

Date of Hearing: April 8, 2024

ASSEMBLY COMMITTEE ON EMERGENCY MANAGEMENT

Freddie Rodriguez, Chair

AB 2973 (Hart) – As Amended April 1, 2024

SUBJECT: Emergency medical services

SUMMARY: Would authorize a county board of supervisors to provide or support the provision of emergency medical services (EMS) to persons located within the county, as specified. Specifically, **this bill:**

- 1) Would authorize a county board of supervisors to provide or support the provision of EMS to persons located within the county by any of the following means or combination of means:
 - (a) Creating a separate county department to provide ambulance services, as specified
 - (b) Assigning the duty of providing ambulance services to residents of the county to an existing county department, as specified.
 - (c) Contracting with cities or local public agencies located within the county to provide ambulance services, as specified.
 - (d) Contracting with private ambulance companies, as specified.
- 2) Would require all county agreements for implementation of the EMS system, including for prehospital EMS and ambulance services, to be in the name of the county and approved by the board of supervisors.
- 3) Provides when a local EMS agency, upon the recommendation of the county, elects to create an exclusive operating area using a competitive process, shall ensure such process is reviewed and approved by the board of supervisors, as specified.
- 4) Would require the county board of supervisors to review and approve a single-county local EMS agency's (LEMSA) plans for the EMS system prior to the submission of the plans to the Emergency Medical Services Authority (EMSA).
- 5) Would require a multicounty local EMS agency's plans to be approved, as provided for in the contract between the counties and the agency, as provided for in the joint powers agreement that created the agency, or by the board of supervisors in each of the counties served by the agency prior to the submission of the plans to the authority.
- 6) Would specify that the authorities of the medical director of a local EMS granted under the EMS Act are not affected, modified, limited or otherwise impaired under Section 1797.234.
- 7) Would make related findings and declarations.

EXISTING LAW:

- 1) Establishes the Emergency Medical Services Authority, under the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, which is responsible for the coordination of various state activities concerning emergency medical services. (Health and Safety Code Section 1797)
- 2) Requires, among other things, EMSA to develop planning and implementation guidelines for EMS systems, provide technical assistance to existing agencies, counties, and cities for the purpose of developing the components of EMS systems, and receive plans for the implementation of EMS and trauma care systems from local EMS agencies. (Health and Safety Code Section 1797.103-105)
- 3) Provides each county may develop an emergency medical services program. Each county developing such a program shall designate a local EMS agency (LEMSA) which shall be the county health department, an agency established and operated by the county, an entity with which the county contracts for the purposes of local emergency medical services administration, or a joint powers agency created for the administration of emergency medical services by agreement between counties or cities and counties, as specified. (Health and Safety Code Section 1797.200)
- 4) Requires a county to enter into a written agreement with a city or fire district that contracted for or provided prehospital EMS as of June 1, 1980. Until such written agreement is reached, prehospital EMS to be continued at not less than the existing level and the administration of prehospital EMS by cities and fire districts contracting for or providing those services as of June 1, 1980, to be retained by those cities and fire districts, as specified. (Health and Safety Code Section 1797.201)
- 5) Allows LEMSAs to create one or more exclusive operating areas in the development of a local EMS plan, if a competitive process is utilized to select the provider or providers of the services pursuant to the plan. *No competitive process is required if the local EMS agency develops or implements a local plan that continues the use of existing providers operating within a local EMS area in the manner and scope in which the services have been provided without interruption since January 1, 1981.* (Health and Safety Code Section 1797.224)
- 6) Requires LEMSAs to annually submit an EMS plan to EMSA in accordance with specified standards and guidelines. (Health and Safety Code Section 1797.254)
- 7) Requires a local EMS agency to have a licensed physician and surgeon, as specified, as medical director to provide medical control and to assure medical accountability for the EMS system, as specified. (Health and Safety Code Section 1797.202)

FISCAL EFFECT: Unknown. This bill has not been analyzed by a fiscal committee.

COMMENTS:

Purpose of the bill: According to the author, “Despite the enactment of the EMS Act and relevant case law, confusion persists regarding the roles, responsibilities, and statutory authorities of counties, boards of supervisors, and LEMSAs. This ambiguity extends to EOAs and County responsibilities and authorities governing ambulance services, creating uncertainty about their interplay and implementation. AB 2973 clarifies the statutory responsibilities of counties, boards of supervisors, and local emergency medical service agencies regarding EMS and ambulance services and reaffirms the authority of the boards of supervisors to decide, as a policy matter, whether to provide EMS and ambulance services to persons within their counties’ jurisdiction on an in house basis through new or existing county departments or agencies, by contracting with local public agencies or private service providers, or a combination of those options.”

