

June 20, 2018

**Initiative Statute:
Requires Private-Sector Emergency
Ambulance Employees to Remain
On Call During Work Breaks. Changes
Other Conditions of Employment.**

L E G I S L A T I V E A N A L Y S T ' S O F F I C E

Presented To:
Assembly Committee on Labor and Employment
Hon. Tony Thurmond, Chair
And
Senate Committee on Labor and Industrial Relations
Hon. Ricardo Lara, Chair





LAO Role in Initiative Process



Fiscal Analysis Prior to Signature Collection

- State law requires our office, along with the Department of Finance, to prepare an impartial fiscal analysis of each initiative.
- This analysis provides an estimate of the measure's fiscal impact on state and local governments.
- A summary of the fiscal impact is included on petitions that are circulated for signatures.



Analysis After Measure Receives Enough Signatures to Qualify for the Ballot

- State law requires our office to provide impartial analyses of all statewide ballot propositions for the voter information guide.
- This analysis includes a description of the measure and its fiscal effects.
- We are currently preparing these materials for initiatives that have qualified—or have a reasonable likelihood of qualifying—for the November 2018 ballot.



Background: 911 Emergency Medical Transportation



Emergency Ambulance Transportation Is Mainly a Private-Sector Role

- When a 911 call is made for medical help, call center dispatchers send an ambulance crew to the location. Emergency Medical Technicians (EMTs) and paramedics provide medical treatment to the patient and, in most cases, transport the patient to the hospital.
- Private companies own and operate most ambulances in California. They provide about three-quarters of all emergency ambulance rides. In the other one-quarter of cases, local governments—typically fire departments—transport the patient to the hospital.



Counties Coordinate Emergency Medical Systems and Designate Ambulance Providers

- County agencies coordinate emergency medical systems, including emergency ambulance transportation. To ensure that ambulance services are available throughout the county, agencies designate a primary ambulance provider for each area within their jurisdiction.
- The designated ambulance provider generates revenue by collecting payments from patients' insurers. In exchange, the provider pays the county for the right to provide ambulance trips in that area.



Government Health Care Coverage or Commercial Health Insurance Pays for Most Ambulance Trips

- More than two-thirds of ambulance trips are for patients with Medicare or Medi-Cal health care coverage. About 20 percent of trips are for patients with commercial health insurance. The other trips are for patients with no insurance.



Background: 911 Emergency Medical Transportation



Commercial Health Insurance Pays More Than Government Pays

- The average cost of an ambulance trip in California is about \$750.
- Medicare and Medi-Cal pay ambulance companies a fixed amount—about \$450 and \$100, respectively—for each ambulance trip.
- As a result, ambulance companies lose money transporting patients with Medicare and Medi-Cal. They can also lose money when they transport patients with no insurance.
- To make up for these losses, ambulance companies bill patients with commercial insurance more than the average cost of an ambulance trip. On average, commercial insurers pay \$1,800 per trip.



Background: EMTs and Paramedics



Role of EMTs and Paramedics

- There are 17,000 active EMTs and paramedics in California.
- EMTs provide first-aid and basic medical care. Paramedics provide advanced medical care.
- Ambulances have two crew members—two EMTs, an EMT and a paramedic, or two paramedics. Ambulance crews normally work 12-hour shifts and sometimes work 24-hour shifts.



Rest and Meal Breaks for EMTs and Paramedics

- **Employers Must Provide Meal and Rest Breaks . . .** Under state law, most employers (including ambulance companies) must provide an unpaid thirty-minute meal break during each 8-hour shift and a paid ten-minute rest break every four hours.
- **. . . But Most EMTs and Paramedics Are On Call During Theirs.** In practice, EMTs and paramedics are “on call” for their entire work shift, including during their meal and rest breaks, in case they receive a 911 call. This means that their breaks are sometimes interrupted by 911 calls. As a result, EMTs and paramedics are often unable to plan their meal and rest breaks.
- **Most Emergency Ambulance Shifts Include Down Time.** Although EMTs and paramedics typically remain on call during breaks, most ambulance shifts include down time between emergency calls. During these down times, crews can often take uninterrupted meal and rest breaks even though they are technically on call.



