

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY APRIL 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 210**

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**Introduced by Assembly Member Solorio**

January 31, 2011

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An act to amend Sections ~~1797.105, 1797.224, 1797.224~~ and 1797.270 of, to add Sections 1797.95 and 1797.225 to, and to repeal Section 1797.201 of, the Health and Safety Code, relating to emergency medical services.

LEGISLATIVE COUNSEL'S DIGEST

AB 210, as amended, Solorio. Emergency medical services.

(1) Existing law establishes the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, which governs local emergency medical service systems and establishes the Emergency Medical Services Authority, which is responsible for the coordination and integration of all state activities concerning emergency medical services. The act requires ~~the authority to receive plans for the implementation of emergency medical services and trauma care systems from local EMS agencies and authorizes a local EMS agency to appeal a determination that a plan does not effectively meet the needs of the persons served, among other things.~~

~~This bill would authorize a prehospital EMS provider, as defined, to appeal the authority's determination.~~

~~(2) The act requires a county to enter into a written agreement with a city or fire district that contracted for, or provided, as of June 1, 1980, prehospital emergency medical services regarding the provision of these~~

services for the city or fire district, as specified. The act requires, until an agreement is reached, prehospital emergency medical services to be continued at not less than the existing level, unless reduced by the city council or the governing body of the fire district, as specified.

This bill would repeal these requirements.

(3)

(2) The act authorizes a local EMS agency to create one or more exclusive operating areas in the development of a local plan, as specified, and requires a local EMS agency that creates an exclusive operating area in its local plan to develop and submit the local EMS agency's competitive process for selecting providers and determining the scope of their operations to the authority.

This bill would require a local EMS agency to grant an exclusive operating area or authorization to provide the same prehospital emergency medical services to a city, county, fire district, or other governmental entity that has continuously contracted for, or provided, these services since June 1, 1980, if this prehospital EMS provider has not entered into an agreement with the local EMS agency to provide prehospital emergency medical services for a city, county, or fire district. It would require a prehospital EMS provider, *as defined*, granted an exclusive operating area or authorization to provide prehospital emergency medical services to enter into a written agreement with the local EMS agency by December 31, 2013. It would also require prehospital EMS providers to be subject to the medical control of the local EMS agency and comply with local EMS agency policies and procedures regarding administration of the local EMS system.

(4)

(3) The EMS act authorizes the establishment of an emergency medical care committee in each county and requires the committee to annually review ambulance services operating within the county, emergency medical care offered within the county, and first aid practices in the county. The act also requires the committee to report its observations and recommendations relative to this review to the authority and the local EMS agency.

This bill would require the membership of an emergency medical care committee in each county to be representative of the EMS *system* participants.

(5)

(4) By increasing the duties of local officials, this bill would impose a state-mandated local program.

(6)

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) Emergency medical services (EMS) system coordination  
4 remains the key factor in efficiently delivering the highest level  
5 of prehospital patient care and emergency transport.

6 (b) All providers and stakeholders in the EMS delivery system  
7 must be guided by consistent, clear standards regarding their rights,  
8 responsibilities, and duties arising out of the provision of  
9 prehospital emergency medical care to their respective  
10 communities.

11 (c) Agencies responsible for developing and maintaining a local  
12 emergency medical services plan must be guided by and responsive  
13 to reasonable and consistent standards for evaluating and  
14 determining the scope, manner, and types of services provided  
15 within their respective jurisdictions, particularly when making  
16 determinations regarding exclusive operating areas and the  
17 ~~concomitant rights under Section 1797.201 of the Health and Safety~~  
18 ~~Code.~~ *concomitant rights of cities and fire districts that have*  
19 *provided prehospital emergency medical services at not less than*  
20 *the existing level since June 1, 1980.*

21 (d) *As of January 1, 2012, all emergency medical services*  
22 *personnel, regardless of local agency or private employer, are*  
23 *subject to the same training, certification, and licensing standards,*  
24 *and coordinate in the same manner with the base hospital in the*  
25 *provision of prehospital EMS services.*

26 (e) *Cities, fire districts, private providers, and local EMS*  
27 *agencies are vital partners in the delivery of prehospital EMS*

1 services, partners that contribute to a rapid deployment of highly  
2 trained EMS personnel.

