

Representative Gregory H. Hughes proposes the following substitute bill:

EMERGENCY MEDICAL SERVICES ACT

TRANSPORT AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory H. Hughes

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to licensing of non-911 transport services in the Utah Emergency Medical Services System Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that the license for non-911 services that are held by a licensee that is not a political subdivision expires on the latest of:
 - five years from the date of the licenses; or
 - July 1, 2011;
- ▶ provides that when a license for non-911 services expires, the Department of Health shall issue a request for proposal for the non-911 services in the geographic service area; and
- ▶ establishes the non-911 request for proposal RFP process and standards.

Monies Appropriated in this Bill:

None

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **26-8a-102**, as last amended by Laws of Utah 2000, Chapter 305

30 **26-8a-405.1**, as last amended by Laws of Utah 2008, Chapter 360

31 **26-8a-405.2**, as last amended by Laws of Utah 2008, Chapter 360

32 ENACTS:

33 **26-8a-405.4**, Utah Code Annotated 1953

34 **26-8a-405.5**, Utah Code Annotated 1953



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

37 Section 1. Section **26-8a-102** is amended to read:

38 **26-8a-102. Definitions.**

39 As used in this chapter:

40 (1) (a) "911 ambulance or paramedic services" means:

41 (i) either:

42 (A) 911 ambulance service;

43 (B) 911 paramedic service; or

44 (C) both 911 ambulance and paramedic service; and

45 (ii) a response to a 911 call received by a designated dispatch center that receives 911
46 or E911 calls.

47 (b) "911 ambulance or paramedic service" does not mean a seven digit telephone call
48 received directly by an ambulance provider licensed under this chapter.

49 ~~(1)~~ (2) "Ambulance" means a ground, air, or water vehicle that:

50 (a) transports patients and is used to provide emergency medical services; and

51 (b) is required to obtain a permit under Section 26-8a-304 to operate in the state.

52 ~~(2)~~ (3) "Ambulance provider" means an emergency medical service provider that:

53 (a) transports and provides emergency medical care to patients; and

54 (b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

55 ~~(3)~~ (4) "Committee" means the State Emergency Medical Services Committee
56 created by Section 26-1-7.

57 ~~[(4)]~~ (5) "Direct medical observation" means in-person observation of a patient by a
58 physician, registered nurse, physician's assistant, or individual certified under Section
59 26-8a-302.

60 ~~[(5)]~~ (6) "Emergency medical condition" means:

61 (a) a medical condition that manifests itself by symptoms of sufficient severity,
62 including severe pain, that a prudent layperson, who possesses an average knowledge of health
63 and medicine, could reasonably expect the absence of immediate medical attention to result in:

64 (i) placing the individual's health in serious jeopardy;

65 (ii) serious impairment to bodily functions; or

66 (iii) serious dysfunction of any bodily organ or part; or

67 (b) a medical condition that in the opinion of a physician or his designee requires direct
68 medical observation during transport or may require the intervention of an individual certified
69 under Section 26-8a-302 during transport.

70 ~~[(6)]~~ (7) "Emergency medical service personnel":

71 (a) means an individual who provides emergency medical services to a patient and is
72 required to be certified under Section 26-8a-302; and

73 (b) includes a paramedic, medical director of a licensed emergency medical service
74 provider, emergency medical service instructor, and other categories established by the
75 committee.

76 ~~[(7)]~~ (8) "Emergency medical service providers" means:

77 (a) licensed ambulance providers and paramedic providers;

78 (b) a facility or provider that is required to be designated under Section 26-8a-303; and

79 (c) emergency medical service personnel.

80 ~~[(8)]~~ (9) "Emergency medical services" means medical services, transportation
81 services, or both rendered to a patient.

82 ~~[(9)]~~ (10) "Emergency medical service vehicle" means a land, air, or water vehicle that
83 is:

84 (a) maintained and used for the transportation of emergency medical personnel,
85 equipment, and supplies to the scene of a medical emergency; and

86 (b) required to be permitted under Section 26-8a-304.

87 (11) "Governing body":

88 (a) is as defined in Subsection 11-42-102(19); and

89 (b) for purposes of a "special service district" under Subsection 11-42-102(19), means
90 a special service district that has been delegated the authority to select a provider under this
91 chapter by the special service district's legislative body or administrative control board.

92 ~~[(10)]~~ (12) "Interested party" means:

93 (a) a licensed or designated emergency medical services provider that provides
94 emergency medical services within or in an area that abuts an exclusive geographic service area
95 that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic
96 Providers;

97 (b) any municipality, county, or fire district that lies within or abuts a geographic
98 service area that is the subject of an application submitted pursuant to Part 4, Ambulance and
99 Paramedic Providers; or

100 (c) the department when acting in the interest of the public.

