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AB-1168 Emergency medical services (EMS): prehospital EMS. (2023-2024)

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CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 1168

Introduced by Assembly Member Bennett

February 16, 2023

An act to add Sections 1797.11 and 1797.232 to the Health and Safety Code, relating to emergency medical services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1168, as amended, Bennett. Emergency medical services (EMS): prehospital EMS.

Existing law, the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act, governs local emergency medical services (EMS) systems and authorizes each county to develop an EMS program and designate a local EMS agency. Existing law 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. Existing law requires, until that 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.

This bill would require a city or fire district that 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 provides the prehospital EMS as part of an agreement with a county for the joint exercise of powers regarding prehospital EMS entered into on or before December 31, 2022, or that ceased to contract for, provide, or administer prehospital EMS as a result of a judicial finding, as specified, or that is, as of January 1, 2024, providing prehospital EMS pursuant to statute and enters into an agreement with a county for joint exercise of powers regarding prehospital EMS. The bill would state the Legislature's intent that a city's or fire district's entry into a written agreement with a county for the joint exercise of powers regarding prehospital EMS, as described, does not make the city or fire district ineligible to contract with a county, as described above, or result in the transfer,

termination, relinquishment, or extinguishment of that city's or fire district's authorities regarding, or administration of, prehospital EMS, and to abrogate contrary judicial holdings.

Existing law defines "exclusive operating area" as an EMS area or subarea defined by the emergency medical services plan for which a local EMS agency, upon the recommendation of a county, restricts operations to one or more emergency ambulance services or providers, as specified. Existing law authorizes a local EMS agency to create one or more exclusive operating areas in the development of a local plan if a competitive process is utilized to select the provider or providers of the services pursuant to the plan.

This bill would require the local EMS agency, if a city's or fire district's assertion of its authorities regarding, and administration of, the prehospital EMS causes a local EMS area to no longer satisfy the requirements for an exclusive operating area as mentioned above, to provide a right of first refusal to the exclusive operating area's designated providers to continue providing services in a new exclusive operating area comprised of the remainder of the local EMS area outside of the city or fire district, which would be deemed an exclusive operating area created without a competitive process. The bill would authorize the county to provide prehospital EMS, including emergency ambulance services, as specified, in the remainder of the local EMS area on an exclusive or nonexclusive basis if the designated providers decline to continue services. The bill would require the city or fire district asserting its authorities regarding, and administration of, the prehospital EMS to enter into an agreement with the county to provide prehospital EMS, including emergency ambulance services, within the remainder of the local EMS area on an exclusive basis, as specified, if the county determines that the service options mentioned above are not economically viable. *The bill would require the parties developing contracts pursuant to these provisions to collaborate on response time standards for the local EMS area, and would require those standards to meet or exceed the response time standards previously established by the local EMS agency for that area.* By creating new duties for local EMS agencies, the bill would impose a state-mandated local program.

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 the statutory provisions noted above.

The bill would become operative only if AB 716 of the 2023–24 Regular Session is enacted and takes effect on or before January 1, 2024.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1797.11 is added to the Health and Safety Code, to read:

1797.11. The Legislature finds and declares all of the following:

(a) Local governments' provision, directly or by contract, administration, and regulation of prehospital emergency medical services (EMS) is a matter of public safety and critical to the public peace, health, and safety of the State of California. Recognizing that the state's communities have diverse needs and resources, local control over the types, levels, and availability of these services is a longstanding tradition in California that the Legislature intends to retain.

(b) This division is designed to encourage coordination and planning among local governments in order to achieve the most effective prehospital EMS on a countywide or regionwide basis.