3 (f) Cities and fire districts remain a fundamental partner in  
4 assisting the county in its duty to provide emergency ambulance  
5 services for all residents of that county.

6 (g) A city or fire district that retains and carries out prehospital  
7 emergency medical service is a reflection of the will of that  
8 jurisdiction's constituents, as it is the local taxpayers who must  
9 pay to maintain the chosen level of service or any increase in the  
10 level of that service.

11 (h) It is in the public interest to ensure that all agencies  
12 providing prehospital EMS services do so within a coordinated  
13 EMS system that provides clear standards for training,  
14 certification, and licensure of personnel, as well as for medical  
15 control and clinical oversight.

16 (i) Guided by findings of the courts over the past two decades,  
17 without altering or otherwise affecting the ordinances of a city or  
18 fire district that has historically provided prehospital emergency  
19 medical services, it is further the intent of the Legislature to lend  
20 greater clarity to the rights and responsibilities of a city, county,  
21 fire district, private provider, and local EMS agency with respect  
22 to their respective emergency response duties to their constituents.

23 (j) Establishing an agreement between a city or fire district and  
24 its respective local EMS agency to codify the existing authority of  
25 that city or fire district to continue the administration of its own  
26 prehospital emergency medical services as part of a coordinated  
27 EMS system, rather than relying on the absence of an agreement,  
28 best serves all agencies that seek to work cooperatively to provide  
29 quality patient care at the highest level.

30 (k) It is imperative that those cities and fire districts providing,  
31 as of January 1, 2012, emergency medical dispatch, first responder,  
32 or transport services at a level not less than what they provided  
33 continuously since June 1, 1980, be recognized through a written  
34 agreement with the local emergency medical services agency  
35 (LEMSA) as an authorized service provider within the local EMS  
36 system. These services need to be acknowledged as part of any  
37 agreement with the LEMSA. This authorization also needs to be  
38 established in perpetuity and not be subject to a competitive  
39 bidding process that would otherwise have an impact that reduces  
40 or increases the recognized service area. Recognized providers

1 *need to participate in medical control and adhere to standardized*  
2 *licensure, certification, and training standards, while also serving*  
3 *as EMS system participants working in a coordinated manner as*  
4 *part of the EMS plan.*

5 ~~(d)~~

6 *(l) Over 20 years of litigation magnifies the need for further*  
7 *statutory guidance to ensure that the California EMS community*  
8 *continues its focus on its primary mission, providing excellent care*  
9 *to the citizens they serve.*

10 SEC. 2. Section 1797.95 is added to the Health and Safety  
11 Code, to read:

12 1797.95. "Prehospital EMS provider" means a city, county,  
13 fire district, or other governmental entity or private entity that  
14 provides first response services at the limited advanced life support  
15 or advanced life support level or provides emergency ambulance  
16 services or dispatches EMS resources.

17 ~~SEC. 3. Section 1797.105 of the Health and Safety Code is~~  
18 ~~amended to read:~~

19 ~~1797.105. (a) The authority shall receive plans for the~~  
20 ~~implementation of emergency medical services and trauma care~~  
21 ~~systems from local EMS agencies.~~

22 ~~(b) After the applicable guidelines or regulations are established~~  
23 ~~by the authority, a local EMS agency may implement a local plan~~  
24 ~~developed pursuant to Section 1797.250, 1797.254, 1797.257, or~~  
25 ~~1797.258 unless the authority determines that the plan does not~~  
26 ~~effectively meet the needs of the persons served and is not~~  
27 ~~consistent with coordinating activities in the geographical area~~  
28 ~~served, or that the plan is not concordant and consistent with~~  
29 ~~applicable guidelines or regulations, or both the guidelines and~~  
30 ~~regulations, established by the authority.~~

