

SB 438

Page 1

SB 438

SENATE RULES COMMITTEE

Office of Senate Floor Analyses

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THIRD READING

Bill No: SB 438

Author: Hertzberg (D), et al.

Amended: 5/2/19

Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 6-1, 4/10/19

AYES: McGuire, Beall, Hertzberg, Hurtado, Nielsen, Wiener

NOES: Moorlach

SENATE HEALTH COMMITTEE: 9-0, 5/1/19

AYES: Pan, Stone, Durazo, Grove, Hurtado, Leyva, Mitchell, Monning, Rubio

SUBJECT: Emergency medical services: dispatch

SOURCE: California Professional Firefighters

DIGEST:

This bill prohibits a public agency from entering into a contract for 911 call processing regarding the dispatch of emergency response resources unless the contract is with another public agency, with specified exceptions.

ANALYSIS:

Existing law:

- 1) Establishes the Warren-911-Emergency Assistance Act, which requires every public agency to have in operation a telephone service which automatically connects a person dialing the digits "911" to an established public safety answering point (PSAP).

- 2) Requires every 911 system to include police, firefighting, and emergency medical and ambulance services. Requires every 911 system, in those areas in which a public safety agency provides ambulance emergency services, to include such public safety agencies. Permits 911 systems to incorporate private ambulance services.
- 3) Establishes the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act (EMS Act) to provide for a statewide system for emergency medical services (EMS), and establishes the Emergency Medical Services Authority, which is responsible for the coordination and integration of all state activities concerning EMS, including the establishment of minimum standards, policies, and procedures.
- 4) Authorizes counties to develop an EMS program and designate a local EMS agency (LEMSA) responsible for planning and implementing an EMS system, which includes day-to-day EMS system operations.
- 5) Requires every LEMSAs to have a licensed physician as medical director, to assure medical accountability throughout the planning, implementation, and evaluation of the EMS system. Requires the medical direction and management of an EMS system to be under the medical control of the medical director.
- 6) Requires authority for patient health care management in an emergency to be vested in the licensed or certified health care professional, including any paramedic or other prehospital emergency personnel, at the scene of the emergency who is most medically qualified regarding the provision of rendering emergency medical care. If no licensed or certified health care professional is available, requires the authority to be vested in the most appropriate medically qualified representative of public safety agencies who may have responded to the scene of the emergency.
- 7) Requires the administration of prehospital EMS by cities and fire districts providing such services as of June 1, 1980, to be retained by those cities and fire districts and to be continued at not less than the existing level until such time that a written agreement is reached between a city or fire district and a county.

This bill:

- 1) Prohibits a public agency from delegating, assigning, or entering into a contract for “911” call processing or emergency notification duties regarding the dispatch of emergency response resources unless the delegation or assignment is to, or the contract is with, another public agency.

- 2) Allows a joint powers authority that contracted for dispatch of emergency response resources on or before January 1, 2019, to continue to contract for dispatch of those resources and may renegotiate or adopt new contracts, if the membership of the joint powers authority includes all public agencies that provide prehospital EMS and the joint powers authority consents to the renegotiation or adoption of the contract.
- 3) Prohibits provisions of law governing medical control or medical direction and management of an EMS system, notwithstanding any provision of the EMS Act, from being construed to:
 - a) Limit, supplant, prohibit, or otherwise alter a public safety agency's authority to directly receive, process, and administer requests for assistance originating within the public safety agency's territorial jurisdiction through the emergency "911" system; or,
 - b) Authorize or permit a local EMS agency to delegate, assign, or enter into a contract in contravention of the prohibition on contracting for EMS dispatch established by the bill.
- 4) Provides that medical control or medical direction and management of an EMS system shall not be construed to authorize or permit a local EMS agency to reduce a public safety agency's response mode or deployment of public safety emergency response resources within the public safety agency's territorial jurisdiction.
- 5) Provides that a public safety agency's voluntary consent to conform its prehospital response or response mode to comply with an emergency medical dispatch protocol adopted by a local EMS agency does not constitute a transfer of any of the public safety agency's authorities regarding the administration of EMS.

Background

The Warren-911-Emergency Assistance Act requires every local public agency to establish and operate an emergency telephone system using the digits 911. The purpose of the Act is to ensure an efficient statewide system for delivery of 911 calls to the appropriate local agency PSAPs that answer and respond to requests for emergency assistance.

A call to 911 first goes to the primary PSAP, which is always a law enforcement agency. When the primary PSAP receives a call, the dispatcher determines whether the call is

related to law enforcement, fire, or medical needs and are routed appropriately to a secondary PSAP: law enforcement personnel, the local government with fire protection responsibility, or the EMS provider.

Beginning in 1978, the Legislature began to consider imposing some consistent structure on the delivery of EMS prior to a patient arriving at a hospital. In 1980, the Legislature enacted the EMS Act to create the modern-day EMS system (SB 125, Garamendi).

Today, seven regional EMS systems covering multiple counties and 26 single county agencies have responsibility for developing protocols and standards for EMS response and care.

The EMS Act vests “medical control” with the LEMSA—the LEMSA’s medical director adopts policies and procedures for dispatch, patient destination policies, patient care guidelines, and quality assurance requirements to ensure that EMS under its jurisdiction meets state standards, such as response times. EMS may be provided under contract by private services, by contract or agreement with fire departments or other public agencies, or by both public and private entities. In order to provide comprehensive EMS coverage, a LEMSA may employ both private entities and public agencies. For example, depending on the location of the emergency, the medical needs of the patient, and the capabilities of the public and private agencies, one call may be routed to the private ambulance service that contracts with the LEMSA, while another call may be routed to a fire district to send an engine.

Concerned that private EMS dispatchers are not appropriately routing calls, firefighter union representatives want to ensure that public agencies are in charge of EMS dispatch.