101 ~~[(11)]~~ (13) "Medical control" means a person who provides medical supervision to an
102 emergency medical service provider.

103 (14) "Non-911 service" means transport of a patient that is not 911 transport under
104 Subsection (1).

105 ~~[(12)]~~ (15) "Paramedic provider" means an entity that:

106 (a) employs emergency medical service personnel; and

107 (b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

108 ~~[(13)]~~ (16) "Patient" means an individual who, as the result of illness or injury, meets
109 any of the criteria in Section 26-8a-305.

110 (17) "Political subdivision" means:

111 (a) a city or town located in a county of the first or second class as defined in Section
112 17-50-501;

113 (b) a county of the first or second class;

114 (c) the following districts located in a county of the first or second class:

115 (i) a special service district created under Title 17D, Chapter 1, Special Service District
116 Act; or

117 (ii) a local district under Title 17B, Limited Purpose Local Government Entities - Local
118 Districts, for the purpose of providing fire protection, paramedic, and emergency services;

119 (d) areas coming together as described in Subsection 26-8a-405.2(2)(b)(ii);
 120 (e) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act; or
 121 (f) a special service district for fire protection service under Subsection 17D-1-201(9).

122 ~~[(14)]~~ (18) "Trauma" means an injury requiring immediate medical or surgical
 123 intervention.

124 ~~[(15)]~~ (19) "Trauma system" means a single, statewide system that:

125 (a) organizes and coordinates the delivery of trauma care within defined geographic
 126 areas from the time of injury through transport and rehabilitative care; and

127 (b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in
 128 delivering care for trauma patients, regardless of severity.

129 ~~[(16)]~~ (20) "Triage" means the sorting of patients in terms of disposition, destination,
 130 or priority. For prehospital trauma victims, triage requires a determination of injury severity to
 131 assess the appropriate level of care according to established patient care protocols.

132 ~~[(17)]~~ (21) "Triage, treatment, transportation, and transfer guidelines" means written
 133 procedures that:

134 (a) direct the care of patients; and

135 (b) are adopted by the medical staff of an emergency patient receiving facility, trauma
 136 center, or an emergency medical service provider.

137 Section 2. Section **26-8a-405.1** is amended to read:

138 **26-8a-405.1. Selection of provider by political subdivision.**

139 ~~[(1) For purposes of this section and Sections 26-8a-405.2 and 26-8a-405.3:]~~

140 ~~[(a) "911 ambulance or paramedic services" means either 911 ambulance service, or
 141 911 paramedic service, or both and:]~~

142 ~~[(i) means a 911 call received by a designated dispatch center that receives 911 or E911
 143 calls; and]~~

144 ~~[(ii) does not mean a seven digit telephone call received directly by an ambulance
 145 provider licensed under this chapter.]~~

146 ~~[(b) "Governing body" means:]~~

147 ~~[(i) in the case of a municipality or county, the elected council, commission, or other
 148 legislative body that is vested with the legislative power of the municipality;]~~

149 ~~[(ii) in the case of a special service district, local service district, or county service area;~~

150 each elected council, commission, or other legislative body that is vested with the legislative
 151 power of the municipalities or counties that are members of the district or service area, and]
 152 [~~(iii) in the case of a local district or special service district for fire protection or~~
 153 ~~interlocal entity, the board or other body vested with the power to adopt, amend, and repeal~~
 154 ~~rules, bylaws, policies, and procedures for the regulation of its affairs and the conduct of its~~
 155 ~~business.;~~]

156 [(c) "Political subdivision" means:]

157 [(i) a city or town located in a county of the first or second class as defined in Section
 158 17-50-501;]

159 [(ii) a county of the first or second class;]

160 [(iii) the following districts located in a county of the first or second class:]

161 [(A) a special service district created under Title 17D, Chapter 1, Special Service
 162 District Act; and]

163 [(B) a local district under Title 17B, Limited Purpose Local Government Entities -
 164 Local Districts, for the purpose of providing fire protection, paramedic, and emergency
 165 services; or]

166 [(iv) areas coming together as described in Subsection 26-8a-405.2(2)(b)(ii);]

167 [(v) municipalities and counties joining together pursuant to Title 11, Chapter 13,
 168 Interlocal Cooperation Act; or]

169 [(vi) a special service district for fire protection service under Subsection
 170 17D-1-201(9).]

171 [(2)] (1) (a) Only an applicant approved under Section 26-8a-405 may respond to a
 172 request for a proposal [for 911 ambulance or paramedic services] issued in accordance with
 173 Section 26-8a-405.2 by a political subdivision.

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

176 (c) A political subdivision may award a contract to an applicant [for the provision of
 177 911 ambulance or paramedic services] in response to a request for proposal:

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

179 (ii) subject to Subsection [(3)] (2).