The author continues, “The bill also provides for procedural requirements regarding competitive processes for the award of exclusive services rights under Health & Safety Code § 1797.224 and approval of LEMSA’s EMS system plans. This bill is declaratory of existing statute and case law and reflects historical and existing practices. AB 2973 will enhance the accessibility of emergency medical services in California while promoting accountability, transparency, and coordination among all stakeholders involved in providing EMS services and avoiding disruptions to EMS systems by preserving the existing statutory authorities of cities and fire districts, EMSA, and LEMSAs under the EMS Act.”

Equity Impact: According to the author’s staff, “By reaffirming the authority of the county boards of supervisors to make policy decisions regarding the provision of EMS and ambulance services and creating procedural requirements for the development of EOAs and EMS plans that provide for the opportunity of public input, AB 2973 will allow for greater and more public discussion, analysis, and consideration of health equity issues in the provision of EMS and ambulance services by the counties, LEMSAs, stakeholders, and community members.”

EMSA, LEMSAs and Hospital Emergency Departments: EMSA provides statewide oversight for the 33 local emergency medical services agencies or LEMSAs. Together they form the state’s pre-hospital emergency medical system. The pre-hospital emergency medical system and hospital emergency departments operate as separate and distinct entities, but are linked through policies, procedures and regulations. Collectively, these entities provide effective patient care from the initial notification of an emergency and response in the field to the time the EMS provider drops off the patient at the emergency department and returns to the community, while the patient receives evaluation, care and hospitalization, if needed.

EMSA’s Mission and Emergency Medical Services Act: According to EMSA, their mission is to ensure equitable administration, coordination, and integration of the statewide EMS system to reduce suffering and save lives throughout California. With the passage of the Emergency Medical Services Act in 1980, California created a framework for a two-tiered system of EMS governance through both the EMSA (state) and LEMSAs (county). Counties are required by the EMS Act to create a local EMS system that is timely, safe, and equitable for all residents. To do so, counties honor HSC 1797.201 authorities and contract with both public and private providers to ensure coverage of underserved areas regardless of the challenges in providing uniform services throughout geographically diverse areas.

American Medical Response West (AMR) v. County of Santa Barbara: Advocates for and against the bill have cited ongoing litigation concerning the EMS Act and Santa Barbara County's application of its new permitting regime for ambulance services in their arguments for and against this bill. In brief, AMR is suing (Case No. 23CVO4250) the County of Santa Barbara in Superior Court regarding the County's permit to the Santa Barbara County Fire District to provide emergency ambulance services.

EMSA's Amicus Curiae Brief of the Emergency Medical Services Authority (EMSA): Attorney General Rob Bonta submitted an amicus curiae brief of EMSA on November 22, 2023. "EMSA submits this amicus brief to provide a state-level assessment of the significant legal issues in this case." The EMSA amicus brief discusses the EMS Act, Santa Barbara County ordinance No. 5182, and the extent to which the County's application of this permitting ordinance is consistent with the EMS Act. Among other things, EMSA's amicus brief raises policy questions regarding the power of the county board of supervisors to choose an EMS provider and approve EMS plans vs the power of the LEMSAs to do so.

Policy direction in this bill: According to advocates of this bill, the overarching goal is to reaffirm the board of supervisors authority to provide or support the provision of emergency medical services with one of or a combination of the following policy options: creating a separate county department to provide ambulance services; assigning the duty of providing ambulance services to residents of the county to an existing county department; contracting with cities or local public agencies located within the county to provide ambulance services; and/or contracting with private ambulance companies, as specified.

Arguments in support: The California Fire Chiefs Association (CalChiefs) and the Fire Districts Association of California (FDAC), write in support, "This critical legislation aims to clarify and codify the statutory responsibilities of counties, the board of supervisors, and local emergency medical services agencies (LEMSAs) in managing emergency medical and ambulance services within California."

The Berkley Fire Department adds, "AB 2973 seeks to eliminate ambiguities and streamline the coordination and delivery of emergency medical services (EMS) across the state. Specifically, the bill provides for the establishment of Exclusive Operating Areas (EOAs) through a competitive process, the requirement for board of supervisors' approval of LEMSA-developed plans, and the outlined procedural requirements for EOAs underscore a commitment to transparency, accountability, and best practices in the provision of EMS."

The President of the Western Placer Fire Chiefs Association, adds in support, "AB 2973 enhances the accessibility, accountability, and coordination of EMS, and promises to strengthen our emergency response infrastructure and ensure that Californians receive timely and effective medical care."

