

Senator Curtis S. Bramble proposes the following substitute bill:

**EMERGENCY MEDICAL SERVICES**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Curtis S. Bramble**

**This act modifies the Health Code. The act modifies the Utah Emergency Medical Services System Act. The act permits ambulance and paramedic license applicants who have met the Department of Health's minimum requirements and standards to enter into a competitive bid process to provide services to local governments for 911 ambulance and paramedic calls. The act permits local governments in counties of the first and second class to select a license applicant through an open procurement process. The act requires a local government that elects to use the bid process to consider certain factors when selecting a provider. The act requires the department to issue a license to the applicant selected by a local government except in certain limited circumstances. The act makes other technical and conforming amendments. This act takes effect January 1, 2004. This act has a coordinating clause.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**26-8a-404**, as enacted by Chapter 141, Laws of Utah 1999

**26-8a-405**, as enacted by Chapter 141, Laws of Utah 1999

**26-8a-406**, as enacted by Chapter 141, Laws of Utah 1999

**26-8a-411**, as enacted by Chapter 141, Laws of Utah 1999

**26-8a-413**, as enacted by Chapter 141, Laws of Utah 1999

ENACTS:

**26-8a-405.1**, Utah Code Annotated 1953

**26-8a-405.2**, Utah Code Annotated 1953



26 *Be it enacted by the Legislature of the state of Utah:*

27 Section 1. Section **26-8a-404** is amended to read:

28 **26-8a-404. Ground ambulance and paramedic licenses -- Application and**  
29 **department review.**

30 (1) Except as provided in Section 26-8a-413, an applicant for a ground ambulance or  
31 paramedic license shall apply to the department for a license only by:

- 32 (a) submitting a completed application;
- 33 (b) providing information in the format required by the department; and
- 34 (c) paying the required fees, including the cost of the hearing officer.

35 (2) The department [~~may~~] shall make rules establishing minimum qualifications and  
36 requirements for:

- 37 (a) personnel;
- 38 (b) capital reserves;
- 39 (c) equipment;
- 40 (d) a business plan;
- 41 (e) operational procedures;
- 42 (f) [~~resource hospital and~~] medical direction agreements;
- 43 (g) management and control; and
- 44 (h) other matters that may be relevant to an applicant's ability to provide ground  
45 ambulance or paramedic service.

46 (3) An application for a license to provide ground ambulance service or paramedic  
47 service shall be for all ground ambulance services or paramedic services arising within the  
48 geographic service area, except that an applicant may apply for a license for less than all  
49 ground ambulance services or all paramedic services arising within an exclusive geographic  
50 area if it can demonstrate how the remainder of that area will be served.

51 (4) (a) A ground ambulance service licensee may apply to the department for a license  
52 to provide a higher level of service as defined by department rule if:

- 53 (i) the application for the license is limited to non-911 ambulance or paramedic  
54 services; and
- 55 (ii) the application includes:

56 (A) a copy of the new treatment protocols for the higher level of service approved by

57 the off-line medical director;

58 (B) an assessment of field performance by the applicant's off-line director; and

59 (C) an updated plan of operation demonstrating the ability of the applicant to provide  
60 the higher level of service.

61 (b) If the department determines that the applicant has demonstrated the ability to  
62 provide the higher level of service in accordance with Subsection (4)(a), the department shall  
63 issue a revised license reflecting the higher level of service and the requirements of Section  
64 26-8a-408 do not apply.

65 [~~(4)~~] (5) Upon receiving a completed application and the required fees, the department  
66 shall review the application and determine whether the application meets the minimum  
67 qualifications and requirements for licensure.

68 [~~(5)~~] (6) The department may deny an application if it finds that it contains any  
69 materially false or misleading information, is incomplete, or if the application demonstrates  
70 that the applicant fails to meet the minimum qualifications and requirements for licensure  
71 under Subsection (2).

72 [~~(6)~~] (7) If the department denies an application, it shall notify the applicant in writing  
73 setting forth the grounds for the denial. A denial may be appealed under Title 63, Chapter 46b,  
74 Administrative Procedures Act.

75 Section 2. Section **26-8a-405** is amended to read:

76 **26-8a-405. Ground ambulance and paramedic licenses -- Agency notice of**  
77 **approval.**

78 [~~H~~] (1) Beginning January 1, 2004, if the department determines that the application  
79 meets the minimum requirements for licensure under Section 26-8a-404, the department shall[:  
80 ~~(1)]~~ issue a notice of [agency action to the applicant to commence an informal administrative  
81 proceeding;] the approved application to the applicant.