180 [(3)] (2) (a) The department shall issue a license to an applicant selected by a political

181 subdivision under Subsection [(2)] (1) unless the department finds that issuing a license to that
 182 applicant would jeopardize the health, safety, and welfare of the citizens of the geographic
 183 service area.

184 (b) A license issued under this Subsection [(3)] (2):

185 (i) is for the exclusive geographic service area approved by the department in
 186 accordance with Subsection 26-8a-405.2(2);

187 (ii) is valid for four years;

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

191 (iv) is subject to supervision by the department under Sections 26-8a-503 and
 192 26-8a-504.

193 [(4)] (3) Except as provided in Subsection 26-8a-405.3(4)(a), the provisions of
 194 Sections 26-8a-406 through 26-8a-409 do not apply to a license issued under this section.

195 Section 3. Section **26-8a-405.2** is amended to read:

196 **26-8a-405.2. Selection of provider -- Request for competitive sealed proposal --**
 197 **Public convenience and necessity.**

198 (1) (a) (i) A political subdivision may contract with an applicant approved under
 199 Section 26-8a-404 to provide 911 ambulance or paramedic services for the geographic service
 200 area that is approved by the department in accordance with Subsection (2)[, if the political
 201 subdivision complies]; and

202 (ii) must be in compliance with the provisions of this section and Section 26-8a-405.3.

203 (b) The provisions of this section and Sections 26-8a-405.1 and 26-8a-405.3 do not
 204 require a political subdivision to issue a request for proposal for ambulance or paramedic
 205 services. If a political subdivision does not contract with an applicant in accordance with this
 206 section and Section 26-8a-405.3, the provisions of Sections 26-8a-406 through 26-8a-409 apply
 207 to the issuance of a license for ambulance or paramedic services in the geographic service area
 208 that is within the boundaries of the political subdivision.

209 (c) (i) For purposes of this Subsection (1)(c):

210 (A) [~~Local~~] "Fire district" means a local district under Title 17B, Limited Purpose
 211 Local Government Entities - Local Districts, that:

212 (I) is located in a county of the first or second class; and

213 (II) provides fire protection, paramedic, and emergency services.

214 (B) "Participating municipality" means a city or town whose area is partly or entirely
215 included within a county service area or ~~[local]~~ fire district.

216 (C) "Participating county" means a county whose unincorporated area is partly or
217 entirely included within a ~~[local]~~ fire district.

218 (ii) A participating municipality or participating county may ~~[contract with a provider~~
219 ~~for 911 ambulance or paramedic service]~~ as provided in this section and Section
220 26-8a-405.3~~[-]~~, contract with a provider for 911 ambulance or paramedic service.

221 (iii) If the participating municipality or participating county contracts with a provider
222 for ~~[911 ambulance or paramedic]~~ services under this section and Section 26-8a-405.3:

223 (A) the ~~[local]~~ fire district is not obligated to provide the ~~[ambulance or paramedic]~~
224 services that are included in the contract between the participating municipality or the
225 participating county and the ~~[911 ambulance or paramedic]~~ provider;

226 (B) the ~~[local]~~ fire district may impose taxes and obligations within the ~~[local]~~ fire
227 district in the same manner as if the participating municipality or participating county were
228 receiving all services offered by the ~~[local]~~ fire district; and

229 (C) the participating municipality's and participating county's obligations to the ~~[local]~~
230 fire district are not diminished.

231 (2) (a) The political subdivision shall submit the request for proposal and the exclusive
232 geographic service area to be included in the request for proposal to the department for
233 approval prior to issuing the request for proposal. The department shall approve the request for
234 proposal and the exclusive geographic service area:

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

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

237 (b) The exclusive geographic service area may:

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

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

242 (iii) exclude portions of the geographic service area within the political subdivision's

243 boundaries if another political subdivision or licensed provider agrees to include the excluded
244 area within their license.

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

251 Section 4. Section **26-8a-405.4** is enacted to read:

252 **26-8a-405.4. Selection of non-911 provider.**

253 (1) (a) This section applies to the selection of a non-911 provider for a geographic
254 service area in which the non-911 provider is not a political subdivision.

255 (b) A license issued to a non-911 provider, prior to July 1, 2010, who is not political
256 subdivisions, shall expire on the latest of:

257 (i) five years from the date the license was issued for the non-911 provider; or

258 (ii) July 1, 2011.

259 (c) If the non-911 services in a geographic service area are provided by a political
260 subdivision, the license shall continue under the provision of public convenience and necessity
261 in Section 26-8a-408.

262 (2) If a license for non-911 service expires under Subsection (1), the department shall
263 issue a request for proposal for the non-911 service in accordance with this section and Section
264 26-8a-405.5.

