

House Bill 2620

Sponsored by Representatives PILUSO, SMITH G (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes cities and rural fire protection districts to adopt plans to provide ambulance and emergency care services to city or rural fire protection district. Requires counties to adopt plans to provide ambulance and emergency care services to county and to negotiate intergovernmental agreements with cities and rural fire protection districts within counties for coordination of ambulance services.

Requires counties to submit report on intergovernmental agreements to interim committee of Legislative Assembly related to emergency services not later than January 1, 2021.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to emergency services; creating new provisions; amending ORS 413.234, 478.260, 682.025,
3 682.031, 682.062, 682.063 and 682.066; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 478.260 is amended to read:

6 478.260. (1) **As used in this section:**

7 (a) **"Ambulance services" has the meaning given that term in ORS 682.027.**

8 (b) **"Local plan" has the meaning given that term in ORS 682.025.**

9 [(1)] (2) The district board shall select a fire chief qualified by actual experience as a firefighter
10 and [*fire precautionist*] **individual who is trained in fire prevention**, or otherwise, and assistants,
11 volunteer or otherwise, and fix their compensation. The fire chief shall be responsible for the
12 equipment and properties of the district. Under the direction of the board, the fire chief shall be
13 responsible for the conduct of the fire department.

14 [(2)] (3) The board, with advice and counsel of the fire chief, shall select the location of the fire
15 house or houses or headquarters of the fire department of the district. Such sites shall be chosen
16 with a view to the best service to the residents and properties of the whole district and may be
17 acquired by purchase or exercise of the powers of eminent domain in the manner provided by ORS
18 chapter 35. The board may purchase apparatus and equipment as needed by the district, and provide
19 a water system, ponds or reservoirs for the storage of water for fire-fighting purposes. Or the board
20 may contract with water companies or districts, or both, for water service and facilities at a rate
21 of compensation mutually agreed upon. The board also may divide the district into zones or subdi-
22 visions and provide an adequate system or code of fire alarms or signals by telephone, bell, whistle,
23 siren or other means of communication.

24 [(3)] (4) A district may operate or acquire and operate, or contract for the operation of, emer-
25 gency medical service equipment and vehicles both within and without the boundaries of the district.
26 [A district may conduct ambulance operations only in conformance with a county plan adopted under
27 ORS 682.062 for ambulance services and ambulance service areas and with rules of the Oregon Health
28 Authority relating to such services and service areas.] **A district's ambulance operations shall be**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **subject only to a local plan adopted by the district pursuant to ORS 682.062 for ambulance**
 2 **services and ambulance service areas, and to any rules adopted by the Oregon Health Au-**
 3 **thority relating to ambulance services and ambulance service areas.** Service authorized under
 4 a [county] **district's local** plan includes authorization for a district to provide ambulance services
 5 by intergovernmental agreement with any other unit of local government designated by the plan to
 6 provide ambulance services.

7 [(4) As used in this section, "ambulance services" has the meaning given that term in ORS
 8 682.027.]

9 **SECTION 2.** ORS 682.025 is amended to read:

10 682.025. As used in this chapter, unless the context requires otherwise:

11 (1) "Ambulance" or "ambulance vehicle" means a privately or publicly owned motor vehicle,
 12 aircraft or watercraft that is regularly provided or offered to be provided for the emergency trans-
 13 portation of persons who are ill or injured or who have disabilities.

14 (2) "Ambulance service" means a person, governmental unit or other entity that operates am-
 15 bulances and that holds itself out as providing prehospital care or medical transportation to persons
 16 who are ill or injured or who have disabilities.

17 (3) "Emergency care" means the performance of acts or procedures under emergency conditions
 18 in the observation, care and counsel of persons who are ill or injured or who have disabilities; in
 19 the administration of care or medications prescribed by a licensed physician or naturopathic physi-
 20 cian, insofar as any of these acts is based upon knowledge and application of the principles of bi-
 21 ological, physical and social science as required by a completed course utilizing an approved
 22 curriculum in prehospital emergency care. "Emergency care" does not include acts of medical di-
 23 agnosis or prescription of therapeutic or corrective measures.

