
**SENATE COMMITTEE ON ENERGY, UTILITIES AND
COMMUNICATIONS**
Senator Ben Hueso, Chair
2019 - 2020 Regular

Bill No: SB 46 **Hearing Date:** 4/24/2019
Author: Jackson
Version: 3/5/2019 As Amended
Urgency: No **Fiscal:** Yes
Consultant: Sarah Smith

SUBJECT: Emergency services: telecommunications

DIGEST: This bill authorizes cities and public colleges and universities to access contact information for the purpose of enroll consumers in an emergency warning system. This bill also requires the California Public Utilities Commission (CPUC) to collect information from telecommunications service providers regarding the performance of these emergency warning systems and report that information to the Legislature.

ANALYSIS:

Existing law:

- 1) Requires counties to include access and functional needs into emergency plans by addressing how the access and functional needs population is served by certain emergency services, including emergency communications. An “access and functional needs population” is defined as individuals who have developmental or intellectual disabilities, physical disabilities, chronic conditions, injuries, limited English proficiency or who are non-English speaking, older adults, children, people living in institutionalized settings, or those who are low income, homeless, or transportation disadvantaged, including, but not limited to, those who are dependent on public transit or those who are pregnant. (Government Code §8593.3)
- 2) Authorizes counties to enter into an agreement to access the contact information of resident accountholders through the records of a public utility for the sole purpose of enrolling county residents in a county-operated public emergency warning system. Any county that enters into such an agreement must include procedures to enable any resident to opt-out of the warning system and a process to terminate the agency’s access to the contact information. (Government Code §8593.4)

- 3) Establishes California's 911 telecommunications service, requires every local public agency operating firefighting, police, ambulance, medical, or other emergency services to establish and operate a 911 service, and requires Office of Emergency Services (OES) to coordinate the implementation of 911 systems and support local agencies in the operation and improvement of 911 systems. (Government Code §53100 et. seq./ *Warren 911 Emergency Assistance Act*)
- 4) Gives the CPUC the authority to supervise and regulate every public utility in the state and do all things necessary and convenient in the exercise of such power and jurisdiction. (Public Utilities Code §701)
- 5) Prohibits the CPUC from publicly disclosing information submitted to the CPUC by a public utility unless that information must be disclosed pursuant to an express statutory requirement or an order of the CPUC or a CPUC commissioner in the course of a hearing or proceeding. (Public Utilities Code §583)
- 6) Restricts the CPUC and other entities from exercising regulatory authority over Voice over Internet Protocol (VoIP) unless expressly authorized or delegated to do so in law and strictly limits the scope of the authorization or delegation. This prohibition does not affect or supersede the *Warren 911 Emergency Assistance Act*. (Public Utilities Code §710)

This bill:

- 1) Extends to cities the authorization to enter into agreements to access contact information of public utility resident account holders for the sole purpose of enrolling residents in a public emergency warning system.
- 2) Authorizes a local government to use its own social services department records or enter into an agreement with a social services department to obtain the contact information for residents from the access and functional needs population and their emergency contacts for the sole purpose of enrolling those persons in a local government operated public emergency warning system.
- 3) Allows the governing bodies of the California State University (CSU), University of California (UC), and each California Community College (CCC) district to use their own enrollment, registration, and personnel records for the sole purpose of enrolling students and employees in a public emergency warning system operated by the college or university.

- 4) Requires each CSU, UC, and CCC to include procedures to enable any student or employee to opt out of the warning system and ensure that the confidentiality of the contact information is protected under reasonable security procedures.
- 5) Defines “contact information” as a person’s name, address, telephone numbers, and email address.
- 6) Requires the CPUC to collect the following information from telecommunications service providers regarding city or county-operated public emergency warning systems:
 - a) Information on messaging performance.
 - b) Throughput and error rates.
 - c) Information about messaging performance due to damage to telecommunications network infrastructure or facilities caused by an emergency or natural disaster.
- 7) Requires the CPUC to collect information from telecommunications service providers at a time it determines to be prudent to avoid interfering with recovery efforts that may be occurring before the containment of the emergency or natural disaster.
- 8) Requires the CPUC to annually publish a report that summarizes the information collected from telecommunications service providers regarding local public emergency warning systems, and the President of the CPUC must present this information to the relevant policy committees of the Legislature.
- 9) Requires telecommunication service providers to provide the CPUC with any relevant information, and authorizes the CPUC to make this information public, pursuant to its existing authority, unless the CPUC determines that the disclosure of the information would pose a security threat.

