telecommunications consumer privacy laws.

SB 28 (Caballero, Chapter 673, Statutes of 2021) required the CPUC to adopt customer service requirements for cable franchises and collect granular data on actual location served by a cable franchise. The bill prohibited the CPUC from disclosing personally identifiable information collected pursuant to the bill.

AB 41 (Wood, Chapter 659, Statutes of 2021) among other provisions, required the CPUC to maintain and update a statewide, publicly accessible, and interactive map showing the accessibility of broadband service in the state, including, but not limited to, information identifying the percentage of each census block that has broadband service meeting federal and state standards. Under the bill, the interactive must include a function allowing individuals to receive notifications when the CPUC updates the map.

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

SUPPORT:

#OaklandUndivided
California Community Foundation
California State Association of Counties
California Telehealth Policy Coalition
Common Sense Media
Communities in Schools of Los Angeles
Destination Crenshaw
Electronic Frontier Foundation
EveryoneOn
Innovate Public Schools
LeadingAge California
Los Angeles Unified School District
Media Alliance
MediaJustice & the MediaJustice Network
Michelson Center for Public Policy
NextGen California
Para Los Niños
Rural County Representatives of California
The Children's Partnership
United Parents and Students
YMCA of Metropolitan Los Angeles

OPPOSITION:

California Broadband & Video Association, unless amended

ARGUMENTS IN SUPPORT: According to the author:

AB 286 incorporates and updates feedback gathered by the California Public Utilities Commission (CPUC) regarding broadband access at the address level. The maps currently produced by the CPUC gather feedback, but do not make that information publicly available. As a result, communities statewide are often overlooked when their actual broadband experience is not represented on public maps. California needs more detailed metrics to understand the challenges to broadband access statewide—broad definitions of served versus unserved are not enough. Data points like speed, price, and reliability at the address level home in on what barriers are holding communities back. Incorporating such feedback will ensure that public and private investment better target those households that still struggle with the

digital divide. Maps that do not incorporate public feedback will continue to miss the mark for our most vulnerable and marginalized communities.

ARGUMENTS IN OPPOSITION: The California Broadband and Video Association (CalBroadband) is opposed to this bill unless it is amended to limit the CPUC's ability to use self-reported data in CPUC proceedings unless the CPUC first validates that self-reported information. In opposition, CalBroadband states:

...without a challenge or verification process, the data's value will be minimal, creating unverified anecdotes rather than useful data to ensure accurate maps. Thus, if this bill moves forward, CalBroadband is requesting the addition of language requiring the CPUC to validate the data gathered by consumers prior to utilizing such data in any rulemaking or investigatory proceeding.

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