Arguments in opposition: The Emergency Medical Services Administrators Association of California (EMSAAC), writes in opposition, "This bill would place the LEMSA medical director and LEMSA staff directly under the supervision of the elected County Board of Supervisors, outside the long-standing and proven LEMSA structure, creating a volatile and political situation and negatively impacting California's emergency medical services (EMS) system. A potential consequence of AB 2973 would be to erode this long-standing effective two-tiered EMS system in the State of California. As it currently stands, the EMSA promulgates the regulations

governing the administration of EMS and the LEMSAs provide the local policies, protocols, and procedures to ensure all EMS system participants (regardless of type/affiliation) adhere to current EMS statutes/regulations. The current two-tiered system affords the flexibility of LEMSAs to administer their EMS programs based on local EMS system needs. This bill undermines the two-tiered system by mandating a specific supervisory structure for each County.

American Medical Response (AMR) writes in opposition, “as California’s largest provider I am writing to register our OPPOSED position to AB 2973. Despite the author’s claims, this bill seeks to completely undermine the California EMS Act by eliminating the competitive process for exclusive ambulance contracts. AB 2973 is simply an attempt to legitimize the illegal actions of Santa Barbara County to award Santa Barbara County Fire Department (SBCFD) exclusive rights to provide the County’s ambulance service despite losing to AMR in a competitive bid process established under the requirements of the EMS Act.”

The American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO, adds in opposition, “AFSCME writes to express our regretful opposition to AB 2973 (Hart) which unravels centralized, established, and integrated countywide ambulance systems that have been in place for over four decades.”

Concerns: The Urban Counties of California (UCC) write, “AB 2973 raises significant concerns with ho counties currently select providers for exclusive operating areas, how competitive processes for selecting providers should be structured, and what elements Boards of Supervisors are required to approve in the EMS plan. Urban areas strongly urge that further conversation about exclusive operating areas and how competitive processes for selecting providers should be structured occur before the bill proceeds.”

Committee Comments and Amendments: Committee staff is aware of the ongoing deliberations on the policy questions this bill raises. Based upon the concerns raised by advocates for the Emergency Medical Services Administrators Association of California and the Rural Counties Representatives of California, with respect to the role joint powers agencies designated as the local EMS agency by the board of supervisors have in the overall EMS systems, the author may wish to amend the bill to read:

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) The Legislature designed the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, Division 2.5 of the Health and Safety Code (EMS Act) to encourage coordination and planning among the state, local governments, and private providers to achieve the most effective and cost-effective prehospital emergency medical services (EMS) on a countywide or regionwide basis.

(2) The EMS Act defines the roles, responsibilities, and functions of the Emergency Medical Services Authority (Authority) and the local EMS agencies, and some, but not all, of the roles, responsibilities, and functions of the counties and boards of supervisors regarding prehospital EMS and ambulance services.

(3) Other statutory authorities of a county and the board of supervisors regarding the provision and regulation of ambulance services, whether by public or private agreement, permit, license, or other means, and the provision of ambulance services for indigent county residents are

located in statutes outside of the EMS Act including, but not limited to, Sections 25369.5, 26612, 29606, and 54980 through 54983, inclusive, of the Government Code, Sections 1443 through 1445, inclusive, 1451 through 1455, inclusive, and 1473 through 1475, inclusive, of the Health and Safety Code, Section 2512 of the Vehicle Code, and Sections 14136 and 16817 of the Welfare and Institutions Code.

(4) As a result of how and where these various statutory authorities are codified, significant confusion and uncertainty in the state exists regarding the statutory authorities, roles, responsibilities, rights, obligations, and functions of counties, boards of supervisors, and local EMS agencies regarding prehospital EMS and ambulance services and the interplay of statutes addressing these services within and outside of the EMS Act.

(b) It is the intent of the Legislature in enacting this act to do both of the following:

(1) Clarify the statutory authorities, roles, responsibilities, rights, and functions of counties, boards of supervisors, and local EMS agencies regarding EMS and ambulance services.

(2) Reaffirm the authority of boards of supervisors, or the governing body of an entity or joint powers agency designated as the local EMS agency by the board of supervisors under section 1797.200, to decide, as a policy matter, whether prehospital EMS and ambulance services will be provided to persons located within the county's jurisdiction through a county department or agency or by contracting with other local agencies or private providers.

SEC. 2. Section 1797.234 is added to the Health and Safety Code, to read:

1797.234. (a) The board of supervisors, or the governing body of an entity or joint powers agency designated as the local EMS agency by the board of supervisors under section 1797.200 may exercise their statutory authority, including their statutory authority regarding prehospital EMS and ambulance services to perform their functions under this division and to support the local EMS agency's functions under this division.

(b) The board of supervisors, or the governing body of an entity or joint powers agency designated as the local EMS agency by the board of supervisors under section 1797.200 may provide ambulance services to persons located within the county's jurisdiction under this division by any of the following means or combination of means:

(1) Creating a separate county department to provide ambulance services, providing the department with the necessary staffing, vehicles, and equipment, and operating such department as it staffs and operates other county departments.

