

**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: \_\_\_\_\_

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**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 when the department finds that a complaint against a non-911 provider has merit, 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:**

None

**Utah Code Sections Affected:**

AMENDS:

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



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

27 26-8a-405.2, as last amended by Laws of Utah 2008, Chapter 360

28 ENACTS:

29 26-8a-405.4, Utah Code Annotated 1953

30 26-8a-405.5, Utah Code Annotated 1953



31  
32 *Be it enacted by the Legislature of the state of Utah:*

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

34 **26-8a-102. Definitions.**

35 As used in this chapter:

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

37 (i) either:

38 (A) 911 ambulance service;

39 (B) 911 paramedic service; or

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

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

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

45 ~~[(1)]~~ (2) "Ambulance" means a ground, air, or water vehicle that:

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

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

48 ~~[(2)]~~ (3) "Ambulance provider" means an emergency medical service provider that:

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

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

51 ~~[(3)]~~ (4) "Committee" means the State Emergency Medical Services Committee  
52 created by Section 26-1-7.

53 ~~[(4)]~~ (5) "Direct medical observation" means in-person observation of a patient by a  
54 physician, registered nurse, physician's assistant, or individual certified under Section  
55 26-8a-302.

56 ~~[(5)]~~ (6) "Emergency medical condition" means:

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

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

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

66 [~~(6)~~] (7) "Emergency medical service personnel":

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

69 (b) includes a paramedic, medical director of a licensed emergency medical service  
70 provider, emergency medical service instructor, and other categories established by the  
71 committee.

72 [~~(7)~~] (8) "Emergency medical service providers" means:

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

76 [~~(8)~~] (9) "Emergency medical services" means medical services, transportation  
77 services, or both rendered to a patient.

78 [~~(9)~~] (10) "Emergency medical service vehicle" means a land, air, or water vehicle that  
79 is:

- 80 (a) maintained and used for the transportation of emergency medical personnel,  
81 equipment, and supplies to the scene of a medical emergency; and
- 82 (b) required to be permitted under Section 26-8a-304.

83 (11) "Governing body":

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

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

88           ~~[(10)]~~ (12) "Interested party" means:

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

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

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

97           ~~[(11)]~~ (13) "Medical control" means a person who provides medical supervision to an  
98 emergency medical service provider.

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

101           ~~[(12)]~~ (15) "Paramedic provider" means an entity that:

102           (a) employs emergency medical service personnel; and

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

104           ~~[(13)]~~ (16) "Patient" means an individual who, as the result of illness or injury, meets  
105 any of the criteria in Section 26-8a-305.

106           (17) "Political subdivision" means:

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

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

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

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

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

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

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

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

118           ~~[(14)]~~ (18) "Trauma" means an injury requiring immediate medical or surgical

119 intervention.

120 [(+5)] (19) "Trauma system" means a single, statewide system that:

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

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

125 [(+6)] (20) "Triage" means the sorting of patients in terms of disposition, destination,  
126 or priority. For prehospital trauma victims, triage requires a determination of injury severity to  
127 assess the appropriate level of care according to established patient care protocols.

128 [(+7)] (21) "Triage, treatment, transportation, and transfer guidelines" means written  
129 procedures that:

130 (a) direct the care of patients; and

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

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

134 **26-8a-405.1. Selection of provider by political subdivision.**

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

136 [~~(a) "911 ambulance or paramedic services" means either 911 ambulance service, or  
137 911 paramedic service, or both and:]~~

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

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

142 [(b) "Governing body" means:]

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

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

148 [(iii) in the case of a local district or special service district for fire protection or  
149 interlocal entity, the board or other body vested with the power to adopt, amend, and repeal

150 rules, bylaws, policies, and procedures for the regulation of its affairs and the conduct of its  
151 business.}]

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

153 [(i) a city or town located in a county of the first or second class as defined in Section  
154 17-50-501;]

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

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

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

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

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

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

165 [(vi) a special service district for fire protection service under Subsection  
166 17D-1-201(9).]