Background

Local Emergency Alert Systems. Multiple mechanisms exist at the local level for alerting the public about emergencies and disasters. These systems vary widely in their use of technology, use of public and private resources, and mechanisms for sending alerts. Emergency alert systems can include, but are not limited to, warning sirens, reverse 911 calls, television and radio broadcasts (Emergency Alert System (EAS)), wireless telephone alert broadcasts (Wireless Emergency Alerts (WEA)), and the use of private sector vendors such as Everbridge/Nixle that supply emergency alert calls, texts, and other notifications using contact

information supplied by local agencies. Each county can determine what mechanism it will use to send emergency alerts.

This bill expands the authority of local governments to obtain residents' contact information for inclusion in emergency alert systems. This bill also expands the types of local governments that may enter into agreements to obtain this contact information to allow cities to obtain contact information of their residents.

Obtaining contact information for inclusion in emergency alerts can benefit any alert system; however, this need is particularly acute for systems that rely on private-sector vendors like Everbridge/Nixle to send emergency alerts. These systems have historically operated on an opt-in basis, meaning that residents need to proactively ensure that their contact information is added to the list of contacts that will receive emergency alerts. Counties also need to ensure that contact information is effectively maintained to increase the success of these emergency alert systems.

Benefits and challenges of different notification systems. Recent disasters have highlighted the benefits and challenges associated with different alert systems, and increased awareness about the need for greater information, training, and coordination in the use of these systems. Private vendor alert systems using resident's opt-in contact information can be very precise in their notifications; however, they also generally cost additional funds to initiate contracts and require significant efforts to increase enrollment and maintenance of contact information. Alerts that rely solely on these opt-in notification systems generally do not include a mechanism for ensuring that emergency notifications are provided to visitors in the affected area and individuals who have not registered their contact information with the local government. Following the 2017 Thomas Fire in Ventura and Santa Barbara counties, officials learned that less than 30 percent of residents in the fire's affected area had signed up to receive cell phone and email alerts using the counties' opt-in emergency alert system. Subsequent legislation (SB 821, Jackson, Chapter 615, Statutes of 2018) authorized counties to enter into agreements to access the contact information of residents through public utility records to enroll additional residents in a county emergency warning system.

While the WEA and EAS systems can be less precise than systems based on residential contact information if they are not used in conjunction with geographic targeting, these systems are broadcasts that will be sent to anyone whose cellphone, radio, or television is connected, on, and within the broadcast range. WEA systems and the EAS system are both mechanisms for broadcasting messages over existing communication systems. These broadcasts can be initiated at the state and local level and sent over telecommunications providers' networks through the Federal Emergency Management Agency's Integrated Public Alert and

Warning System.

Following the North Bay Fires of 2017, concerns about the timeliness and performance of emergency notification systems arose in Sonoma County. Sonoma County officials requested that the OES perform an independent assessment of Sonoma County's emergency alert and notification system. While OES determined that Sonoma County had emergency alert mechanisms in place to alert residents and visitors, a lack of clear procedures for using the alert systems existed and a lack of situational awareness about the speed of the fires and their scope made some existing procedures inapplicable. OES's report indicates that a lack of training and clear procedures for rapidly advancing disasters may have played a role in Sonoma County's decision to not utilize the WEA system, which has the capability to broadcast a wireless alert using telecommunications providers' existing infrastructure. The Legislature passed SB 833 (McGuire, Chapter 617, Statutes of 2018) to ensure that counties have clear guidelines and training to use the WEA and EAS systems.

