House Bill 2620

Sponsored by Representatives PILUSO, SMITH G (Presession 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

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

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

SECTION 1. ORS 478.260 is amended to read:

478.260. (1) As used in this section:

(a) “Ambulance services” has the meaning given that term in ORS 682.027.

(b) “Local plan” has the meaning given that term in ORS 682.025.

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

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

(4) A district may operate or acquire and operate, or contract for the operation of, emergency medical service equipment and vehicles both within and without the boundaries of the district. [A district may conduct ambulance operations only in conformance with a county plan adopted under ORS 682.062 for ambulance services and ambulance service areas and with rules of the Oregon Health Authority relating to such services and service areas.] A district’s ambulance operations shall be
subject only to a local plan adopted by the district pursuant to ORS 682.062 for ambulance services and ambulance service areas, and to any rules adopted by the Oregon Health Authority relating to ambulance services and ambulance service areas. Service authorized under a [county] district’s local plan includes authorization for a district to provide ambulance services by intergovernmental agreement with any other unit of local government designated by the plan to provide ambulance services.

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

SECTION 2. ORS 682.025 is amended to read:

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

(1) “Ambulance” or “ambulance vehicle” means a privately or publicly owned motor vehicle, aircraft or watercraft that is regularly provided or offered to be provided for the emergency transportation of persons who are ill or injured or who have disabilities.

(2) “Ambulance service” means a person, governmental unit or other entity that operates ambulances and that holds itself out as providing prehospital care or medical transportation to persons who are ill or injured or who have disabilities.

(3) “Emergency care” means the performance of acts or procedures under emergency conditions in the observation, care and counsel of persons who are ill or injured or who have disabilities; in the administration of care or medications prescribed by a licensed physician or naturopathic physician, insofar as any of these acts is based upon knowledge and application of the principles of biological, physical and social science as required by a completed course utilizing an approved curriculum in prehospital emergency care. “Emergency care” does not include acts of medical diagnosis or prescription of therapeutic or corrective measures.

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

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

(6) “Governmental unit” means the state or any county, municipality or other political subdivision or any department, board or other agency of any of them.

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

(8) “Local plan” means a plan designed to efficiently and effectively provide ambulance services that is developed by:

(a) A city;

(b) A county;

(c) A rural fire protection district; or

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

[(8)] (9) “Nonemergency care” means the performance of acts or procedures on a patient who is not expected to die, become permanently disabled or suffer permanent harm within the next 24
hours, including but not limited to observation, care and counsel of a patient and the administration
of medications prescribed by a physician licensed under ORS chapter 677 or naturopathic physician
licensed under ORS chapter 685, insofar as any of those acts are based upon knowledge and appli-
cation of the principles of biological, physical and social science and are performed in accordance
with scope of practice rules adopted by the Oregon Medical Board or Oregon Board of Naturopathic
Medicine in the course of providing prehospital care.

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

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

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

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

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

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

[(15)] (16) “Unprofessional conduct” means conduct unbecoming a person licensed to perform
emergency care, or detrimental to the best interests of the public and includes:
(a) Any conduct or practice contrary to recognized standards of ethics of the medical profession
or any conduct or practice which does or might constitute a danger to the health or safety of a
patient or the public or any conduct, practice or condition which does or might impair an emergency
medical services provider’s ability safely and skillfully to practice emergency or nonemergency care;
(b) Willful performance of any medical treatment which is contrary to acceptable medical stan-
dards; and
(c) Willful and consistent utilization of medical service for treatment which is or may be con-
sidered inappropriate or unnecessary.

SECTION 3. ORS 682.031 is amended to read:
682.031. (1) As used in this section, “political subdivision” includes counties, cities, districts,
authorities and other public corporations and entities organized and existing under statute or
charter.

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

(3) When a political subdivision enacts an ordinance regulating ambulance services or emer-
gency medical services providers, the ordinance must comply with the [county] political
subdivision’s local plan for ambulance services and ambulance service areas adopted under ORS
682.062 [by the county in which the political subdivision is situated] and with the rules of the Oregon
Health Authority relating to [such] ambulance services and ambulance service areas. [The county governing body shall make the determination of whether the ordinance is in compliance with the county plan.]

