

1 **UTAH EMERGENCY MEDICAL SERVICES ACT**

2 **AMENDMENTS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Dan R. Eastman**

6 House Sponsor: _____

7

8 **LONG TITLE**

9 **General Description:**

10 The bill amends the Utah Emergency Medical Services Act.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ provides for applications to the Department of Health from political subdivisions to
14 obtain emergency ambulance service licenses;
- 15 ▶ eliminates the authority of political subdivisions to contract with ambulance service
16 providers pursuant to requests for proposals;
- 17 ▶ clarifies the manner in which the Department of Health disposes of license
18 applications; and
- 19 ▶ clarifies the effect of the repeal of the RFP process on current license holders.

20 **Monies Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 This bill provides an immediate effective date.

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **26-8a-404**, as last amended by Chapter 213, Laws of Utah 2003

27 **26-8a-405**, as last amended by Chapter 213, Laws of Utah 2003



28 **26-8a-406**, as last amended by Chapter 213, Laws of Utah 2003

29 **26-8a-407**, as enacted by Chapter 141, Laws of Utah 1999

30 **26-8a-408**, as enacted by Chapter 141, Laws of Utah 1999

31 **26-8a-413**, as last amended by Chapter 213, Laws of Utah 2003

32 ENACTS:

33 **26-8a-404.1**, Utah Code Annotated 1953

34 **26-8a-413.5**, Utah Code Annotated 1953

35 REPEALS:

36 **26-8a-405.1**, as last amended by Chapter 205, Laws of Utah 2005

37 **26-8a-405.2**, as last amended by Chapters 25 and 205, Laws of Utah 2005

38 **26-8a-405.3**, as enacted by Chapter 205, Laws of Utah 2005

39 **Uncodified Material Affected:**

40 ENACTS UNCODIFIED MATERIAL



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

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

44 **26-8a-404. Ground ambulance and paramedic licenses -- Application and**
45 **department review.**

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

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

51 (2) The department shall make rules establishing minimum qualifications and
52 requirements for:

- 53 (a) personnel;
- 54 (b) capital reserves;
- 55 (c) equipment;
- 56 (d) a business plan;
- 57 (e) operational procedures;
- 58 (f) medical direction agreements;

59 (g) management and control; and

60 (h) other matters that may be relevant to an applicant's ability to provide ground
61 ambulance or paramedic service.

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

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

69 [~~(i) the application for the license is limited to non-911 ambulance or paramedic~~
70 ~~services; and]~~

71 [~~(ii) the application includes:]~~

72 [~~(A)~~] (i) a copy of the new treatment protocols for the higher level of service approved
73 by the off-line medical director;

74 [~~(B)~~] (ii) an assessment of field performance by the applicant's off-line director; and

75 [~~(C)~~] (iii) an updated plan of operation demonstrating the ability of the applicant to
76 provide the higher level of service.

77 (b) If the department determines that the applicant has demonstrated the ability to
78 provide the higher level of service in accordance with Subsection (4)(a), the department shall
79 issue a revised license reflecting the higher level of service and the requirements of Section
80 26-8a-408 do not apply.

81 (5) Upon receiving a completed application and the required fees, the department shall
82 review the application and determine whether the application meets the minimum
83 qualifications and requirements for licensure.

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

88 (7) If the department denies an application, it shall notify the applicant in writing
89 setting forth the grounds for the denial. A denial may be appealed under Title 63, Chapter 46b,

90 Administrative Procedures Act.

91 Section 2. Section **26-8a-404.1** is enacted to read:

92 **26-8a-404.1. Application by political subdivision for 911 ambulance license.**

93 (1) For purposes of this section, "political subdivision" means:

94 (a) a city or town located in a county of the first or second class as defined in Section
95 17-50-501;

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

97 (c) the following districts or service areas located in a county of the first or second
98 class;

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

101 (ii) a local district created under Title 17B, Chapter 2, Local Districts, for the purpose
102 of providing fire protection, paramedic, and emergency services; and

103 (iii) a county service area created under Title 17A, Chapter 2, Part 4, County Service
104 Area Act, for the purpose of providing fire protection, paramedic, and emergency services; or

105 (d) a special district for fire protection as defined in Section 17A-2-1304.

106 (2) For purposes of this section, "governing body" means:

107 (a) in the case of a municipality or county, the elected council, commission, or other
108 legislative body that is vested with the legislative power of the municipality; or

109 (b) in the case of a special service district, local service district, county service area, or
110 special district for fire protection, each elected council, commission, or other legislative body
111 that is vested with the legislative power of the municipalities or counties that are members of
112 such district or service area.

113 (3) "911 ambulance services" means emergency ambulance services provided in
114 response to a 911 telephone call received by a designated dispatch center that receives 911 or
115 E-911 calls, but does not mean services provided in response to a telephone call to the
116 seven-digit number of an ambulance provider licensed under this chapter.