While counties may be able to use both the public and private notification systems, the effectiveness of using both systems simultaneously will likely depend upon the degree to which a county carefully organizes the notifications to ensure consistency. OES's report on Sonoma County's use of emergency alert systems noted, "The overlapping roles of law-enforcement notification systems (primarily Nixle) and the County's SoCoAlert system appear to have resulted in duplication, inconsistency, and some confusion in messages transmitted to the public."

Evaluating the performance of emergency messages. This bill requires the CPUC to collect the following information from telecommunications service providers regarding city or county-operated public emergency warning systems: information on messaging performance, throughput and error rates, information about messaging performance due to damage to telecommunications network infrastructure or facilities caused by an emergency or natural disaster. This information is a subset of information that can be used to measure network performance. For example, throughput and error rates are measurements generally used in network simulations that help evaluate the performance of complex computer and telecommunications networks. Throughput and error rates may help identify the rate at which data messages are transmitted over a network and whether performance issues have corrupted the transmission of data over the network. However, they may not be able to determine whether an individual received a specific emergency message or identify why an individual may have not received the message. Providers that use network simulators may have information about network performance; however, not all providers may use the

same network simulation programs and this information is generally a snapshot of a network's performance at one point in time.

The degree to which emergency messages sent over telecommunications providers' proprietary networks are received is unclear. A number of factors, including but not limited to, facility damage, software failures, connectivity issues, congestion, and incomplete contact information can impact the success of emergency notification systems. OES's report on Sonoma County's emergency alert system state the following about the performance of communication systems during the 2017 North Bay fires: "The technical systems for alert and warning dissemination appear to have functioned adequately, especially considering the severe impacts of the event on telecommunications infrastructure, such as cellular and radio repeater sites, and interconnecting fiber cables."

Despite OES's conclusion that the communication systems technologically functioned adequately, Sonoma County has asserted that telecommunication providers have not supplied sufficient information to ensure that emergency alert notifications are effective. Since the 2017 fires, Sonoma County has tested and evaluated its emergency alert systems. In a 2018 report, the County detailed lessons learned through its testing and evaluation of these systems. The report stated the following about the lack of information to support effective WEA notifications:

Telecommunication providers did not effectively communicate, participate, or provide information critical to mission success. County staff and elected officials should work with state and federal legislative representatives, including the California Governor's Office of Emergency Services (Cal OES), to help implement significant changes to current federal warning systems. This includes requiring telecommunications companies to provide critical information such as cell tower locations, how they distribute WEA messages, timing of the message, if other carriers are on their cell towers, backup power and telecommunication links, and feedback on numbers of how many phones possibly got the message (ex: how many cell phones were attached to the cell tower when the alert was initiated). These items will allow public safety officials to be more effective and efficient when targeting messaging and is critical to ensuring overall public safety during times of disaster.

While Sonoma County's report identified specific information that would be helpful in improving the performance of WEA notifications, the report did not

identify information that could improve notifications sent via private vendors over telecommunications providers' networks.

Reporting requirements may pose resource and privacy challenges. This bill contains several reporting requirements. This bill expands requirements for utilities and other local agencies to report consumer information based on agreements with local governments and expands the types of local governments that may initiate these agreements. This bill also requires telecommunications providers to report performance information about emergency messages to the CPUC and requires the CPUC to annually summarize this information in a published report and report the information to the relevant policy committees of the Legislature. In the event that this bill leads telecommunications providers to submit information to the CPUC about the messaging performance of alerts sent by all cities, counties, and public colleges and universities, the CPUC may not have sufficient resources to manage this reporting requirement.

This bill also expands the individuals whose contact information may be provided to a local government or public college or university for the purposes of enrolling them in an emergency alert system. However, it does not ensure that these individuals are notified that a local government is accessing their personal information for this purpose, and it does not consistently provide an option for opting out of notifications. For example, this bill allows local governments to enter into agreements with social services departments to access information about individuals who are part of the access and functional needs population, which includes individuals with specific medical conditions and those receiving certain low-income support. However, it does not ensure that these individuals and their emergency contacts are alerted that a local government is accessing this information for the purpose of enrolling them in an emergency alert system, and it does not ensure that contact information sharing excludes other personal information, such as enrollment status in other public benefit programs related to health conditions. Contracts between local governments and private sector vendors operating emergency alert systems may prevent the misuse of residents' information; however, this bill does not ensure that these vendors are expressly prohibited from using consumers' information for purposes other than local government emergency alerts. While the CPUC is generally prohibited from disclosing information that would violate existing privacy protections, the bill does not specifically require that information reported to the public and the Legislature be de-identified or aggregated.