265 (3) (a) Only an applicant approved under Section 26-8a-405 may respond to a request
266 for a proposal for non-911 services issued in accordance with Section 26-8a-405.5 by the
267 department.

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

270 (c) (i) The department may award a contract to an applicant for the provision of
271 non-911 services in accordance with Section 26-8a-405.5.

272 (ii) A license issued under this Subsection (3)(c)(ii):

273 (A) is for the exclusive geographic service area approved by the department in

274 accordance with Subsection 26-8a-405;

275 (B) is valid for five years;

276 (C) is not subject to a request for license from another applicant under the provisions of

277 Sections 26-8a-406 through 26-8a-409 during the five-year term, unless the applicant's license

278 is revoked under Section 26-8a-504; and

279 (D) is subject to supervision by the department under Sections 26-8a-503 and

280 26-8a-504.

281 (4) Except as provided in Subsection 26-8a-405.5(4)(a), the provisions of Sections

282 26-8a-406 through 26-8a-409 do not apply to a license issued under this section.

283 Section 5. Section **26-8a-405.5** is enacted to read:

284 **26-8a-405.5. Selection of provider -- Request for competitive sealed proposal --**

285 **Public convenience and necessity.**

286 (1) The department may contract with an applicant approved under Section 26-8a-404

287 to provide non-911 services for the geographic service area that is approved by the department

288 in accordance with Subsection (2).

289 (2) (a) Competitive sealed proposals for non-911 services under Section 26-8a-405.4

290 shall be solicited through a request for proposal and the provisions of this section.

291 (b) The department shall approve the request for proposal prior to the notice of the

292 request for proposals under Subsection (2)(c).

293 (c) (i) Notice of the request for proposals shall be published:

294 (A) at least once a week for three consecutive weeks in a newspaper of general

295 circulation published in the county; or

296 (B) if there is no such newspaper, then notice must be posted for at least 20 days in at

297 least five public places in the county; and

298 (ii) in accordance with Section 45-1-101 for at least 20 days.

299 (2) (a) Proposals shall be opened so as to avoid disclosure of contents to competing

300 offerors during the process of negotiations.

301 (b) (i) Subsequent to the published notice, and prior to selecting an applicant, the

302 department must hold a presubmission conference with interested applicants for the purpose of

303 assuring full understanding of, and responsiveness to, solicitation requirements.

304 (ii) department shall allow at least 90 days from the presubmission conference for the

305 proposers to submit proposals.

306 (c) Subsequent to the presubmission conference, the department may issue addenda to
307 the request for proposals. An addenda to a request for proposal must be finalized and posted
308 by the department at least 45 days prior to the date on which the proposal must be submitted.

309 (d) Offerors to the request for proposals shall be accorded fair and equal treatment with
310 respect to any opportunity for discussion and revisions of proposals, and revisions may be
311 permitted after submission and before a contract is awarded for the purpose of obtaining best
312 and final offers.

313 (e) In conducting discussions, there shall be no disclosures of any information derived
314 from proposals submitted by competing offerors.

315 (3) (a) (i) The department may select an applicant approved by the department under
316 Section 26-8a-404 to provide non-911 services by contract to the most responsible offeror as
317 defined in Subsection 63G-6-103(24).

318 (ii) An award under Subsection (3)(a)(i) shall be made to the responsible offeror whose
319 proposal is determined in writing to be the most advantageous to the department, taking into
320 consideration price and the evaluation factors set forth in the request for proposal.

321 (b) The department may reject all of the competitive proposals.

322 (4) In seeking competitive sealed proposals and awarding contracts under this section,
323 the department:

324 (a) shall apply the public convenience and necessity factors listed in Subsections
325 26-8a-408(2) through (6);

326 (b) shall require the applicant responding to the proposal to disclose how the applicant
327 will meet performance standards in the request for proposal;

328 (c) may not require or restrict an applicant to a certain method of meeting the
329 performance standards, including requiring non-911 service personnel to also be a firefighter;

330 (d) (i) shall require an applicant to submit the proposal based on full cost accounting in
331 accordance with generally accepted accounting principals; and

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

335 (e) shall set forth in the request for proposal:

336 (i) the method for determining full cost accounting in accordance with generally
337 accepted accounting principles, and require an applicant to submit the proposal based on such
338 full cost accounting principles;

339 (ii) guidelines established to further competition and provider accountability; and

340 (iii) a list of the factors that will be considered by the political subdivision in the award
341 of the contract, including by percentage, the relative weight of the factors established under this
342 Subsection (4)(e), which may include such things as:

343 (A) response times;

344 (B) staging locations;

345 (C) experience;

346 (D) quality of care; and

347 (E) cost, consistent with the cost accounting method in Subsection (4)(e)(i).