24 (4) "Emergency medical services provider" means a person who has received formal training in
 25 prehospital and emergency care, and is licensed to attend any person who is ill or injured or who
 26 has a disability. Police officers, firefighters, funeral home employees and other persons serving in a
 27 dual capacity one of which meets the definition of "emergency medical services provider" are
 28 "emergency medical services providers" within the meaning of this chapter.

29 (5) "Fraud or deception" means the intentional misrepresentation or misstatement of a material
 30 fact, concealment of or failure to make known any material fact, or any other means by which
 31 misinformation or false impression knowingly is given.

32 (6) "Governmental unit" means the state or any county, municipality or other political subdivi-
 33 sion or any department, board or other agency of any of them.

34 (7) "Highway" means every public way, thoroughfare and place, including bridges, viaducts and
 35 other structures within the boundaries of this state, used or intended for the use of the general
 36 public for vehicles.

37 (8) "**Local plan**" means a plan designed to efficiently and effectively provide ambulance
 38 services that is developed by:

39 (a) A city;

40 (b) A county;

41 (c) A rural fire protection district; or

42 (d) One or more cities, counties or rural fire protection districts that are party to an
 43 intergovernmental agreement made pursuant to ORS chapter 190.

44 [(8)] (9) "Nonemergency care" means the performance of acts or procedures on a patient who
 45 is not expected to die, become permanently disabled or suffer permanent harm within the next 24

1 hours, including but not limited to observation, care and counsel of a patient and the administration
 2 of medications prescribed by a physician licensed under ORS chapter 677 or naturopathic physician
 3 licensed under ORS chapter 685, insofar as any of those acts are based upon knowledge and appli-
 4 cation of the principles of biological, physical and social science and are performed in accordance
 5 with scope of practice rules adopted by the Oregon Medical Board or Oregon Board of Naturopathic
 6 Medicine in the course of providing prehospital care.

7 [(9)] (10) “Owner” means the person having all the incidents of ownership in an ambulance
 8 service or an ambulance vehicle or, where the incidents of ownership are in different persons, the
 9 person, other than a security interest holder or lessor, entitled to the possession of an ambulance
 10 vehicle or operation of an ambulance service under a security agreement or a lease for a term of
 11 10 or more successive days.

12 [(10)] (11) “Patient” means a person who is ill or injured or who has a disability and who is
 13 transported in an ambulance.

14 [(11)] (12) “Prehospital care” means care rendered by emergency medical services providers as
 15 an incident of the operation of an ambulance and care rendered by emergency medical services
 16 providers as incidents of other public or private safety duties, and includes, but is not limited to,
 17 “emergency care.”

18 [(12)] (13) “Scope of practice” means the maximum level of emergency or nonemergency care
 19 that an emergency medical services provider may provide.

20 [(13)] (14) “Standing orders” means the written protocols that an emergency medical services
 21 provider follows to treat patients when direct contact with a physician is not maintained.

22 [(14)] (15) “Supervising physician” means a physician licensed under ORS 677.100 to 677.228,
 23 actively registered and in good standing with the Oregon Medical Board, who provides direction of
 24 emergency or nonemergency care provided by emergency medical services providers.

25 [(15)] (16) “Unprofessional conduct” means conduct unbecoming a person licensed to perform
 26 emergency care, or detrimental to the best interests of the public and includes:

27 (a) Any conduct or practice contrary to recognized standards of ethics of the medical profession
 28 or any conduct or practice which does or might constitute a danger to the health or safety of a
 29 patient or the public or any conduct, practice or condition which does or might impair an emergency
 30 medical services provider’s ability safely and skillfully to practice emergency or nonemergency care;

31 (b) Willful performance of any medical treatment which is contrary to acceptable medical stan-
 32 dards; and

33 (c) Willful and consistent utilization of medical service for treatment which is or may be con-
 34 sidered inappropriate or unnecessary.

