

By: Oliverson

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) 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.

(b) A multiple employer welfare arrangement that provides a comprehensive health benefit plan, as determined by the commissioner, that is determined by the commissioner to be structured in the manner of a preferred provider benefit plan or an exclusive provider benefit plan as defined in Section 1301.001 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 (1) Chapter 1301; and

2 (2) Chapter 1467.

3 SECTION 2. Section 846.053, Insurance Code, is amended by
4 amending Subsections (b) and (c) and adding Subsection (d-1) to
5 read as follows:

6 (b) The employers in the multiple employer welfare
7 arrangement must:

8 (1) be members of an association or group of five or
9 more businesses that are in the same trade or industry, including
10 closely related businesses that provide support, services, or
11 supplies primarily to that trade or industry; or

12 (2) each have a principal place of business in the same
13 region that does not exceed the boundaries of this state or the
14 boundaries of a metropolitan statistical area designated by the
15 United States Office of Management and Budget.

16 (c) If the employers in the multiple employer welfare
17 arrangement are members of an association, the association must[+

18 ~~(1)] be engaged in substantial activity for its~~
19 ~~members other than sponsorship of an employee welfare benefit~~
20 ~~plan[, and~~

21 ~~(2) have been in existence for at least two years~~
22 ~~before engaging in any activities relating to providing employee~~
23 ~~health benefits to its members].~~

24 (d-1) A working owner of a trade or business without
25 employees may qualify as both an employer and as an employee of the
26 trade or industry for the purposes of this section. In this
27 subsection, "working owner" means an individual who:

1 (1) has an ownership right of any nature in a trade or
2 business, whether incorporated or unincorporated, including a
3 partner and other self-employed individual;

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

7 (3) either:

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

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

16 SECTION 3. Section 846.0035, Insurance Code, as added by
17 this Act, applies only to a health benefit plan provided under an
18 agreement entered into or renewed on or after January 1, 2022.

19 SECTION 4. Section 846.053, Insurance Code, as amended by
20 this Act, applies only to an application for a certificate of
21 authority as a multiple employer welfare arrangement submitted on
22 or after January 1, 2022. An application submitted before January
23 1, 2022, is governed by the law as it existed immediately before the
24 effective date of this Act, and that law is continued in effect for
25 that purpose.

26 SECTION 5. This Act takes effect September 1, 2021.