(2) Assigning the duty of providing ambulance services to residents of the county to an existing county department and providing the department with the necessary staffing, vehicles, and equipment to provide ambulance services.

(3) Contracting with cities or local public agencies located within the county to provide ambulance services within areas under the jurisdiction of the county, the cities, or the local public agencies.

(4) Contracting with private ambulance companies as provided for by statute, including under this division.

(c) Contracts or assignments made under paragraph (1), (2), or (3) of subdivision (b) that restrict operations to a county department or agency or other local agency do not constitute exclusive operating areas as defined by Section 1797.85 and do not require the local EMS agency to utilize a competitive process under Section 1797.224.

(d)(1) No contract for ambulance services pursuant to this section shall be entered into unless the board of supervisors, or the governing body of an entity or joint powers agency designated as the local EMS agency by the board of supervisors under section 1797.200, has adopted, by ordinance or resolution, a written policy setting forth issues to be considered for inclusion in the contract for emergency ambulance services, which may include, but are not limited to, all of the following:

(a) Employment retention requirements for the employees of the incumbent ambulance service.

(b) Demonstrated experience serving similar populations and geographic areas.

(c) Diversity and equity efforts addressing the unique needs of vulnerable and underserved populations of the service area.

(d) Financial requirements, including requiring a private ambulance service provider to show proof of insurance and bonding.

(e) A description of the ambulance service provider's public information and education activities and community involvement.

(2) A contract entered into pursuant to this section shall demonstrate how the contract will provide for the payment of comparable wages and benefits to all ambulance service employees that are generally consistent with those provided to ambulance service employees in the same geographic region. The contract shall also demonstrate that the staffing levels for ambulance service employees will be comparable to the staffing levels under the previous contract for these services.

(e) Subcontracts for emergency ambulance services developed by a local agency that enters into a contract under (3) of subdivision (b) shall comply with the requirements of subdivisions (b), (c), and (d) of Section 1797.231.

(f) This section does not supersede Section 1797.201.

(g) Nothing in this section affects, modifies, limits, or otherwise impairs the authority of the board of supervisors or the governing body of an entity or joint powers agency designated as the local EMS agency under any other provision of law.

(h) Nothing in this section affects, modifies, limits, or otherwise impairs the authority's enumerated powers and authorities under the EMS Act.

(i) Nothing in this section affects, modifies, limits, or otherwise impairs the medical control of the medical director of a local EMS agency granted under the EMS Act.

(j) The Legislature finds and declares that the provisions of this section are declaratory of existing law.

Double referral: Should this bill be approved, it will be referred to the Assembly Committee on Health.

Prior legislation: AB 379 (Rodriguez) of this Session. Requires LEMSAs to adopt policies and procedures for calculating and reporting ambulance patient offload times, as specified. (Held in Assembly Committee on Appropriations)

AB 1168 (Bennett) of this Session. Would overturn existing “Oxnard” decision, and instead requires a city or fire district that contracted for, or provided, as of June 1, 1980, prehospital EMS, to be deemed to retain its authorities regarding, and administration of, the prehospital EMS when a city or fire district enters into an agreement with a county for the joint exercise of powers regarding prehospital EMS, or ceased to contract for, provide, or administer prehospital EMS as a result of a judicial finding, or contracts with a county to provide prehospital EMS in areas outside of that city or fire district. (Senate Inactive File)

AB 389 (Grayson), Chapter 460, Statutes of 2021. Permits a county to contract for emergency ambulance services with a fire agency that will provide those services, in whole or in part, through a written subcontract with a private ambulance service; and permits a fire agency to enter into a written subcontract with a private ambulance service for the purpose of contracting with a county.

AB 1544 (Gipson), Chapter 138, Statutes of 2020) enacted the Community Paramedicine or Triage to Alternate Destination Act of 2019, which permits local emergency medical services agencies, with approval by the Emergency Medical Services Authority, to develop programs to provide community paramedic or triage to alternate destination services, as specified.

SB 438 (Hertzberg), Chapter 389, Statutes of 2019. Prohibited 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.

REGISTERED SUPPORT / OPPOSITION:

Support

Alturas Rural Fire Protection District
Berkeley Fire Department
California Fire Chiefs Association
Carpinteria-Summerland Fire Protection District
City of Albany
City of Merced
City of Roseville
Fire Districts Association of California
Lake County Fire Protection District
Marina Fire Department
Mendocino County Fire Chiefs Association
Northshore Fire Protection District
Petaluma Fire Department
Sonoma Valley Fire District
Ukiah Valley Fire Authority

Opposition

911 Ambulance Provider's Medical Alliance
American Federation of State, County and Municipal Employees
Emergency Medical Services Administrators' Association of California (EMSAAC)
Global Medical Response

Other

Urban Counties of California (UCC)

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