35 **SECTION 3.** ORS 682.031 is amended to read:

36 682.031. (1) As used in this section, “political subdivision” includes counties, cities, districts,
 37 authorities and other public corporations and entities organized and existing under statute or
 38 charter.

39 (2) An ordinance of any political subdivision regulating ambulance services or emergency med-
 40 ical services providers may not require less than is required under ORS 820.300 to 820.380[,] or this
 41 chapter or the rules adopted by the Oregon Health Authority under this chapter.

42 (3) When a political subdivision enacts an ordinance regulating ambulance services or emer-
 43 gency medical services providers, the ordinance must comply with the [county] **political**
 44 **subdivision’s local** plan for ambulance services and ambulance service areas adopted under ORS
 45 682.062 [by the county in which the political subdivision is situated] and with the rules of the Oregon

1 Health Authority relating to *[such]* **ambulance** services and **ambulance** service areas. *[The county*
 2 *governing body shall make the determination of whether the ordinance is in compliance with the county*
 3 *plan.]*

4 **SECTION 4.** ORS 682.062 is amended to read:

5 682.062. (1) Each county shall develop a **local** plan *[for the county or two or more contiguous*
 6 *counties may develop a plan relating to the need for and coordination of ambulance services and es-*
 7 *tablish one or more ambulance service areas consistent with the plan]* for the efficient and effective
 8 provision of ambulance services **for the county. Each county, consistent with its local plan:**

9 **(a) Shall establish one or more ambulance service areas; and**

10 **(b) Subject to ORS 682.066, may designate one or more ambulance service providers.**

11 *[(2) Each person, city or rural fire protection district within the county that provides or desires to*
 12 *provide ambulance services shall notify the county in writing if the person, city or district wants to be*
 13 *consulted prior to the adoption or amendment of a county plan for ambulance services.]*

14 *[(3) Prior to adopting or amending a plan under subsection (1) of this section, a county shall notify*
 15 *each person, city or district that notified the county under subsection (2) of this section of its desire to*
 16 *be consulted. The county governing body shall consult with and seek advice from such persons, cities*
 17 *and districts with regard to the plan and to the boundaries of any ambulance service areas established*
 18 *under the plan. After such consultation, the county shall adopt or amend a plan in the same manner*
 19 *as the county enacts nonemergency ordinances.]*

20 **(2) If a city provides ambulance services and emergency care services, the city's munic-**
 21 **ipal fire department may adopt a local plan for the city. Each city, consistent with its local**
 22 **plan, may:**

23 **(a) Establish one or more ambulance service areas; and**

24 **(b) Designate one or more ambulance service providers.**

25 **(3) Each rural fire protection district may adopt a local plan for the district. Each rural**
 26 **fire protection district, consistent with its local plan, may:**

27 **(a) Establish one or more ambulance service areas; and**

28 **(b) Designate one or more ambulance service providers.**

29 **(4) Each county shall be responsible for convening representatives of all cities and rural**
 30 **fire protection districts within the county that have adopted local plans for the purpose of**
 31 **negotiating an intergovernmental agreement for the coordination of ambulance services. An**
 32 **agreement under this section must:**

33 **(a) Ensure that ambulance services are provided to both urban and rural areas of the**
 34 **county; and**

35 **(b) Specify which governmental unit, or combination of governmental units, is responsi-**
 36 **ble for providing ambulance services, directly or by contract, to areas outside city or rural**
 37 **fire protection district boundaries.**

38 *[(4)]* **(5) Any local plan developed and any service area established pursuant to [subsection (1)]**
 39 **subsections (1) to (3) of this section [shall] must be submitted to the Oregon Health Authority.**

40 *[(5)]* **(6) The authority, in consultation with the appropriate bodies specified in [subsection (1)]**
 41 **subsections (1) to (3) of this section, shall adopt rules pursuant to ORS chapter 183 that specify**
 42 **[those] the subjects to be addressed and considered in any local plan for ambulance services and**
 43 **ambulance service areas under [subsection (1) of] this section and [those] the subjects to be ad-**
 44 **ressed and considered in the adoption of any [such] local plan. The rules [shall] must be uniform,**
 45 **as far as practicable, but take into consideration unique circumstances of local districts.**

