

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 the Utah Emergency Medical Services System Act to allow a request for proposal for inter-facility transport services.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes technical amendments;
- ▶ permits a political subdivision in a county of the first or second class to issue a request for proposal for:
 - 911 ambulance or paramedic services;
 - inter-facility transport services; or
 - both 911 ambulance or paramedic services and inter-facility transport services;

and

- ▶ prohibits certain marketing practices by an inter-facility transport provider.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

26-8a-405.3, as last amended by Laws of Utah 2009, Chapter 388

26-8a-502, as last amended by Laws of Utah 2009, Chapter 22

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

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

26-8a-102. Definitions.

As used in this chapter:

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

(i) either:

(A) 911 ambulance service;

(B) 911 paramedic service; or

(C) both 911 ambulance and paramedic service; and

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

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

~~[(+)]~~ (2) "Ambulance" means a ground, air, or water vehicle that:

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

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

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

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

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

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

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

59 ~~[(5)]~~ (6) "Emergency medical condition" means:

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

- 63 (i) placing the individual's health in serious jeopardy;
64 (ii) serious impairment to bodily functions; or
65 (iii) serious dysfunction of any bodily organ or part; or

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

69 ~~[(6)]~~ (7) "Emergency medical service personnel":

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

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

75 ~~[(7)]~~ (8) "Emergency medical service providers" means:

- 76 (a) licensed ambulance providers and paramedic providers;
77 (b) a facility or provider that is required to be designated under Section 26-8a-303; and
78 (c) emergency medical service personnel.

79 ~~[(8)]~~ (9) "Emergency medical services" means medical services, transportation
80 services, or both rendered to a patient.

81 ~~[(9)]~~ (10) "Emergency medical service vehicle" means a land, air, or water vehicle that
82 is:

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

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

86 (11) "Governing body":

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

88 (b) for purposes of a "special service district" under Subsection 11-42-102(19), means
89 a special service district that has been delegated the authority to select a provider under this

chapter by the special service district's legislative body or administrative control board.

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

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

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

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

(13) "Inter-facility transport" means the transport of a patient from one facility to another facility:

(a) if the transport is requested and scheduled by either the sending or receiving facility;

(b) if the requesting facility or the receiving facility is one of the following facilities licensed by the department under Chapter 21, Health Care Facility Licensing and Inspection Act;

(i) a general acute hospital;

(ii) specialty hospital;

(iii) a small health care facility;

(iv) a nursing care facility; or

(v) an ambulatory surgical facility; and

(c) if the sending facility is located within the geographic service area in which the inter-facility transporter has a license.

~~[(11)]~~ (14) "Medical control" means a person who provides medical supervision to an emergency medical service provider.

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

(a) employs emergency medical service personnel; and

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

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

(17) "Political subdivision" means:

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

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

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

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

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

(d) areas coming together as described in Subsection 26-8a-405.2(2)(b)(ii);

(e) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act; or

(f) a special service district for fire protection service under Subsection 17D-1-201(9).

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

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

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

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

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

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

(a) direct the care of patients; and

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

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

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

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

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

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

~~[(ii) in the case of a special service district, local service district, or county service area, each elected council, commission, or other legislative body that is vested with the legislative power of the municipalities or counties that are members of the district or service area; and]~~

~~[(iii) in the case of a local district or special service district for fire protection or interlocal entity, the board or other body vested with the power to adopt, amend, and repeal rules, bylaws, policies, and procedures for the regulation of its affairs and the conduct of its business:]~~

~~[(c) "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) the following districts located in a county of the first or second class:]~~

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

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

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

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

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

~~[(2)]~~ (1) (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~~] in response to a request for proposal:

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

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

[~~(3)~~] (2) (a) The department shall issue a license to an applicant selected by a political subdivision under Subsection [~~(2)~~] (1) 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)~~] (2):

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

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

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

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

(1) (a) (i) A political subdivision may contract with an applicant approved under Section 26-8a-404 to provide:

(A) 911 ambulance or paramedic services;

(B) inter-facility transport services; or

(C) both;

(I) 911 ambulance or paramedic services; and

(II) inter-facility transport services.

(ii) The contract entered into under Subsection (1)(a)(i):

(A) shall be for the geographic service area that is approved by the department in accordance with Subsection (2)~~[if the political subdivision complies]~~; and

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

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

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

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

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

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

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

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

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

(A) 911 ambulance or paramedic service;

(B) inter-facility transport service; or

(C) both:

(I) 911 ambulance or paramedic service; and

(II) inter-facility transport service.

(iii) If the participating municipality or participating county contracts with a provider

for ~~[911 ambulance or paramedic]~~ services under this section and Section 26-8a-405.3:

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

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

(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]~~ political subdivision must demonstrate that ~~[non-911]~~ 911 ambulance or paramedic service and inter-facility transport 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]~~ 911 provider [and that], the inter-facility transport provider, and each provider's ability to provide ~~[only non-911]~~ services in the proposed area.

