

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

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

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

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

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

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

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

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

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

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

(i) the application for the license is limited to non-911 ambulance or paramedic services;
and

(ii) the application includes:

(A) a copy of the new treatment protocols for the higher level of service approved by the off-line medical director;

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

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

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

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

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

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

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

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

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

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

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

(2) A current license holder responding to a request for proposal under Section 26-8a-405.2 is considered an approved applicant for purposes of Section 26-8a-405.2 if the current license holder, prior to responding to the request for proposal, submits the following to the department:

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

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

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

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

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

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

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

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

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

(b) "political subdivision" means:

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

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

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

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

(2) (a) Only an applicant approved under Section 26-8a-405 may respond to a request for

a proposal for 911 ambulance or paramedic services issued in accordance with Section 26-8a-405.2 by a political subdivision.

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

(c) A political subdivision may award a contract to an applicant for the provision of 911 ambulance or paramedic services:

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

(ii) subject to Subsection (3).

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

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

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

(ii) is valid for four years;

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

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

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

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

26-8a-405.2. Selection of provider -- Public bid -- Public convenience and necessity.

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

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

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

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

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

(b) The exclusive geographic service area may:

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

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

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

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

(3) (a) (i) A political subdivision may select an applicant approved by the department under Section 26-8a-404 to provide 911 ambulance or paramedic services by contract let to the

lowest, responsive, and responsible bidder after publication of notice at least once a week for three consecutive weeks in a newspaper of general circulation published in the county, or if there is no such newspaper, then after posting such notice for at least 20 days in at least five public places in the county.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26-8a-413. License renewals.

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

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

(a) no change in controlling interest in the ownership of the licensee as defined in

Section 26-8a-415;

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

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

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

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

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

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

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

(ii) If the political subdivision does not certify to the department that the provider has met all of the specifications of the original bid, the department may not issue a renewal license and the political subdivision must enter into a public bid process under Sections 26-8a-405.1 and 26-8a-405.2.

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

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

~~[(3)]~~ (4) The department shall issue a renewal license for an air ambulance provider upon

the licensee's application for renewal and completion of the renewal requirements established by department rule.

Section 8. Effective date.

This act takes effect on January 1, 2004.

Section 9. Coordination clause.

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

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

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

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

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

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

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

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

(A) "local district" and "county service area" are defined in Subsection 26-8a-405.1(1)(b)(iii);

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

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

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

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

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

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

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