82 [~~(2)~~] provide notice of the application to all interested parties; and]

83 [~~(3)~~] publish notice of the application, at the applicant's expense, once a week for four  
84 consecutive weeks, in a newspaper of general circulation in the geographic service area that is  
85 the subject of the application.]

86 (2) A current license holder responding to a request for proposal under Section  
87 26-8a-405.2 is considered an approved applicant for purposes of Section 26-8a-405.2 if the

88 current license holder, prior to responding to the request for proposal, submits the following to  
89 the department:

90 (a) the information required by Subsection 26-8a-404(4)(a)(ii); and

91 (b) if the license holder is a private entity, a financial statement, a pro forma budget  
92 and necessary letters of credit demonstrating a financial ability to expand service to a new  
93 service area; or

94 (c) if the license holder is a governmental entity, a letter from the governmental entity's  
95 governing body demonstrating the governing body's willingness to financially support the  
96 application.

97 Section 3. Section **26-8a-405.1** is enacted to read:

98 **26-8a-405.1. Selection of provider by political subdivision.**

99 (1) For purposes of this section and Section 26-8a-405.2:

100 (a) "911 ambulance or paramedic services" means either 911 ambulance service, or 911  
101 paramedic service, or both and:

102 (i) means a 911 call received by a designated dispatch center that receives 911 or E911  
103 calls; and

104 (ii) does not mean a seven digit telephone call received directly by an ambulance  
105 provider licensed under this chapter;

106 (b) "political subdivision" means:

107 (i) a city or town located in a county of the first or second class as defined in Section  
108 17-50-501;

109 (ii) a county of the first or second class;

110 (iii) a special service district, created under Title 17A, Chapter 2, Part 13, Utah Special  
111 Service District Act, within a county of the first or second class; or

112 (iv) areas coming together as described in Subsection (3)(b)(ii).

113 (2) (a) Only an applicant approved under Section 26-8a-405 may respond to a request  
114 for a proposal for 911 ambulance or paramedic services issued in accordance with Section  
115 26-8a-405.2 by a political subdivision.

116 (b) A response to a request for proposal is subject to the maximum rates established by  
117 the department under Section 26-8a-403.

118 (c) A political subdivision may award a contract to an applicant for the provision of

119 911 ambulance or paramedic services:

120 (i) in accordance with Section 26-8a-405.2; and

121 (ii) subject to Subsection (3).

122 (3) (a) The department shall issue a license to an applicant selected by a political  
123 subdivision under Subsection (2) unless the department finds that issuing a license to that  
124 applicant would jeopardize the health, safety, and welfare of the citizens of the geographic  
125 service area.

126 (b) A license issued under this Subsection (3):

127 (i) is for the exclusive geographic service area approved by the department in  
128 accordance with Subsection 26-8a-405.2(3);

129 (ii) is valid for four years;

130 (iii) is not subject to a request for license from another applicant under the provisions  
131 of Sections 26-8a-406 through 26-8a-409 during the four-year term, unless the applicant's  
132 license is revoked under Section 26-8a-504; and

133 (iv) is subject to supervision by the department under Sections 26-8a-503 and  
134 26-8a-504.

135 (4) The provisions of Sections 26-8a-406 through 26-8a-409 do not apply to a license  
136 issued under this section.

137 Section 4. Section **26-8a-405.2** is enacted to read:

138 **26-8a-405.2. Selection of provider, public bid, public convenience, and necessity.**

139 (1) (a) A political subdivision may contract with an applicant approved under Section  
140 26-8a-404 to provide 911 ambulance or paramedic services for the geographic service area that  
141 is approved by the department in accordance with Subsection (2), if the political subdivision  
142 complies with the provisions of this section.

143 (b) The provisions of this section and Section 26-8a-405.1 do not require a political  
144 subdivision to issue a request for proposal for ambulance or paramedic services. If a political  
145 subdivision does not contract with an applicant in accordance with this section, the provisions  
146 of Sections 26-8a-406 through 26-8a-409 apply to the issuance of a license for ambulance or  
147 paramedic services in the geographic service area that is within the boundaries of the political  
148 subdivision.

