

By: Oliverson, Shaheen, Rogers, et al.

H.B. No. 3923

A BILL TO BE ENTITLED

AN ACT

relating to multiple employer welfare arrangements.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 846, Insurance Code, is amended by adding Section 846.0035 to read as follows:

Sec. 846.0035. APPLICABILITY OF CERTAIN LAWS TO ASSOCIATION PROVIDING HEALTH BENEFITS. (a) This section applies only to a multiple employer welfare arrangement:

(1) that was issued an initial certificate of authority under Section 846.054 on or after January 1, 2022; or

(2) that elects to be bound by this section in the manner prescribed by the commissioner.

(b) A multiple employer welfare arrangement that provides a comprehensive health benefit plan, as determined by the commissioner, is subject to the following laws as if the arrangement were an insurer, individuals entitled to coverage under the plan were insureds, and the health benefits were provided through an insurance policy:

(1) Chapter 421;

(2) Chapter 422;

(3) Subchapters C, F, and K, Chapter 1451; and

(4) Chapter 4201.

(c) A multiple employer welfare arrangement that provides a comprehensive health benefit plan, as determined by the

1 commissioner, that is determined by the commissioner to be
2 structured in the manner of a preferred provider benefit plan or an
3 exclusive provider benefit plan as defined in Section 1301.001 is
4 subject to the following laws as if the arrangement were an insurer,
5 individuals entitled to coverage under the plan were insureds, and
6 the health benefits were provided through an insurance policy:

7 (1) Chapter 1301; and

8 (2) Chapter 1467.

9 SECTION 2. Section 846.052(b), Insurance Code, is amended
10 to read as follows:

11 (b) The application form must be completed and submitted
12 along with all information required by the commissioner, including:

13 (1) a copy of each organizational document;

14 (2) current financial statements of the arrangement;

15 (3) a fully detailed statement indicating the plan
16 under which the arrangement proposes to transact business;

17 (4) an initial actuarial opinion in compliance with
18 the requirements of Section 846.153(a)(2) and subject to Section
19 846.157(b); and

20 (5) demonstration [~~a statement~~] by the applicant
21 [~~certifying~~] that the arrangement is in compliance with all
22 applicable federal and state laws [~~provisions of the Employee~~
23 ~~Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et~~
24 ~~seq.)~~].

25 SECTION 3. Section 846.053, Insurance Code, is amended by
26 amending Subsections (b) and (c) and adding Subsection (d-1) to
27 read as follows:

1 (b) The employers in the multiple employer welfare
2 arrangement must:

3 (1) be members of an association or group of five or
4 more businesses that are in the same trade or industry, including
5 closely related businesses that provide support, services, or
6 supplies primarily to that trade or industry; or

7 (2) for a multiple employer welfare arrangement to
8 which Section 846.0035 applies, each have a principal place of
9 business in the same region that does not exceed the boundaries of
10 this state or the boundaries of a metropolitan statistical area
11 designated by the United States Office of Management and Budget.

12 (c) If the employers in the multiple employer welfare
13 arrangement are members of an association, the association must:

14 (1) be engaged in substantial activity for its
15 members other than sponsorship of an employee welfare benefit plan;
16 and

17 (2) if Section 846.0035 does not apply to the multiple
18 employer welfare arrangement, have been in existence for at least
19 two years before engaging in any activities relating to providing
20 employee health benefits to its members.

21 (d-1) For purposes of a multiple employer welfare
22 arrangement to which Section 846.0035 applies, a working owner of a
23 trade or business without employees may qualify as both an employer
24 and as an employee of the trade or industry for the purposes of this
25 section. In this subsection, "working owner" means an individual
26 who:

27 (1) has an ownership right of any nature in a trade or

1 business, whether incorporated or unincorporated, including a
2 partner and other self-employed individual;

3 (2) earns wages or self-employment income from the
4 trade or business for providing personal services to the trade or
5 business; and

6 (3) either:

7 (A) works on average at least 20 hours per week or
8 at least 80 hours per month providing personal services to the
9 working owner's trade or business; or

10 (B) has wages or self-employment income from the
11 individual's trade or business that at least equals the
12 individual's cost of coverage for participation by the individual
13 and any covered beneficiaries in the group health plan sponsored by
14 the group or association in which the individual is participating.

15 SECTION 4. This Act takes effect September 1, 2021.