1 [(6)] (7) The authority shall review a **local** plan submitted under subsection [(4)] (5) of this sec-
 2 tion for compliance with the **authority's** rules [*of the authority*] adopted under subsection [(5)] (6)
 3 of this section. Not later than 60 days after receiving the plan, the authority shall approve the plan
 4 if it complies with the rules or disapprove the plan. The authority shall give written notice of [*such*
 5 *action*] **approval or disapproval** to the **city, county or rural fire protection district. If the au-**
 6 **thority does not approve a local plan, [and, when a plan is not approved,] the notice [shall] must**
 7 indicate specifically how the **local** plan does not comply with the rules of the authority. The **city,**
 8 **county or rural fire protection district** shall modify the **local** plan to comply with the rules and
 9 shall submit the modified **local** plan to the authority for review under this subsection.

10 [(7)] (8) The rules adopted under subsection [(5)] (6) of this section [*shall be*] **are** enforceable
 11 by the authority in a proceeding in circuit court for equitable relief.

12 [(8)] (9) This section does not require a **city, county or rural fire protection district** to es-
 13 tablish more than one ambulance service area within the **city, county or rural fire protection**
 14 **district.**

15 **SECTION 5.** ORS 682.066 is amended to read:

16 682.066. [*When a county plan is not adopted for a county under ORS 682.062, a person or gov-*
 17 *ernmental unit may provide ambulance services within the county.*] A city, **through its municipal fire**
 18 **department, or a rural fire protection district** may provide [*such*] **ambulance** services within and
 19 outside the city or district boundaries in accordance with [*policies*] **a local plan [adopted by the**
 20 *governing body of]* **for** the city or **rural fire protection** district, including operation in other dis-
 21 tricts or cities by intergovernmental agreement under ORS chapter 190. **Ambulance services pro-**
 22 **vided by a city or rural fire protection district outside the city or district boundaries must**
 23 **be offered at the same prices as ambulance services offered within the city or district**
 24 **boundaries.**

25 **SECTION 6.** ORS 413.234 is amended to read:

26 413.234. (1) As used in ORS 413.234 and 413.235:

27 (a) "Emergency medical services" means the services provided by emergency medical services
 28 providers to an individual experiencing a medical emergency in order to:

29 (A) Assess, treat and stabilize the individual's medical condition; or

30 (B) Prepare and transport the individual by ground to a medical facility.

31 (b) "Emergency medical services provider" or "provider" means an entity that:

32 (A) Employs individuals who are licensed by the Oregon Health Authority under ORS chapter
 33 682 to provide emergency medical services; and

34 (B)(i) Is owned or operated by a local government, a state agency or a federally recognized In-
 35 dian tribe; or

36 (ii) Contracts with a local government pursuant to a **local** plan described in ORS 682.062.

37 (c) "Federal financial participation" means the portion of medical assistance expenditures for
 38 emergency medical services that are paid or reimbursed by the Centers for Medicare and Medicaid
 39 Services in accordance with the state plan for medical assistance.

40 (d) "Local government" has the meaning given that term in ORS 174.116.

41 (2) Upon request, an emergency medical services provider that has entered into a provider
 42 agreement with the authority is eligible to receive Medicaid supplemental reimbursement from the
 43 authority for the cost of providing emergency medical services to a medical assistance recipient.
 44 The Medicaid supplemental reimbursement shall be added to the payment for the emergency medical
 45 services established by the authority in accordance with ORS 414.065.

1 (3)(a) Except as provided in paragraph (b) of this subsection, the Medicaid supplemental re-
2 imbursement paid to an emergency medical services provider shall be equal to the amount of federal
3 financial participation received by the authority for the provider's cost for the emergency medical
4 services.