(c) One of the ways in which local governments coordinate, plan, and achieve the most effective countywide or regionwide EMS and leverage their combined resources to carry out their prescribed functions under this division is through agreements for the joint exercise of powers under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

(d) Achievement of the foregoing policies and the policies set forth in Sections 1797.1, 1797.2, 1797.5, and 1797.6 has been hindered, and the validity of existing and contemplated agreements for the joint exercise of powers regarding EMS has been called into question, by the holding of *City of Oxnard v. County of Ventura* (2021) 71 Cal.App.5th 1010, which states that a city was ineligible for, and could no longer exercise its statutory rights and obligations under, Section 1797.201 following the city's entry into a written agreement with a county

for the joint exercise of powers regarding prehospital EMS under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

(e) In enacting this section and Section 1797.232, it is the intent of the Legislature to clarify that a city's or fire district's entry into a written agreement with a county for the joint exercise of powers regarding prehospital EMS under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code does not make the city or fire district ineligible for Section 1797.201 or result in the transfer, termination, relinquishment, or extinguishment of that city's or fire district's authorities regarding, or administration of, prehospital EMS, under Section 1797.201, and to abrogate any contrary holdings in *City of Oxnard v. County of Ventura* (2021) 71 Cal.App.5th 1010.

SEC. 2. Section 1797.232 is added to the Health and Safety Code, to read:

1797.232. (a) A city or fire district that provided, as of June 1, 1980, prehospital emergency medical services (EMS) as part of an agreement with a county for the joint exercise of powers under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code regarding prehospital EMS entered into on or before December 31, 2022, shall be deemed to retain its authorities regarding, and administration of, the prehospital EMS pursuant to Section 1797.201.

(b) A city or fire district that contracted for or provided, as of June 1, 1980, prehospital EMS through an agreement with a county for the joint exercise of powers under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code that ceased to contract for, provide, or administer prehospital EMS as a result of *City of Oxnard v. County of Ventura* (2021) 71 Cal.App.5th 1010, on December 31, 2022, shall be deemed to retain its authorities regarding, and administration of, the prehospital EMS pursuant to Section 1797.201.

(c) A city or fire district that is providing prehospital EMS as of January 1, 2024, pursuant to Section 1797.201 may enter an agreement with a county for the joint exercise of powers under Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code regarding prehospital EMS and shall be deemed to retain its authorities regarding, and administration of, the prehospital EMS pursuant to Section 1797.201.

(d) If a city's or fire district's assertion of its authorities regarding, and administration of, the prehospital EMS pursuant to Section 1797.201 under subdivision (a) or (b) of this section causes a local EMS area to no longer satisfy the requirements for an exclusive operating area under Sections 1797.85 or 1797.224, all of the following shall apply:

(1) The local EMS agency shall provide a right of first refusal to the exclusive operating area's designated providers to continue providing services in a new exclusive operating area comprised of the remainder of the local EMS area outside of the city or fire district, which shall be deemed an exclusive operating area created without a competitive process under Sections 1797.85 or 1797.224.

(2) If the designated providers decline to continue services under paragraph (1), the county may provide prehospital EMS, including emergency ambulance services, in the remainder of the local EMS area on an exclusive or nonexclusive basis by any of the following service options:

(A) Creating a separate county department to provide such services.

(B) Assigning the duty of providing such services to the county fire department.

(C) Contracting with cities, districts, and other local agencies, including a city or fire district under subdivision (a) or (c), to provide such services.

(D) Contracting with private ambulance services to provide such services.

(3) If the county determines that the service options in paragraph (2) are not economically viable, then the city or fire district asserting its authorities regarding, and administration of, the prehospital EMS pursuant to Section 1797.201 under subdivision (a) or (b) of this section shall enter an agreement with the county to provide prehospital EMS, including emergency ambulance services, within the remainder of the local EMS area on an exclusive basis consistent with subdivision ~~(e)~~ of (e) of Section 14136 of the Welfare and Institutions Code.

(4) In developing contracts pursuant to this subdivision, the contracting parties shall collaborate on response time standards for the local EMS area, which shall meet or exceed the response time standards previously established by the local EMS agency for that area.

(5) Contracts developed pursuant to this subdivision shall include the local EMS agency's EMS system requirements and the response time standards from paragraph (4).

(e) This section does not affect, modify, limit, or otherwise impair the medical control of the medical director of a local EMS agency granted under this division, including, but not limited to, Chapter 5 (commencing with Section 1798).

(f) This section does not affect, modify, limit, or otherwise impair or enlarge the local EMS agency's ability to set response time standards for all providers within a local EMS area.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 4. This act shall become operative only if Assembly Bill 716 of the 2023–24 Regular Session is enacted and takes effect on or before January 1, 2024.