117 (4) A political subdivision may apply to the department for a license to provide 911
118 ambulance service by complying with the requirements of Section 26-8a-404 and this section.

119 (5) A political subdivision may apply to the department for a license to provide 911
120 ambulance service only if:

121 (a) the political subdivision's governing body has directed an independent and qualified
122 expert to evaluate and report to the governing body on all direct, indirect, and shared costs,
123 calculated on the basis of generally accepted accounting principles, for the provision of
124 services that will meet the department's minimum requirements and the requirements of
125 Section 26-8a-408;

126 (b) on the basis of the independent report required by Subsection (5)(a), the political
127 subdivision's governing body determines that the political subdivision has or may reasonably
128 obtain the resources necessary to provide 911 ambulance services consistent with the
129 department's requirements and the requirements of Section 26-8a-408;

130 (c) the political subdivision's governing body authorizes the political subdivision to
131 apply for the license; and

132 (d) the political subdivision affirms in the application that it will not subcontract 911
133 ambulance services to a third party.

134 (6) A political subdivision that is a special service district, local service district, special
135 district for fire protection, or a combination of municipalities or counties may apply to the
136 department for a license to provide 911 ambulance services only if the governing body of each
137 of its member municipalities or counties complies with the requirements of Subsection (5).

138 (7) The department shall process a political subdivision's application for a ground
139 ambulance license in accordance with Sections 26-8a-405 through 26-8a-409.

140 Section 3. Section **26-8a-405** is amended to read:

141 **26-8a-405. Ground ambulance and paramedic licenses -- Agency notice of**
142 **approval.**

143 [(1)] Beginning [~~January 1, 2004~~] May 15, 2006, if the department determines that the
144 application meets the minimum requirements for licensure under Section 26-8a-404, the
145 department shall issue a notice of [~~the approved~~] preliminary approval of the application to the
146 applicant.

147 [~~(2) A current license holder responding to a request for proposal under Section~~
148 ~~26-8a-405.2 is considered an approved applicant for purposes of Section 26-8a-405.2 if the~~
149 ~~current license holder, prior to responding to the request for proposal, submits the following to~~
150 ~~the department:]~~

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

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

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

158 Section 4. Section **26-8a-406** is amended to read:

159 **26-8a-406. Ground ambulance and paramedic licenses -- Parties.**

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

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

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

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

168 (2) An interested party has 30 days to object to an application.

169 (3) If an interested party objects, the presiding officer must join the interested party as
170 an indispensable party to the proceeding.

171 (4) The department may join the proceeding as a party to represent the public interest.

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

174 Section 5. Section **26-8a-407** is amended to read:

175 **26-8a-407. Ground ambulance and paramedic licenses -- Proceedings.**

176 (1) The presiding officer shall:

177 (a) commence an informal adjudicative proceeding within 120 days of receiving a
178 completed application;

179 (b) meet with the applicant and objecting interested parties and provide no less than
180 120 days for a negotiated resolution, consistent with the criteria in Section 26-8a-408;

181 (c) set aside a separate time during the proceedings to accept public comment on the
182 application; and

183 (d) present a written decision to the executive director if a resolution has been reached
184 that satisfies the criteria in Section 26-8a-408.

185 (2) At any time during an informal adjudicative proceeding under Subsection (1), any
186 party may request conversion of the informal adjudicative proceeding to a formal adjudicative
187 proceeding in accordance with Section 63-46b-4.

188 (3) Upon conversion to a formal adjudicative proceeding, a hearing officer shall be
189 assigned to the application as provided in Section 26-8a-409. The hearing officer shall:

190 (a) set aside a separate time during the proceedings to accept public comment on the
191 application; and

192 [~~(b) apply the criteria established in Section 26-8a-408; and~~]

193 [~~(c)~~] (b) present a recommended decision to the executive director in writing.

194 (4) The hearing officer shall recommend the granting of a license only if the applicant
195 demonstrates that it complies with each of the criteria for public convenience and necessity set
196 forth in Section 26-8a-408.

197 [~~(4)~~] (5) The executive director may, as set forth in a final written order, accept,
198 modify, reject, or remand the decision of a presiding or hearing officer after:

199 (a) reviewing the record;

200 (b) giving due deference to the officer's decision; and

201 (c) determining whether the criteria in Section 26-8a-408 have been satisfied.

202 Section 6. Section **26-8a-408** is amended to read:

203 **26-8a-408. Criteria for determining public convenience and necessity.**

204 (1) [~~The criteria for determining public convenience and necessity is set forth in~~] An
205 applicant may not be awarded a license to provide ground ambulance or paramedic services
206 unless the applicant demonstrates that it complies with the department's minimum
207 requirements and that it is capable of providing service that complies with Subsections (2)
208 through (6).

209 (2) Access to emergency medical services must be maintained or improved. The
210 officer shall consider the impact on existing services, including the impact on response times,
211 call volumes, populations and exclusive geographic service areas served, and the ability of
212 surrounding licensed providers to service their exclusive geographic service areas. The
213 issuance or amendment of a license may not create an orphaned area.