149 (2) (a) The political subdivision shall submit the request for proposal and the exclusive

150 geographic service area to be included in the request for proposal to the department for  
151 approval prior to issuing the request for proposal. The department shall approve the request for  
152 proposal and the exclusive geographic service area:

153 (i) unless the geographic service area creates an orphaned area; and

154 (ii) in accordance with Subsections (2)(b) and (c).

155 (b) The exclusive geographic service area may:

156 (i) include the entire geographic service area that is within the political subdivision's  
157 boundaries;

158 (ii) include islands within or adjacent to other peripheral areas not included in the  
159 political subdivision that governs the geographic service area; or

160 (iii) exclude portions of the geographic service area within the political subdivision's  
161 boundaries if another political subdivision or licensed provider agrees to include the excluded  
162 area within their license.

163 (c) The proposed geographic service area for 911 ambulance or paramedic service must  
164 demonstrate that non-911 ambulance or paramedic service will be provided in the geographic  
165 service area, either by the current provider, the applicant, or some other method acceptable to  
166 the department. The department may consider the effect of the proposed geographic service  
167 area on the costs to the non-911 provider and that provider's ability to provide only non-911  
168 services in the proposed area.

169 (3) (a) (i) A political subdivision may select an applicant approved by the department  
170 under Section 26-8a-404 to provide 911 ambulance or paramedic services by contract let to the  
171 lowest, responsive, and responsible bidder after publication of notice at least once a week for  
172 three consecutive weeks in a newspaper of general circulation published in the county, or if  
173 there is no such newspaper, then after posting such notice for at least 20 days in at least five  
174 public places in the county.

175 (ii) The applicants who are approved under Section 26-8a-405 and who are selected  
176 under Subsection (3)(a)(i) may be any other public entity or entities, any private person or  
177 entity, or any combination thereof.

178 (b) A political subdivision may reject all of the bids.

179 (4) In seeking bids and awarding contracts under this section, a political subdivision:

180 (a) shall follow the provisions of Section 63-56-20;

181 (b) shall consider the public convenience and necessity factors listed in Subsections  
182 26-8a-408(2), (3), and (4);

183 (c) shall require the applicant responding to the bid to disclose how the applicant will  
184 meet performance standards in the request for proposal;

185 (d) may not require or restrict an applicant to a certain method of meeting the  
186 performance standards; and

187 (e) (i) shall require an applicant to submit the bid based on full cost accounting in  
188 accordance with generally accepted accounting principals; and

189 (ii) if the applicant is a governmental entity, in addition to the requirements of  
190 Subsection (4)(e)(i), in accordance with generally accepted government auditing standards and  
191 in compliance with the State of Utah Legal Compliance Audit Guide.

192 Section 5. Section **26-8a-406** is amended to read:

193 **26-8a-406. Ground ambulance and paramedic licenses -- Parties.**

194 (1) When an applicant approved under Section 26-8a-404 seeks licensure under the  
195 provisions of Sections 26-8a-406 through 26-8a-409, the department shall:

196 (a) issue a notice of agency action to the applicant to commence an informal  
197 administrative proceeding;

198 (b) provide notice of the application to all interested parties; and

199 (c) publish notice of the application, at the applicant's expense, once a week for four  
200 consecutive weeks, in a newspaper of general circulation in the geographic service area that is  
201 the subject of the application.

202 [~~1~~] (2) An interested party has 30 days to object to an application.

203 [~~2~~] (3) If an interested party objects, the presiding officer must join the interested  
204 party as an indispensable party to the proceeding.

205 [~~3~~] (4) The department may join the proceeding as a party to represent the public  
206 interest.

207 [~~4~~] (5) Others who may be affected by the grant of a license to the applicant may join  
208 the proceeding, if the presiding officer determines that they meet the requirement of legal  
209 standing.

210 Section 6. Section **26-8a-411** is amended to read:

211 **26-8a-411. Limitation on repetitive applications.**

212 A person who has previously applied for a license under [~~this part~~] Sections 26-8a-406  
213 through 26-8a-409 may not apply for a license for the same service that covers any exclusive  
214 geographic service area that was the subject of the prior application unless:

215 (1) one year has passed from the date of the issuance of a final decision under Section  
216 26-8a-407; or

217 (2) all interested parties and the department agree that a new application is in the public  
218 interest.

219 Section 7. Section **26-8a-413** is amended to read:

220 **26-8a-413. License renewals.**

221 (1) A licensed provider desiring to renew its license must meet the renewal  
222 requirements established by department rule.