167 [(2)] (1) (a) Only an applicant approved under Section 26-8a-405 may respond to a  
168 request for a proposal [for 911 ambulance or paramedic services] issued in accordance with  
169 Section 26-8a-405.2 by a political subdivision.

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

172 (c) A political subdivision may award a contract to an applicant [for the provision of  
173 911 ambulance or paramedic services] in response to a request for proposal:

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

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

176 [(3)] (2) (a) The department shall issue a license to an applicant selected by a political  
177 subdivision under Subsection [(2)] (1) unless the department finds that issuing a license to that  
178 applicant would jeopardize the health, safety, and welfare of the citizens of the geographic  
179 service area.

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

- 181 (i) is for the exclusive geographic service area approved by the department in
- 182 accordance with Subsection 26-8a-405.2(2);
- 183 (ii) is valid for four years;
- 184 (iii) is not subject to a request for license from another applicant under the provisions
- 185 of Sections 26-8a-406 through 26-8a-409 during the four-year term, unless the applicant's
- 186 license is revoked under Section 26-8a-504; and
- 187 (iv) is subject to supervision by the department under Sections 26-8a-503 and
- 188 26-8a-504.

189 ~~[(4)]~~ (3) Except as provided in Subsection 26-8a-405.3(4)(a), the provisions of

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

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

192 **26-8a-405.2. Selection of provider -- Request for competitive sealed proposal --**

193 **Public convenience and necessity.**

194 (1) (a) (i) A political subdivision may contract with an applicant approved under

195 Section 26-8a-404 to provide 911 ambulance or paramedic services for the geographic service

196 area that is approved by the department in accordance with Subsection (2)~~], if the political~~

197 ~~subdivision complies]; and~~

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

199 (b) The provisions of this section and Sections 26-8a-405.1 and 26-8a-405.3 do not

200 require a political subdivision to issue a request for proposal for ambulance or paramedic

201 services. If a political subdivision does not contract with an applicant in accordance with this

202 section and Section 26-8a-405.3, the provisions of Sections 26-8a-406 through 26-8a-409 apply

203 to the issuance of a license for ambulance or paramedic services in the geographic service area

204 that is within the boundaries of the political subdivision.

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

206 (A) [~~Local~~] "Fire district" means a local district under Title 17B, Limited Purpose

207 Local Government Entities - Local Districts, that:

- 208 (I) is located in a county of the first or second class; and
- 209 (II) provides fire protection, paramedic, and emergency services.

210 (B) "Participating municipality" means a city or town whose area is partly or entirely

211 included within a county service area or [~~local~~] fire district.

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

214 (ii) A participating municipality or participating county may ~~[contract with a provider~~  
215 ~~for 911 ambulance or paramedic service]~~ as provided in this section and Section  
216 26-8a-405.3~~[-]~~, contract with a provider for 911 ambulance or paramedic service.

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

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

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

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

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

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

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

233 (b) The exclusive geographic service area may:

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

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

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

241 (c) The proposed geographic service area for 911 ambulance or paramedic service must  
242 demonstrate that non-911 ambulance or paramedic service will be provided in the geographic



243 service area, either by the current provider, the applicant, or some other method acceptable to  
244 the department. The department may consider the effect of the proposed geographic service  
245 area on the costs to the non-911 provider and that provider's ability to provide only non-911  
246 services in the proposed area.

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

248 **26-8a-405.4. Selection of non-911 provider.**

249 (1) (a) This section applies to a non-911 provider license under this chapter.

250 (b) The department may in accordance with Subsection (c):

251 (i) require a non-911 provider licensee to submit a request for proposal under the  
252 provisions of Section 26-8a-405.5 for non-911 services in the licensee's geographic service  
253 area; and

254 (ii) cancel the license of the non-911 provider if the non-911 provider:

255 (A) does not submit a request for proposal under the provisions of this section and  
256 Section 26-8a-405.5; or

257 (B) submits a request for proposal, but is not selected as the non-911 provider under the  
258 provisions of Section 26-8a-405.5.