Need for amendments. As currently drafted, the use of utility consumers' data as authorized by this bill could be interpreted to violate the California Consumer Privacy Act of 2018. This conflict does not appear to be the author's intent. To

the extent that telecommunications providers do not have information about messaging performance on their networks once a public emergency warning system's message has been sent, the bill also requires telecommunications providers to report information that they may not possess. *The committee and the author may wish to amend this bill to ensure that the handling of consumers' information under this bill conforms to privacy protections in existing law and specify that telecommunications providers must only report information regarding messaging performance to the CPUC to the extent that they have such information.*

Prior/Related Legislation

SB 670 (McGuire, 2019) requires telecommunications service providers to submit a specified outage notification to OES when a telecommunications outage impacting 911 service and emergency notifications occurs. The bill makes OES responsible for notifying the appropriate county offices of emergency services and sheriffs for areas affected by an outage.

AB 183 (Wood, 2019) is substantively similar to AB 2693 (Wood, 2018) and would require the CPUC to annually report on efforts to restore telecommunications service outages resulting from an emergency or natural disaster. The bill is currently pending in the Assembly Committee on Appropriations.

AB 2693 (Wood, 2018) would have required the CPUC to annually report to the Legislature on the impact and efforts to restore telecommunications outages resulting from emergencies and natural disasters. The bill died in the Senate.

SB 821 (Jackson, Chapter 615, Statutes of 2018) authorized counties to enter into an agreement to access the contact information of resident accountholders through the records of a public utility for the sole purpose of enrolling county residents in a county-operated public emergency warning system.

SB 833 (McGuire, Chapter 617, Statutes of 2018) required OES, in consultation with stakeholders, to develop voluntary guidelines for alerting and warning the public of an emergency. The bill required OES to develop an alert and warning training that includes information about the operation of the WEA system and the EAS.

AB 2311 (Brown, Chapter 520, Statutes of 2016) required counties to include access and functional needs into their emergency plans.

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

SUPPORT:

California Alliance for Retired Americans
California Central Valley Flood Control Association
Marin County Board of Supervisors
Santa Barbara County Board of Supervisors

OPPOSITION:

AT&T
California Cable and Telecommunications Association, unless amended
CTIA, unless amended

ARGUMENTS IN SUPPORT: According to the author:

“This bill helps ensure that more California residents will receive critical emergency alerts by expanding California’s opt-out emergency notification program to include cities and universities, and by clarifying that alerting authorities may use wireless telephone subscriber data to enroll residents in local alerting systems. SB 46 maintains the existing restrictions that prevent alerting authorities from using personal information gathered for enrollment in a notification system for any other purpose, and ensures that residents who do not wish to receive alerts have the opportunity to opt-out. This bill also authorizes county social service departments to share emergency contact information with alerting authorities so that specialized alerts may be sent to residents with access or functional needs who may need extra instruction or assistance during an emergency.”

ARGUMENTS IN OPPOSITION: Opponents argue that telecommunications providers do not have information about the performance of messages sent by local governments using other private, third-party contractors that send emergency alerts. They also argue that this bill would require telecommunications providers to report potentially sensitive information in a manner that may conflict with existing privacy protections and lead to the disclosure of proprietary information about carriers’ networks. In opposition, CTIA states:

“While it may be a laudable goal to provide information to as many residents and students as possible through a local public emergency

warning system, collecting consumer information is problematic from a privacy perspective. Additionally, collecting and disseminating information regarding wireless carrier network performance, on behalf of another service, is extremely proprietary information and is not safeguarded in the legislation.”

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