223 (2) The department shall issue a renewal license for a ground ambulance provider or a  
224 paramedic provider upon the licensee's application for a renewal and without a public hearing  
225 if there has been [~~no~~]:

226 (a) no change in controlling interest in the ownership of the licensee as defined in  
227 Section 26-8a-415;

228 (b) no serious, substantiated public complaints filed with the department against the  
229 licensee during the term of the previous license;

230 (c) no material or substantial change in the basis upon which the license was originally  
231 granted;

232 (d) no reasoned objection from the committee or the department; and

233 (e) if the applicant was licensed under the provisions of Sections 26-8a-406 through  
234 26-8a-409, no conflicting license application.

235 (3) (a) (i) The provisions of this Subsection (3) apply to a provider licensed under the  
236 provisions of Sections 26-8a-405.1 and 26-8a-405.2.

237 (ii) A provider may renew its license if the provisions of Subsections (1), (2)(a)  
238 through (d), and this Subsection (3) are met.

239 (b) (i) The department shall issue a renewal license to a provider upon the provider's  
240 application for renewal for one additional four year term if the political subdivision certifies to  
241 the department that the provider has met all of the specifications of the original bid.

242 (ii) If the political subdivision does not certify to the department that the provider has

243 met all of the specifications of the original bid, the department may not issue a renewal license  
244 and the political subdivision must enter into a public bid process under Sections 26-8a-405.1  
245 and 26-8a-405.2.

246 (c) (i) The department shall issue an additional renewal license to a provider who has  
247 already been issued a one-time renewal license under the provisions of Subsection (3)(b)(i) if  
248 the department and the political subdivision do not receive, prior to the expiration of the  
249 provider's license, written notice from an approved applicant informing the political  
250 subdivision of the approved applicant's desire to submit a bid for ambulance or paramedic  
251 service.

252 (ii) If the department and the political subdivision receive the notice in accordance with  
253 Subsection (3)(c)(i), the department may not issue a renewal license and the political  
254 subdivision must enter into a public bid process under Section 26-8a-405.1 and 26-8a-405.2.

255 ~~[(3)]~~ (4) The department shall issue a renewal license for an air ambulance provider  
256 upon the licensee's application for renewal and completion of the renewal requirements  
257 established by department rule.

258 Section 8. **Effective date.**

259 This act takes effect on January 1, 2004.

260 Section 9. **Coordination clause.**

261 If this bill and S.B. 72, Amendments to Special Districts and Local Districts For  
262 Expanded Fire Protection Services, both pass, it is the intent of the Legislature that the Office  
263 of Legislative Research and General Counsel, in preparing the database for publication, shall:

264 (1) Amend Subsection 26-8a-405.1(1)(b)(iii) to read as follows:

265 "(iii) the following districts or service areas located in a county of the first or second  
266 class:

267 (A) a special service district created under Title 17A, Chapter 2, Part 13, Utah Special  
268 Service District Act;

269 (B) a local district created after May 5, 2003 under Title 17B, Chapter 2, Local  
270 Districts, for the purpose of providing fire protection, paramedic and emergency services; and

271 (C) a county service area created after May 5, 2003, under Title 17A, Chapter 2, Part 4,  
272 County Service Area, for the purpose of providing fire protection, paramedic and emergency  
273 services."

274 (2) Amend Subsection 26-8a-405.2(1) by inserting Subsection (1)(c) to read as follows:

275 "(c) (i) For purposes of this Subsection (1)(c):

276 (A) "local district" and "county service area" are defined in Subsection

277 26-8a-405.1(1)(b)(iii):

278 (B) "participating municipality" means a city or town whose area is partly or  
279 included within a county service area or local district; and

280 (C) "participating county" means a county whose unincorporated area is partly or  
281 entirely included within a county service area or local district.

282 (ii) A participating municipality or participating county may contract with a provider  
283 for 911 ambulance or paramedic service as provided in this section.

284 (iii) If the participating municipality or participating county contracts with a provider  
285 for 911 ambulance or paramedic services under this section:

286 (A) the county service area or local district is not obligated to provide the ambulance or  
287 paramedic services that are included in the contract between the participating municipality or  
288 the participating county and the 911 ambulance or paramedic provider;

289 (B) the county service area and local district may impose taxes and obligations within  
290 the county service area or local district in the same manner as if the participating municipality  
291 or participating county were receiving all services offered by the local district or county service  
292 area; and

293 (C) the participating municipality's and participating county's obligations to the local  
294 district or county service area are not diminished."