RESPONSE TO HOUSE FILE 34 AMENDMENTS

PROVIDED BY REPRESENTATIVE HUOT ON 18 FEBRUARY 2021

HOUSE FILE 34 ORIGINALLY POSTED ON 7 JANUARY 2021

23 FEBRUARY 2021

My name is Michael Jordan, and I am the Public Member of the Emergency Medical Services Regulatory Board (EMSRB). This document is being presented in response to Representative Huot’s request, on 22 February 2021, for feedback relative to his amendments to the original posting of House File 34 (***the legislation***).

The contents of this document represent my original perspective on the subject legislation, when it was first presented to the EMSRB at our regularly scheduled meeting on 21 January 2021, as well as my perspective on the amended language. Unfortunately, there was not an opportunity for discussion of the original, proposed legislation during that meeting. Additionally, this document is extrapolated from the information that was presented in my written testimony to the House Health Finance and Policy Committee, chaired by Representative Liebling, on 25 January 2021. Finally, the information in that written testimony will be augmented by a revised version of that testimony, containing additional analysis and recommendations, which will be presented to the EMSRB during our next scheduled meeting on 18 March 2021.

In regard to ***the legislation***, my first set of comments relate to Section 1, Subdivision 1, and the *level of specificity of the deliverables* that should result from the “evaluation” and “recommendations” that will be the work product of the proposed task force. The specific charge to the task force, as stated in ***the legislation***, while broad and encompassing, is too general in nature. There are several, very specific issues that are confronting the EMS industry in Minnesota, today. It is imperative that those issues are well documented, researched and analyzed. This is crucial if, in fact, actionable recommendations for their solution can be identified, made public, and implemented. To ensure that this occurs, those issues must be clearly identified and discussed in a direct, deliberate and focused manner. Therefore, some greater degree of specificity in the ‘charge’ is required. At a minimum, the issues that should be specifically addressed include:

1. development of metrics that will specify acceptable ‘levels of service’, including requirements for proper ‘response time’ that will ensure accountability of ambulance services to the public;
2. potential for appropriate integration and/or consolidation of emergency-related resources, such as ‘911’ dispatch, in order to enhance service levels and reduce overall EMS system expenses;
3. relationship of Primary Service Areas (PSA’s) to the provision of effective and efficient response to the public, and the operational aspects of the business models of ambulance services;
4. relationship of licensing fees for ambulance services to the operational expense of regulation and, the business models of ambulance services;
5. investigation of pricing models relative to transparency of price levels to the public, the impact of those models on service to the public, and the business models of ambulance services;
6. analysis of potential revenue streams available to support EMS operations, including Medicaid reimbursement, direct payment by users, local government aid, and revenue recapture;
7. evaluation of the continued deterioration of EMS in rural Minnesota, and potential solutions to ensure that adequate levels of public safety, in those areas, is maintained;
8. evaluation of the current effectiveness of the EMSRB, including review of board composition, mission and focus, funding levels, and modification of enabling legislation;
9. analysis of the rationale, based on a review of the legislative history, for the transfer of regulatory authority from the Department of Health (1995), and establishment of Chapter 144E.

**It is imperative that the analysis and evaluation of these issues is specifically delineated, and addressed, in the Course of Work (COW) that is described in my subsequent comments.**

The next set of comments relate to both the *mechanism* used for “evaluation” and to make “recommendations”, and the *methodology* that is implemented to execute those tasks. Before discussing the specifics of my comments, relative to the *mechanism*, I want to make it clear that there is no argument regarding the urgent need to evaluate the current level of efficacy of the operation of the EMSRB, and the enabling legislation, Chapter 144E. However, the process by which that evaluation is accomplished is critical to the development, and ultimate successful implementation, of reform.