Section 4. Section ~~26-8a-405.3~~ is amended to read:

26-8a-405.3. Use of competitive sealed proposals -- Procedure -- Appeal rights.

(1) (a) Competitive sealed proposals [~~for paramedic or 911 ambulance services~~] under Section 26-8a-405.2 shall:

(i) be solicited through a request for proposal; and

(ii) comply with the provisions of this section.

(b) The governing body of the political subdivision shall approve the request for proposal prior to the notice of the request for proposals under Subsection (1)(c).

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

(A) at least once a week for three consecutive weeks in a newspaper of general circulation published in the county; or

(B) if there is no such newspaper, then notice must be posted for at least 20 days in at least five public places in the county; and

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

(2) (a) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiations.

(b) (i) Subsequent to the published notice, and prior to selecting an applicant, the political subdivision must hold a presubmission conference with interested applicants for the purpose of assuring full understanding of, and responsiveness to, solicitation requirements.

(ii) A political subdivision shall allow at least 90 days from the presubmission conference for the proposers to submit proposals.

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

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

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

(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 to the most responsible offeror as defined in Subsection 63G-6-103(24).

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

(b) The applicants who are approved under Section 26-8a-405 and who are selected under this section may be the political subdivision issuing the request for competitive sealed proposals, or any other public entity or entities, any private person or entity, or any combination thereof.

(c) A political subdivision may reject all of the competitive proposals.

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

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

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

(c) may not require or restrict an applicant to a certain method of meeting the performance standards, including:

(i) requiring ambulance medical personnel to also be a firefighter; or

(ii) mandating that offerors use fire stations or dispatch services of the political subdivision;

(d) (i) shall require an applicant to submit the proposal 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; and

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

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

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

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

- (A) response times;
- (B) staging locations;
- (C) experience;
- (D) quality of care; and
- (E) cost, consistent with the cost accounting method in Subsection (4)(e)(i).

(5) (a) Notwithstanding the provisions of Subsection 63G-6-104(3), the provisions of Title 63G, Chapter 6, Part 8, Legal and Contractual Remedies, apply to the procurement process required by this section, except as provided in Subsection (5)(c).

(b) The Procurement Appeals Board created in Section 63G-6-807 shall have jurisdiction to review and determine an appeal of an offeror under this section in the same manner as provided in Section 63G-6-810.

(c) (i) An offeror may appeal the solicitation or award as provided by the political subdivision's procedures. After all political subdivision appeal rights are exhausted, the offeror may appeal under the provisions of Subsections (5)(a) and (b).

(ii) The factual determination required by Subsection 63G-6-813(1) shall be based on whether the solicitation or award was made in accordance with the procedures set forth in this section and Section 26-8a-405.2.

(d) The determination of an issue of fact by the appeals board shall be final and conclusive unless arbitrary and capricious or clearly erroneous as provided in Section 63G-6-813.

Section 5. Section **26-8a-502** is amended to read:

26-8a-502. Illegal activity.

(1) Except as provided in Section 26-8a-308 or 26-8b-201, a person may not:

(a) practice or engage in the practice, represent himself to be practicing or engaging in the practice, or attempt to practice or engage in the practice of any activity that requires a license, certification, or designation under this chapter unless that person is so licensed, certified, or designated; or

(b) offer an emergency medical service that requires a license, certificate, or

369 designation unless the person is so licensed, certified, or designated.

370 (2) A person may not advertise or hold himself out as one holding a license,
371 certification, or designation required under this chapter, unless that person holds the license,
372 certification, or designation.

373 (3) A person may not employ or permit any employee to perform any service for which
374 a license or certificate is required by this chapter, unless the person performing the service
375 possesses the required license or certificate.

376 (4) A person may not wear, display, sell, reproduce, or otherwise use any Utah
377 Emergency Medical Services insignia without authorization from the department.

378 (5) A person may not reproduce or otherwise use materials developed by the
379 department for certification or recertification testing or examination without authorization from
380 the department.

381 (6) A person may not willfully summon an ambulance or emergency response vehicle
382 or report that one is needed when such person knows that the ambulance or emergency
383 response vehicle is not needed.

384 (7) An inter-facility transport provider may not advertise, market, or solicit any person
385 to use a number other than 911 to obtain:

386 (a) 911 ambulance or paramedic services; or

387 (b) inter-facility transport services if the use of a number other than 911 is prohibited
388 by the policies and procedures established by the local emergency medical services agency and
389 the agency's medical director for medical direction and dispatching of inter-facility transport.

390 [~~7~~] (8) A person who violates this section is subject to Section 26-23-6.

Legislative Review Note
as of 11-24-09 11:18 AM

Office of Legislative Research and General Counsel

H.B. 121 - Emergency Medical Services Act Transport Amendments

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