259 (c) The department shall initiate the request for proposal process in Section  
260 26-8a-405.5 if:

261 (i) the department receives a written complaint from any of the following in the  
262 geographic service area:

263 (A) a hospital;

264 (B) a health care facility;

265 (C) a political subdivision; or

266 (D) an individual; and

267 (ii) the department determines, in accordance with Subsection (d):

268 (A) that the complaint has merit; and

269 (B) that the non-911 provider:

270 (I) is unable or unwilling to take corrective measures; or

271 (II) has received numerous complaints of a similar nature.

272 (d) (i) If the department receives a complaint under Subsection (c), the department  
273 shall request a written response from the non-911 provider concerning the complaint.

274 (ii) The department shall make a determination under Subsection (c) based on:  
275 (A) the written response from the non-911 provider; and  
276 (B) other information that the department may have concerning the quality of service  
277 of the non-911 provider.

278 (iii) The department's determination under this Subsection (1) is not subject to an  
279 adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act.

280 (iv) The provisions of this section and Section 26-8a-405.5 do prohibit a person from  
281 filing an action under Section 26-8a-408.

282 (2) If the department makes a determination under Subsection (1)(c)(ii), the department  
283 shall issue a request for proposal for the non-911 service in accordance with this section and  
284 Section 26-8a-405.5.

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

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

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

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

293 (A) is for the exclusive geographic service area approved by the department in  
294 accordance with Subsection 26-8a-405;

295 (B) is valid for five years;

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

299 (D) is subject to supervision by the department under Sections 26-8a-503 and  
300 26-8a-504.

301 (4) Except as provided in Subsection 26-8a-405.5(4)(a), the provisions of Sections  
302 26-8a-406 through 26-8a-409 do not apply to a license issued under this section.

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

304 **26-8a-405.5. Selection of provider -- Request for competitive sealed proposal --**

305 **Public convenience and necessity.**

306 (1) The department may contract with an applicant approved under Section 26-8a-404  
307 to provide non-911 services for the geographic service area that is approved by the department  
308 in accordance with Subsection (2).

309 (2) (a) Competitive sealed proposals for non-911 services under Section 26-8a-405.4  
310 shall be solicited through a request for proposal and the provisions of this section.

311 (b) The department shall approve the request for proposal prior to the notice of the  
312 request for proposals under Subsection (2)(c).

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

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

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

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

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

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

324 (ii) The department shall allow at least 90 days from the presubmission conference for  
325 the proposers to submit proposals.

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

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

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

335 (4) (a) (i) The department may select an applicant approved by the department under

336 Section 26-8a-404 to provide non-911 services by contract to the most responsible offeror as  
337 defined in Subsection 63G-6-103(24).

338 (ii) An award under Subsection (4)(a)(i) shall be made to the responsible offeror whose  
339 proposal is determined in writing to be the most advantageous to the department, taking into  
340 consideration price and the evaluation factors set forth in the request for proposal.

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

342 (5) In seeking competitive sealed proposals and awarding contracts under this section,  
343 the department:

344 (a) shall apply the public convenience and necessity factors listed in Subsections  
345 26-8a-408(2) through (6);

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

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

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

352 (ii) if the applicant is a governmental entity, in addition to the requirements of  
353 Subsection (5)(e)(i), in accordance with generally accepted government auditing standards and  
354 in compliance with the State of Utah Legal Compliance Audit Guide; and

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

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

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

360 (iii) a list of the factors that will be considered by the political subdivision in the award  
361 of the contract, including by percentage, the relative weight of the factors established under this  
362 Subsection (5)(e), which may include such things as:

363 (A) response times;

364 (B) staging locations;

365 (C) experience;

366 (D) quality of care; and

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(E) cost, consistent with the cost accounting method in Subsection (5)(e)(i).

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**Fiscal Note**

**H.B. 121 2nd Sub. (Gray) - Emergency Medical Services Act Transport  
Amendments**

2010 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**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.

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