SECTION 4. ORS 682.062 is amended to read:

682.062. (1) Each county shall develop a local plan for the county or two or more contiguous counties may develop a plan relating to the need for and coordination of ambulance services and establish one or more ambulance service areas consistent with the plan for the efficient and effective provision of ambulance services for the county. Each county, consistent with its local plan:

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

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

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

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

(4) If a city provides ambulance services and emergency care services, the city’s municipal fire department may adopt a local plan for the city. Each city, consistent with its local plan, may:

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

(b) Designate one or more ambulance service providers.

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

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

(b) Designate one or more ambulance service providers.

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

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

(b) Specify which governmental unit, or combination of governmental units, is responsible for providing ambulance services, directly or by contract, to areas outside city or rural fire protection district boundaries.

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

[(5)] (6) The authority, in consultation with the appropriate bodies specified in [subsection (1)] subsections (1) to (3) of this section, shall adopt rules pursuant to ORS chapter 183 that specify [those] the subjects to be addressed and considered in any local plan for ambulance services and ambulance service areas under [subsection (1) of] this section and [those] the subjects to be addressed and considered in the adoption of any [such] local plan. The rules [shall] must be uniform, as far as practicable, but take into consideration unique circumstances of local districts.
The authority shall review a local plan submitted under subsection [(4)](5) of this section for compliance with the authority’s rules [of the authority] adopted under subsection [(5)](6) of this section. Not later than 60 days after receiving the plan, the authority shall approve the plan if it complies with the rules or disapprove the plan. The authority shall give written notice of [such action] approval or disapproval to the city, county or rural fire protection district. If the authority does not approve a local plan, [and, when a plan is not approved.] the notice [shall] must indicate specifically how the local plan does not comply with the rules of the authority. The city, county or rural fire protection district shall modify the local plan to comply with the rules and shall submit the modified local plan to the authority for review under this subsection.

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

This section does not require a city, county or rural fire protection district to establish more than one ambulance service area within the city, county or rural fire protection district.

SECTION 5. ORS 682.066 is amended to read:

682.066. [When a county plan is not adopted for a county under ORS 682.062, a person or governmental unit may provide ambulance services within the county.] A city, through its municipal fire department, or a rural fire protection district may provide [such] ambulance services within and outside the city or district boundaries in accordance with [policies] a local plan [adopted by the governing body of] for the city or rural fire protection district, including operation in other districts or cities by intergovernmental agreement under ORS chapter 190. Ambulance services provided by a city or rural fire protection district outside the city or district boundaries must be offered at the same prices as ambulance services offered within the city or district boundaries.

SECTION 6. ORS 413.234 is amended to read:

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

(a) “Emergency medical services” means the services provided by emergency medical services providers to an individual experiencing a medical emergency in order to:

(A) Assess, treat and stabilize the individual’s medical condition; or
(B) Prepare and transport the individual by ground to a medical facility.

(b) “Emergency medical services provider” or “provider” means an entity that:

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

(B)(i) Is owned or operated by a local government, a state agency or a federally recognized Indian tribe; or

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

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

(d) “Local government” has the meaning given that term in ORS 174.116.

(2) Upon request, an emergency medical services provider that has entered into a provider agreement with the authority is eligible to receive Medicaid supplemental reimbursement from the authority for the cost of providing emergency medical services to a medical assistance recipient. The Medicaid supplemental reimbursement shall be added to the payment for the emergency medical services established by the authority in accordance with ORS 414.065.
(3)(a) Except as provided in paragraph (b) of this subsection, the Medicaid supplemental reimbursement paid to an emergency medical services provider shall be equal to the amount of federal financial participation received by the authority for the provider's cost for the emergency medical services.

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

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

(5)(a) Except as provided in paragraph (b) of this subsection, the authority shall modify the method for calculating or paying the Medicaid supplemental reimbursement if modification is necessary to ensure that emergency medical services expenditures qualify for federal financial participation.

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

(c) If the Centers for Medicare and Medicaid Services approves the implementation of this section and later revokes its approval or expresses its intent to revoke or refuse to renew its approval, the authority shall report the fact at the next convening of the interim or regular session committees of the Legislative Assembly related to health care.

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

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

SECTION 7. ORS 682.063 is amended to read:

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

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

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

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

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

SECTION 8. Not later than January 1, 2021, each county shall submit a report to an in-
terim committee of the Legislative Assembly related to emergency services, in the manner
described in ORS 192.245, on the county’s efforts to negotiate intergovernmental agreements
for the coordination of ambulance services pursuant to ORS 682.062.

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

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

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

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