Comments

- 1) *Purpose of the bill.* According to the author, “The provision of fire protection services, rescue and emergency medical services, hazardous material emergency response, ambulance and other services related to the protection of lives and property is critical to the public peace, health and safety of the state. Likewise, the call processing and administration of such emergency response functions has traditionally been recognized as one of the highest priorities and obligations of government. However, many jurisdictions choose to outsource their local emergency services, under the guise of a cost savings. SB 438 prohibits a public agency from outsourcing its local emergency dispatch services to a private, for-profit entity. It ensures that local government can determine the appropriate level of emergency response with its community and explicitly protects a government’s right and obligation to receive and process emergency calls to ensure effective, efficient and rapid deployment of emergency response apparatus. When dealing with emergency care and other vital services, like firefighting, privatization results in an inherent pressure: the demand to turn a profit while caring for people in their most vulnerable moments. SB 438

ensures that the safety of all Californians is in the hands of a public agency, ensuring the best possible standard of emergency care.”

- 2) *Who does it best?* The EMS Act charges counties with a life-or-death responsibility: ensuring that their citizens receive adequate EMS. In discharging that responsibility, counties compare the offerings and capabilities of both public and private entities, and enter into agreements based on which entities can best provide the services. Some LEMSAs have fire departments dispatch EMS; others have chosen to award EMS dispatch contracts to private services that bring the substantial resources and expertise of nation-wide companies. The ability to choose between the two is key to being able to offer the best services to county residents; county supervisors decide to enter into a contract with a private entity only after considering the fiscal, administrative, and service delivery implications for their communities. SB 438 intervenes in this decision-making by prohibiting counties from contracting out for EMS dispatch services. By tying the hands of local elected officials, SB 438 potentially prevents LEMSAs from choosing the service provider that best meets their constituents’ needs, with potential implications for public health. Furthermore, some counties have existing contracts with private EMS dispatchers that would be undermined by SB 438’s prohibition, potentially upending EMS delivery in those counties. Should the Legislature supplant its judgment for that of local officials that have direct responsibility for EMS delivery, and have awarded contracts accordingly?

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 5/3/19)

California Professional Firefighters (source)
 Alameda County Fire Chief’s Association
 Alameda Fire Department
 Alpine Fire Protection District
 Anderson Fire Protection District
 Apple Valley Fire Protection District
 Big Bear Fire Department
 Bodega Bay Fire Protection District
 Bonita Sunnyside Fire Protection District
 Branciforte Fire Protection District
 California City Fire Department
 California Fire Chiefs Association
 California Metropolitan Fire Chiefs Association
 Cambria Community Services District Fire Department

Central County Fire Department
Chino Valley Fire District
Chula Vista Firefighters Local 2180
City of Atascadero Fire & Emergency Services
City of Carlsbad Fire Department
City of Chula Vista Fire Department
City of Colton
City of Corona Fire Department
City of Culver City
City of Dinuba Fire Department
City of Dixon Fire Department
City of Fountain Valley Fire Department
City of Huntington Beach Fire Department
City of Lodi Fire Department
City of Loma Linda Fire Department
City of Ontario
City of Oxnard Fire Department
City of Palm Springs Fire Department
City of Palo Alto Fire Department
City of Petaluma Fire Department
City of Rohnert Park Department of Public Safety
City of Sacramento Fire Department
City of San Diego Fire-Rescue Department
City of San Marcos
City of Santa Cruz Fire Department
City of Santa Rosa Fire Department
City of Santee Fire Department
City of South Lake Tahoe Fire Department
City of Stockton Fire Department
City of Ventura Fire Department
City of Vista
Cordelia Fire Protection District
Cosumnes Fire Department Community Services District
Fire Districts Association of California
Firefighters Local 1186
Foresthill Fire Protection Department
Fresno County Fire Protection District
Gilroy Fire Department
Humboldt Bay Fire
Lake County Fire Protection District

Lathrop-Manteca Fire Protection District
Linda Fire Protection District
Mammoth Lakes Fire Protection District
Marina Fire Department
Mid-Coast Fire Brigade
Montecito Fire Department
Monterey County Fire Chiefs Association
Monterey Firefighters Association
Newport Beach Fire Department
Newport Beach Firefighters Local 3734
North County Fire Authority
North County Fire Protection District
North Tahoe and Meeks Bay Fire Protection Districts
Northshore Fire Protection District
Novato Fire District
Orange City Fire Department
Orange County Fire Chief's Association
Sacramento Metropolitan Fire District
San Benito-Monterey Chapter CALFIRE Local 2881
San Bernardino County Fire Protection District
San Joaquin County Regional Fire Dispatch Authority
Santa Clara County Fire
Scotts Valley Fire Protection District
Seaside Fire Department
Sonoma County Fire District
South Placer Fire District
Southern Marin Emergency Medical Paramedic System
Southern Marin Fire Protection District
Stanislaus Consolidated Fire Protection District
Thornton Rural Fire Protection District
Tiburon Fire Protection District
Tracy Firefighters Association Local 3355
United Firefighters of Los Angeles
Waterloo Morada Fire District
Williams Fire Protection Authority
One Individual

OPPOSITION: (Verified 5/3/19)

American Medical Response
California State Association of Counties
County Health Executives Association of California
County of Fresno
Emergency Medical Services Administrators Association of California
Emergency Medical Services Medical Directors Association of California
Montezuma Fire Protection District
Ripon Consolidated Fire District
Rural County Representatives of California
San Joaquin County Joint Radio Users Group
San Mateo County Board of Supervisors
San Mateo County Health
Shasta County Board of Supervisors
Sonoma Valley Fire & Protection Authority
Urban Counties of California

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