31 ~~(c) A local EMS agency or a prehospital EMS provider may~~  
32 ~~appeal a determination of the authority pursuant to subdivision (b)~~  
33 ~~to the commission.~~

34 ~~(d) In an appeal pursuant to subdivision (c), the commission~~  
35 ~~may sustain the determination of the authority or overrule and~~  
36 ~~permit local implementation of a plan, and the decision of the~~  
37 ~~commission is final.~~

38 ~~SEC. 4.~~

39 ~~SEC. 3. Section 1797.201 of the Health and Safety Code is~~  
40 ~~repealed.~~

1     ~~SEC. 5.~~

2     *SEC. 4.* Section 1797.224 of the Health and Safety Code is  
3 amended to read:

4     1797.224. A local EMS agency may create one or more  
5 exclusive operating areas in the development of a local plan, if a  
6 competitive process is utilized to select the provider or providers  
7 of the services pursuant to the plan. No competitive process is  
8 required if the local EMS agency develops or implements a local  
9 plan that continues the use of existing providers operating within  
10 a local EMS area in the manner and scope in which the services  
11 have been provided without interruption since January 1, 1981. A  
12 local EMS agency which elects to create one or more exclusive  
13 operating areas in the development of a local plan shall develop  
14 and submit for approval to the authority, as part of the local EMS  
15 plan, its competitive process for selecting providers and  
16 determining the scope of their operations. This plan shall include  
17 provisions for a competitive process held at periodic intervals.

18     ~~SEC. 6.~~

19     *SEC. 5.* Section 1797.225 is added to the Health and Safety  
20 Code, to read:

21     1797.225. (a) A local EMS agency shall grant to a city, county,  
22 fire district, or other governmental entity that has continuously  
23 contracted for, or provided prehospital emergency medical services  
24 since June 1, 1980, an exclusive operating area or authorization  
25 to provide the same prehospital emergency medical services if this  
26 prehospital EMS provider has not already entered into an  
27 agreement with the local EMS agency to provide prehospital  
28 emergency medical services for a city, county, or fire district. The  
29 prehospital EMS provider granted an exclusive operating area or  
30 authorization to provide prehospital emergency medical services  
31 shall enter into a written agreement with the local EMS agency by  
32 December 31, 2013.

33     (b) A local EMS agency shall include all prehospital EMS  
34 providers in its local emergency medical services plans.

35     (c) Prehospital EMS providers shall be subject to medical control  
36 by the local EMS agency, including, but not limited to, pursuant  
37 to Chapter 5 (commencing with Section 1798), and shall comply  
38 with local EMS agency policies and procedures regarding the  
39 administration of the local EMS system.

1     ~~SEC. 7.~~

2     SEC. 6. Section 1797.270 of the Health and Safety Code is  
3 amended to read:

4     1797.270. An emergency medical care committee may be  
5 established in each county in this state. The committee membership  
6 shall be representative of the EMS system participants. Nothing  
7 in this division should be construed to prevent two or more adjacent  
8 counties from establishing a single committee for review of  
9 emergency medical care in these counties.

10     SEC. 7. *This act, which adds Section 1797.225 to, and repeals*  
11 *Section 1797.201 of, the Health and Safety Code, shall not be*  
12 *construed to affect, limit, or otherwise invalidate any decision by*  
13 *a court of competent jurisdiction that interprets and applies Section*  
14 *1797.201 of the Health and Safety Code, as that section read on*  
15 *December 31, 2011.*

16     SEC. 8. If the Commission on State Mandates determines that  
17 this act contains costs mandated by the state, reimbursement to  
18 local agencies and school districts for those costs shall be made  
19 pursuant to Part 7 (commencing with Section 17500) of Division  
20 4 of Title 2 of the Government Code.