That said, in regard to the *mechanism*, the creation a special task force, particularly by means of a new statute, to evaluate the EMSRB is unnecessary due to the fact that the current statute has established vehicles for such evaluative activity and performance enhancement. Chapter 144E.01, Subd.6(3) establishes the duty of the EMSRB to “make recommendations to the legislature on improving the access, delivery, and effectiveness of the state’s emergency medical services delivery system….” With this in mind, it would be most prudent, both from a financial and temporal perspective, to utilize the existing, statutory vehicle, rather than to create a new and redundant vehicle. Additionally, Chapter 144E.16, Subd.5 provides that “Local units of government may, with the approval of the Board, establish standards for ambulance services which impose additional requirements upon such services….” This opportunity to connect recommendations for reform, performance enhancement, and accountability metrics, directly to those who represent the ultimate customers of the ambulance services, should be utilized to the maximum extent practicable. Finally, in regards to the application of a given methodology, the proposed *mechanism* would not be as effective and efficient as the alternative that I will suggest, at a subsequent point in my comments.

Secondly, in regard to the *methodology*, the use of a “task force” is neither the most effective, nor the most efficient, means to accomplish the desired objective. In particular, there are several reasons why the utilization of a task force, whose membership is configured in the manner as proposed in ***the legislation*** (Section 1, Subd.2), is not the preferred methodology to obtain the successful completion of the analyses, evaluations, and recommendations that are required. Those reasons include the following:

* 1. task force membership is almost identical, in composition, to the current EMSRB. Replication of the existing structure will not result in an improved, ‘value-added’ process;
  2. similarity to the current EMSRB composition perpetuates existing issues of concern, eg. large number of members, low percentage of public members, exposure to parochial interests;
  3. task force members will be limited in the time they can, as individuals with other commitments, devote to the endeavor, thus negatively impacting operational effectiveness;
  4. task force members are expert in their fields of endeavor. However, that expertise does not necessarily translate to the type of analytical evaluation required in this undertaking;
  5. mixture of participants/employees, lobbying entities, and business association representatives, from the ‘industry’, creates an unacceptable risk of conflict of interest and self-dealing;
  6. addition of members of the legislature to the task force dilutes the “voting” impact of the other task force members, and magnifies the opportunity for potential ‘political’ influence;
  7. concept of using a task force “vote”, to achieve consensus and/or majority recommendations, often results in a sup-par result, relative to the time and effort expended (consider the example of an EMSRB workgroup established to develop suggestions relative to the ‘base of operations’ issue. The outcome of that effort, consuming six-months, resulted in a report that presented no actionable recommendations, and did not represent a unified perspective from the participants. This is a typical outcome from such an approach to analytical evaluation).

Another issue for consideration, relating to the methodology, is found in Section 1, Subd.5 & 6 of ***the legislation***. The task force is charged to present a written report by 1 January 2023. Given the number and magnitude of the pertinent EMS industry issues, coupled with the significance of this industry to the provision of public safety in Minnesota, the proposed time frame is unacceptable. Recommendations, concerning reform and/or restructuring, should be available for consideration by Legislative and Executive Branch officials by the beginning of the 2022 legislative session.

Finally, in regard to the *methodology*, I would like to reiterate the concept that was presented in my 25 January 2021 testimony to the House Health Finance and Policy Committee. In summary, the execution of the research/evaluation/recommendation process should be ‘out-sourced’ to a professional research and evaluation entity. Examples of such entities include corporate-consultant organizations, such as McKinsey & Company, or state-based organizations such as the Legislative Auditor. This type of entity would provide the expertise, objectivity, and timely completion that is required for a project of this importance, complexity, and potential level of contention. The following action steps would be incorporated in the execution of this suggested concept:

1. A Chart of Work (COW) would be developed, jointly, by the following individuals; Chairperson of the EMSRB, Executive Director of the EMSRB, the Commissioner of Health (or designee), the Commissioner of Public Safety (or designee), and current ex-officio EMSRB members from the Minnesota House and Senate [The Steering Committee], by 1 May 2021. This COW would contain the details of timing and deliverables that are expected in the final report, which will include, at a minimum, detailed analysis, evaluation and recommendations detailed in point #3, below;
2. The Steering Committee will select an entity to execute the COW by 1 June 2021. Details relating to compensation will be addressed in the following discussion of Section 2 of ***the legislation***;
3. The selected entity will conduct its analysis and evaluation, as dictated by its professional standards. Additionally, it will take specific actions including, but not limited to, personal interviews, reviews of pertinent industry literature and available public information relating to financial and business-related issues of EMS, to ensure incorporation and consideration of the concerns of all relevant stakeholders. The information to be obtained and the stakeholders who would be represented, at a minimum, include the following;
   1. Analyses/evaluations/recommendations should be constructed such that the issues, concerns, and requirements of urban, suburban and rural geographies are adequately addressed;
   2. Demographic, economic, and technological conditions and/or projections that will impact and influence the operation and provision of EMS in Minnesota, for the next decade;
   3. Individuals who could be and/or have been the users of ambulance services;
   4. Owners/Directors/Personnel of ambulance services;
   5. Medical Directors of ambulance services;
   6. Regional Emergency Medical Services Programs;
   7. Emergency/Family Practice/Pediatric Physicians;
   8. Registered Nurses working in Emergency Environments;
   9. Representatives of Minnesota hospitals;
   10. Appropriate representatives from Municipal governmental entities (eg. fire/ems operators, law enforcement, 911 dispatch operators, elected legislative and executive officials);
   11. Appropriate representatives from Minnesota Executive and Legislative branches.
4. The selected entity will submit its report to the Steering Committee by 1 December 2021. The report will be reviewed, finalized and forwarded to the Legislature and Governor by 1 January 2022.

My final comments relate to the issue of appropriation of funds, in Section 2 of ***the legislation***. In the original version, the total appropriated amount was $950,000.00, and the appropriated amount was limited to fiscal year 2022. However, in the amended version, the proposed level the appropriated funding is not specified. The reasons for the lack of funding specificity are not known to me, and I will not attempt to speculate on them. Additionally, the amendment stipulates that there will be appropriated funds for both fiscal years, 2022 and 2023. However, given the State’s financial situation, from both an expense and revenue perspective, all spending decisions should be thoroughly considered and scrutinized. Based on the appropriations, proposed in the original version, and the information contained in my previously referenced testimony to the House Committee on Health Finance and Policy, I offer the following observations on the proposed expense funding:

1. Funds for EMS task force, $250K (Commissioner of M&B) – this amount seems excessive given the scale of work, duration of the effort and those who will be charged with the effort. Even when considering my alternative suggested methodology, the amount is considerable, and certainly could be negotiated to a lesser amount. Additionally, The Steering Committee should initiate discussions to convince the selected COW vendor (if it is in the private sector) to ‘donate’ their work as a contribution to the public good and a demonstration of corporate citizenship. Regardless of the final decision, regarding the level of funding for the execution of the COW, my recommended methodology will require funding for only one, rather than two years;
2. Funds for grants to promote volunteerism for ambulance services and law enforcement, $200K, (Commissioner of Education) – my perspective, as detailed in my testimony of 25 January 2021, is that the negative factors that are causing the decline of volunteerism are based on behavioral, demographic and economic factors that are both endemic and irreversible. The difficulties that are being experienced in attracting new volunteers, and retaining existing volunteers, will not be overcome by publicity campaigns and/or marginal financial incentives. The previously proposed appropriation of $200K will most likely yield a very poor return on investment. The investment of additional funds, for an extended time period (as suggested by the amendment extending the funding horizon into the 2023 fiscal year), will not alleviate the current situation;
3. Funds for grants supporting ambulance service training programs in secondary/post-secondary educational environments, $250K (Commissioner of Education) – I do not have sufficient substantive data upon which to support relevant comments on the validity of these actions or the adequacy of and/or rational for the funding recommendation.
4. Funds for grants supporting general first aid training in school district community education programs, $100K (Commissioner of Education) – I do not have sufficient substantive data upon which to support relevant comments on the validity of this action or the adequacy of and/or rational for the funding recommendation. However, in principle, it is a good outcome to increase the level of knowledge, relative to first aid skills, in the population at large.
5. Funds for use in expanding/supplementing ambulance service training programs offered at state colleges, $150K (Board of Trustees, MN State Colleges & Universities) – I do not have sufficient substantive data upon which to support relevant comments on the validity of this action or the adequacy of and/or rational for the funding recommendation.

This concludes my comments on House File 34, as amended. Please let me know if I can add any additional information, clarify any statements, or answer any questions.

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