CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

November 8, 2007

H.R. 3403
911 Modernization and Public Safety Act of 2007

As ordered reported by the House Committee on Energy and Commerce on October 30, 2007

SUMMARY

H.R. 3403 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 E-911 Implementation Coordination Office to create a plan for a transition to an emergency network that is Internet-based.

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

H.R. 3403 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 levy on VoIP Services. 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.

H.R. 3403 would impose private-sector mandates, as defined in UMRA, on certain entities in the telecommunications industry. The bill would require entities that own the 911 components necessary to transmit VoIP emergency calls to allow VoIP providers full access to those components. CBO estimates that the direct cost of complying with this mandate would be small. The bill also would impose a mandate on certain consumers and third-party users of VoIP services by eliminating an existing right to seek compensation in court.

Because we lack information about the potential value of compensation in such cases, CBO has no basis for determining whether the aggregate cost of all the mandates in the bill would exceed the annual threshold for private-sector mandates ($131 million in 2007, adjusted annually for inflation).

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. H.R. 3403 would codify this regulation. The bill also would require the E-911 Implementation Coordination Office to develop a plan to establish a national system for 911 communications 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 emergency system that is Internet-based would cost less than $500,000 over the 2008-2012 period.

Enacting H.R. 3403 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 H.R. 3403 would not be significant because of the relatively small number of cases likely to be involved.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 3403 contains several intergovernmental mandates as defined in the Unfunded Mandates Reform Act, including limitations on certain fees that state and local governments impose on VoIP services, 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

The bill would prohibit state, local, and tribal governments from imposing fees on VoIP subscribers that exceed those imposed on the same class of subscribers (business or residential) of other telecommunications services. The bill also would require that intergovernmental entities spend 911 fees collected on VoIP services only for support of emergency communications.

Thirteen states currently levy 911 fees on VoIP services. Nine of those states impose fees that are lower than or equal to the lowest fee charged on wireless and wireline services; CBO assumes 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 on residential consumers of VoIP would be preempted by the bill. 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. We expect, 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 four 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 the same class of users of other telecommunications services.

It also is possible that some state and local governments might impose such fees at a rate higher than those charged on other telephone services, but CBO has no information upon which to make such a judgment at this time. Most states impose 911 fees on wireline and wireless services that are similar, suggesting 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.

The most recent data available indicate that four states use 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 the bill 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 those revenues. 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 also 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)

The bill 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

H.R. 3403 contains private-sector mandates, as defined in UMRA, on certain entities in the telecommunications industry. The bill would require entities that own the 911 components necessary to transmit VoIP emergency calls to allow VoIP providers to have full access to those components. Owners of 911 components would be required to enter into such agreements, but they would be able to charge VoIP providers a fee for using their network components. Some small entities could incur costs to install equipment, but information from industry sources indicates that many entities already have the necessary equipment in place. Thus, CBO expects that the direct costs of complying with this mandate would be minimal.

The bill also would impose a private-sector mandate on certain consumers and third-party users of VoIP services by eliminating an existing right to seek compensation for injury caused by negligent acts. The direct cost of the mandate would be the forgone net value of any awards and settlements in such claims. CBO has found no pending lawsuit with a claim that would be barred by the bill and has no basis for estimating the number of claims that would be filed in the future in absence of this legislation. Furthermore, CBO has no basis for predicting the level of potential damage awards in such cases, if any. Thus, CBO cannot estimate the cost of this mandate or whether the aggregate cost of all the mandates in the bill would exceed the annual threshold for private-sector mandates ($131 million in 2007, adjusted annually for inflation).

PREVIOUS CBO ESTIMATE

On May 25, 2007, CBO transmitted an estimate for S. 428, the 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. H.R. 3403 and S. 428 are similar, and the cost estimates are the same.

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