Background: EMTs and Paramedics



Recent State Supreme Court Decision Related to Meal and Rest Breaks Likely Applies to EMTs and Paramedics

- In 2016, the California Supreme Court ruled that on-call breaks violate state labor law. Instead, employers must provide breaks that are off-duty and not interruptible.
- The decision was *Augustus v. ABM Security Services*. The case involved private security guards whose employer required that they keep their radios on during breaks.
- Labor laws and industry practices for private security guards are similar to the laws and industry practices for EMTs and paramedics. Due to these similarities, it appears likely that the *Augustus* decision will also apply to EMTs and paramedics in the near future.



Background: Potential Impact of *Augustus* Decision on the Ambulance Industry



Providing Off-Duty Breaks Would Result in New Costs

- To follow state law under *Augustus*, ambulance crews would have to go off-duty during their meal and rest breaks. As a result, ambulance companies would likely have to operate significantly more ambulances in each area than they do now.
- This would increase costs to ambulance companies—potentially by more than \$100 million each year statewide.



Ambulance Companies Could Respond to New Costs in Various Ways

To address the higher costs of complying with *Augustus* and still remain profitable, ambulance companies could:

- **Negotiate Legal Agreements That Allow Partial Compliance.** In some cases, ambulance companies and EMTs and paramedics could agree to a meal and rest break compromise that is less costly than providing off-duty breaks.
- **Increase Insurance Charges.** Ambulance companies could attempt to charge commercial health insurance companies more for their patients' trips. If commercial insurers agreed to pay these higher rates, commercial health insurance premiums would likely increase.
- **Reduce Business Costs.** Ambulance companies could change the way they do business to reduce costs. These changes would need to be negotiated with counties.
- **Smaller Contract Payments to Local Governments.** Ambulance companies could pay counties less for the right to provide ambulance services in each area. In some cases, counties might need to pay ambulance companies to ensure ambulance services remains available in that area.



Overall, Counties Would Likely Pay for Much of These New Costs

- Although new costs associated with complying with the *Augustus* decision would likely be offset by ambulance companies in a variety of ways, as discussed above, it appears likely that much of these higher costs would be borne by counties.

**Requires Private-Sector EMTs and Paramedics to Stay On Call During Breaks**

- The measure requires EMTs and paramedics to stay on call during their whole shift. In effect, the measure continues the current industry practice of requiring EMTs and paramedics to remain on call during breaks.

**Seeks to Limit Potential Lawsuit-Related Costs Due to Past Practice**

- The *Augustus* decision suggests that the practice of requiring EMTs and paramedics to stay on call during breaks was in violation of state law. Private ambulance companies may now owe penalties for past violations.
- In addition to requiring on-call meal and rest breaks going forward, this measure seeks to apply this on-call requirement to pending lawsuits. This could eliminate lawsuit-related costs that ambulance companies face based on past practice.

**Requires Ambulance Companies to Provide Improved Break Schedules**

- The measure requires that meal breaks not be during the first or last hour of a shift and that they be spaced at least two hours apart. Ambulance companies would have to operate enough ambulances to meet these meal break schedules.

**Requires Ambulance Companies to Provide Training and Mental Health Services**

- The measure requires ambulance companies to offer EMTs and paramedics (1) annual natural disaster, active shooter, and violence prevention training; (2) mental health and wellness education; (3) mental health counseling sessions; and (4) access to long-term mental health services.



Fiscal Effects on State and Local Governments



Continuing Current Practice of On-Call Breaks, as the Measure Requires, Would Result in Fiscal Benefits to Local Governments

- Under the measure, ambulance companies would avoid the new costs of providing off-duty breaks (the costs that arise from complying with the *Augustus* decision), as the measure generally would allow them to continue using on-call breaks as they have in the past.
- Therefore, this measure would result in fiscal benefits to local governments (in the form of higher revenues and/or lower costs), potentially in the tens of millions of dollars each year.