5 (b) The Medicaid supplemental reimbursement paid to a provider under this section may not
6 exceed the provider's actual costs for the emergency medical services, determined in accordance
7 with standards established by the authority, less the amount of reimbursement that the provider is
8 eligible to receive from all sources, including the payment amount for emergency medical services
9 established by the authority in accordance with ORS 414.065.

10 (4) An emergency medical services provider shall make readily available to the authority doc-
11 umentation, data and certifications, as prescribed by the authority, necessary to establish that the
12 emergency medical services expenditures qualify for federal financial participation and to calculate
13 the amount of Medicaid supplemental reimbursement that is due.

14 (5)(a) Except as provided in paragraph (b) of this subsection, the authority shall modify the
15 method for calculating or paying the Medicaid supplemental reimbursement if modification is nec-
16 essary to ensure that emergency medical services expenditures qualify for federal financial partic-
17 ipation.

18 (b) This section does not authorize the payment of Medicaid supplemental reimbursement to an
19 emergency medical services provider if the provider has not entered into a provider agreement, with
20 the authority, to serve medical assistance recipients.

21 (c) If the Centers for Medicare and Medicaid Services approves the implementation of this sec-
22 tion and later revokes its approval or expresses its intent to revoke or refuse to renew its approval,
23 the authority shall report the fact at the next convening of the interim or regular session commit-
24 tees of the Legislative Assembly related to health care.

25 (6) General Fund moneys may not be used to implement this section. As a condition of receiving
26 Medicaid supplemental reimbursement, an emergency medical services provider must enter into and
27 comply with an agreement with the authority to reimburse the authority for the costs of adminis-
28 tering this section.

29 (7) This section applies only to emergency medical services providers that are reimbursed by the
30 authority on a fee-for-service basis.

31 **SECTION 7.** ORS 682.063 is amended to read:

32 682.063. (1) In addition to the other requirements of ORS 682.031 and 682.062, when initially
33 adopting a **local** plan for ambulance services and ambulance service areas under ORS 682.062 or
34 upon any subsequent review of the **local** plan, a county shall:

35 (a) Consider any and all proposals for providing ambulance services that are submitted by a
36 person or governmental unit or a combination thereof;

37 (b) Require persons and governmental units that desire to provide ambulance services under the
38 **local** plan to meet all the requirements established by the **local** plan; and

39 (c) Consider existing boundaries of cities and rural fire protection districts when establishing
40 ambulance service areas under the **local** plan.

41 (2) When determining the provider of ambulance services upon initial adoption or subsequent
42 review of a **local** plan under ORS 682.062, a county shall not grant preference under the **local** plan
43 to any person or governmental unit solely because that person or governmental unit is providing
44 ambulance services at the time of adoption or review of the **local** plan.

45 **SECTION 8.** Not later than January 1, 2021, each county shall submit a report to an in-

1 **terim committee of the Legislative Assembly related to emergency services, in the manner**
2 **described in ORS 192.245, on the county's efforts to negotiate intergovernmental agreements**
3 **for the coordination of ambulance services pursuant to ORS 682.062.**

4 **SECTION 9. Section 8 of this 2019 Act is repealed on January 2, 2021.**

5 **SECTION 10. (1) Section 8 of this 2019 Act and the amendments to ORS 413.234, 478.260,**
6 **682.025, 682.031, 682.062, 682.063 and 682.066 by sections 1 to 7 of this 2019 Act become opera-**
7 **tive on January 1, 2020.**

8 **(2) The Oregon Health Authority may take any action before the operative date specified**
9 **in subsection (1) of this section that is necessary to enable the authority to exercise, on and**
10 **after the operative date specified in subsection (1) of this section, all of the duties, functions**
11 **and powers conferred on the authority by section 8 of this 2019 Act and the amendments to**
12 **ORS 413.234, 478.260, 682.025, 682.031, 682.062, 682.063 and 682.066 by sections 1 to 7 of this 2019**
13 **Act.**

14 **SECTION 11. This 2019 Act being necessary for the immediate preservation of the public**
15 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**
16 **on its passage.**

17 _____