214 (3) The quality of service in the area must be maintained or improved. The officer
215 shall consider the:

216 (a) staffing and equipment standards of the current licensed provider and the applicant;

217 (b) training and certification levels of the current licensed provider's staff and the
218 applicant's staff;

219 (c) continuing medical education provided by the current licensed provider and the
220 applicant;

221 (d) levels of care as defined by department rule;

222 (e) plan of medical control; and

223 (f) the negative or beneficial impact on the regional emergency medical service system
224 to provide service to the public.

225 (4) The cost to the public must be justified. The officer must consider:

226 (a) the financial solvency of the applicant;

227 (b) the applicant's ability to provide services within the rates established under Section
228 26-8a-403;

229 (c) the applicant's ability to comply with cost reporting requirements;

230 (d) the cost efficiency of the applicant; and

231 (e) the cost effect of the application on the public, interested parties, and the emergency
232 medical services system.

233 (5) Local desires concerning cost, quality, and access must be considered. The officer
234 shall assess and consider:

235 (a) the existing provider's record of providing services and the applicant's record and
236 ability to provide similar or improved services;

237 (b) the financial impact of granting the application on certificate holders whose service
238 area includes all or part of the service area for which the applicant has applied;

239 [~~(b)~~] (c) locally established emergency medical services goals, including those
240 established in Subsection (7);

241 [~~(c)~~] (d) comment by local governments on the applicant's business and operations
242 plans;

243 [~~(d)~~] (e) comment by interested parties that are providers on the impact of the
244 application on the parties' ability to provide emergency medical services;

245 ~~[(e)]~~ (f) comment by interested parties that are local governments on the impact of the
246 application on the citizens it represents; and

247 ~~[(f)]~~ (g) public comment on any aspect of the application or proposed license.

248 (6) Other related criteria:

249 (a) the officer considers necessary; or

250 (b) established by department rule.

251 (7) The role of local governments in the licensing of ground ambulance and paramedic
252 providers that serve areas also served by the local governments is important. The Legislature
253 strongly encourages local governments to establish cost, quality, and access goals for the
254 ground ambulance and paramedic services that serve their areas.

255 (8) ~~[In a formal adjudicative proceeding, the]~~ The applicant bears the burden of
256 establishing that public convenience and necessity require the approval of the application for
257 all or part of the exclusive geographic service area requested.

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

259 **26-8a-413. License renewals.**

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

262 (2) The department shall issue a renewal license for a ground ambulance provider or a
263 paramedic provider upon the licensee's application for a renewal and without a public hearing
264 if there has been:

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

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

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

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

272 (e) if the applicant was licensed under the provisions of Sections 26-8a-406 through
273 26-8a-409, no conflicting license application.

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

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

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

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

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

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

294 ~~[(4)]~~ (3) The department shall issue a renewal license for an air ambulance provider
295 upon the licensee's application for renewal and completion of the renewal requirements
296 established by department rule.

297 Section 8. Section **26-8a-413.5** is enacted to read:

298 **26-8a-413.5. Provisions for current licensees under request for proposals.**

299 (1) This section applies to a licensee who, prior to May 15, 2006, was selected by and
300 entered into a contract with a political subdivision for the provision of E-911 or 911 ambulance
301 or paramedic services as a result of a request for proposal issued by the political subdivision.

302 (2) (a) A license for a licensee subject to this section shall remain in effect for the
303 duration of the term of the initial license and the term of the contract effective on May 1, 2006.

304 (b) The license of a licensee subject to this section may not be renewed by the
305 department unless the licensee complies with the provisions of Sections 26-8a-406 through
306 26-8a-409.

307 Section 9. **Repealer.**
308 This bill repeals:
309 Section **26-8a-405.1, Selection of provider by political subdivision.**
310 Section **26-8a-405.2, Selection of provider -- Request for competitive sealed**
311 **proposal -- Public convenience and necessity.**
312 Section **26-8a-405.3, Use of competitive sealed proposals -- Procedure -- Appeal**
313 **rights.**
314 Section 10. **Effective date.**
315 If approved by two-thirds of all the members elected to each house, this bill takes effect
316 upon approval by the governor, or the day following the constitutional time limit of Utah
317 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
318 the date of veto override.

Legislative Review Note
as of 1-26-06 11:16 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

The additional State Health Department workload can be handled within the current fee structure. There could be a loss of revenue and/or additional expenses to local governments located in first or second class counties. The loss of revenue could be significant. Additional costs for studies could range from \$10,000 to \$25,000 per study.

Individual and Business Impact

There should not be an increase in costs for users of emergency medical services. There could be increased costs to individuals in certain municipalities, counties or special service districts if the political subdivision chooses to levy a tax to supplement emergency services or offset a loss of revenue.
