CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

May 25, 2007

S. 428
IP-Enabled Voice Communications and Public Safety Act of 2007

As ordered reported by the Senate Committee on Commerce, Science, and Transportation on April 25, 2007

SUMMARY

S. 428 would amend current law to require companies offering Voice-over-Internet-Protocol (VoIP) services to provide emergency 911 telephone service. The bill would direct the Federal Communications Commission (FCC) to develop regulations granting VoIP providers access to the network and systems needed to complete 911 or enhanced-911 calls. Enhanced-911 (E-911) service automatically associates a physical address with the calling party's telephone number. The bill also would direct the federal E-911 Implementation Coordination Office to create a plan for a transition to an Internet-based emergency network.

Based on information from the FCC, CBO estimates that implementing the bill would cost about $1 million over the 2008-2012 period, assuming appropriation of the necessary amounts. CBO expects that enacting the bill would not have a significant effect on revenues and would not affect direct spending.

S. 428 contains several intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA), including limitations on the imposition and use of certain fees that state and local governments can charge VoIP providers. CBO estimates that the costs of those provisions to state, local, and tribal governments would be small; while they would grow over time, they would not exceed the threshold established in UMRA ($66 million in 2007, adjusted annually for inflation) in any of the first five years that the mandates are in effect.

S. 428 would impose private-sector mandates, as defined in UMRA, on certain entities in the telecommunications industry. The bill would require entities that own 911 components necessary to transmit VoIP emergency 911 services over their networks. CBO estimates that the direct cost of complying with this mandate would be small and fall below the annual threshold for private-sector mandates established by UMRA ($131 million in 2007, adjusted annually for inflation). The bill also would impose a mandate on certain consumers and

third-party users of VoIP services by providing VoIP service providers, users, and PSAPs liability protection against improperly distributed 911 calls. Due to the lack of information about both the value of awards in such cases and the number of claims that would be filed in the absence of this legislation, CBO cannot predict the level of potential damage awards, if any. Thus, CBO cannot determine whether the aggregate cost of all the mandates in the bill would exceed the annual threshold for private-sector mandates.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

Under FCC rules, VoIP providers were required to connect their customers to emergency 911 services by November 28, 2005. S. 428 would codify this regulation. The bill also would require the E-911 Implementation Coordination Office to create a plan to create a national 911 communications system that is Internet-based.

Based on information provided by the FCC, CBO estimates that administrative costs for various rulemakings called for in the bill would cost about $1 million in 2008. We estimate that planning for an Internet-based 911 system would cost less than $500,000 over the 2008-2012 period.

Enacting S. 428 could increase federal revenues as the result of the collection of additional civil and forfeiture penalties assessed for violations of FCC laws and regulations. Collections of such penalties are recorded in the budget as revenues. CBO estimates that any additional revenues that would result from enacting S. 428 would not be significant because of the relatively small number of cases likely to be involved.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 428 contains several intergovernmental mandates as defined in UMRA, including limitations on certain fees that state and local governments impose on providers of VoIP, and a preemption of state liability laws. CBO estimates that the costs of those provisions to state, local, and tribal governments would be small; while they would grow over time, they would not exceed the threshold established in UMRA ($66 million in 2007, adjusted annually for inflation) in any of the first five years that the mandates are in effect.

Limitations on Fees

Section 4 would prohibit state, local, and tribal governments from imposing fees on VoIP providers that exceed those imposed on other telecommunications providers. The bill also would require that intergovernmental entities spend 911 fees collected from VoIP providers only for support of emergency communications.

Thirteen states currently levy 911 fees on VoIP providers. Nine of those states impose fees that are lower than or equal to the lowest fee charged to wireless and wireline providers; CBO expects that fees in those states would not be affected by the bill's limitation. One state currently charges a VoIP 911 fee that is higher than the residential wireline fee but lower than the business wireline fee, and presumably that state's fee also would be allowed under this provision. The remaining three states allow local governments to set fees; CBO cannot estimate the extent to which the bill would result in lost fees in those three states because information on the level of local fees is not readily available. CBO believes however, that the costs to state and local governments from the bill's limitation on fees would likely be small because the number of VoIP users in those three states is not likely to be large, and local governments are not likely to levy fees on VoIP users that are significantly different from those levied on users of other telecommunications services.

It also is possible that some state and local governments would choose in the future to impose such fees at a rate higher than those charged on other telephone services, but CBO has no information upon which to make such an assumption at this time. Most states impose 911 fees on wireline and wireless services that are similar, implying the likelihood that such fees on VoIP also would be similar. In total, CBO estimates that the costs to state and local governments from the bill's limitation on fees, while they might grow over time, would likely be small over the next five years.

In 2005, four states used 911 fees, including wireless and wireline fees, for purposes other than 911 or emergency communications services. Two of those states currently levy 911 fees on VoIP and would be prevented by S. 428 from using those fees for nonemergency communications purposes. One additional state that currently has a 911 fee on VoIP allows counties and local governments to collect and use revenue from 911 fees. CBO cannot estimate the extent to which counties and local governments use that revenue for nonemergency communications purposes because that information is not maintained by the states. CBO believes, however, that the costs to state and local governments from the bill's limitation on the use of fees, while they might grow over time, would likely be small over the next five years.

Preemption of State Liability Laws and Requirements on Public Safety Access Points (PSAPs)

Section 3 would preempt state liability laws covering PSAPs and other governmental entities that answer 911 calls connected using VoIP. This provision would give PSAPs, a provider, or a user of VoIP, the same protection from liability claims granted to wireless and wireline entities, and ultimately would benefit intergovernmental entities by protecting them from such claims.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

S. 428 contains private-sector mandates, as defined in UMRA, on certain entities in the telecommunications industry. The bill also would impose a private-sector mandate on certain consumers and third-party users of VoIP services filing claims for injury. The bill would provide VoIP service providers, users, and PSAPs the same liability protection against improperly distributed 911 calls that wireline and wireless providers, users, and PSAPs currently possess. Because the bill would eliminate existing rights to seek compensation for injury caused by negligent acts, it would impose a private-sector mandate. The direct cost of the mandate would be the forgone net value of the awards and settlements in such claims. CBO has found no pending lawsuit with a claim that would be barred if the bill were enacted and has no basis for estimating the number of claims that would be filed in the future in the absence of this legislation. Furthermore, CBO cannot predict the level of potential damage awards in such cases, if any. Thus, CBO cannot estimate the cost of this mandate or whether the cost would exceed the annual threshold established by UMRA for private-sector mandates ($131 million in 2007, adjusted annually for inflation).

The bill also would direct FCC to issue new regulations relating to VoIP access to 911 and E-911 infrastructure. The new regulations would impose a new mandate on all private entities that own 911 components necessary to transmit VoIP emergency 911 services over their networks by requiring them to allow VoIP providers to have full access to the necessary 911 components. Although the details of such regulations are not specified in the bill, CBO expects that owners of 911 components would be able to charge VoIP providers a fee for using their network components, but would be mandated to enter into such agreements with those providers. Large private entities that own 911 components have most of the infrastructure in place to comply with the mandate. Some smaller owners of 911 components may not have such capacity and would incur costs to comply with the mandate. Based on information provided by industry sources, CBO expects that the direct costs of complying with this mandate would be minimal.

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