

By: Powell

S.B. No. 1861

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the eligibility of certain groups or associations that
3 include self-employed individuals to participate in a multiple
4 employer welfare arrangement.

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

6 SECTION 1. Section 846.201, Insurance Code, is amended by
7 amending Subsection (b) and adding Subsection (c) to read as
8 follows:

9 (b) Except as otherwise limited by the Employee Retirement
10 Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.), a
11 multiple employer welfare arrangement may only provide benefits to:

12 (1) active or retired owners, officers, directors, or
13 employees of or partners in:

14 (A) participating employers; or

15 (B) bona fide groups or associations of
16 employers; and

17 (2) the beneficiaries of a person described by
18 Subdivision (1).

19 (c) A group or association is considered a bona fide group
20 or association of employers for the purpose of this section if:

21 (1) the group or association has at least one
22 substantial business purpose unrelated to offering and providing
23 health coverage or other employee benefits to its employer-members
24 and their employees, including the purpose of promoting the common

1 business interests of its members or promoting the economic
2 interests of its members in a trade or employer opportunity,
3 regardless of whether the business purpose is a for-profit
4 activity;

5 (2) the group or association would be a viable entity
6 in the absence of sponsoring an employee benefit plan;

7 (3) each employer-member of the group or association
8 participating in the group health plan is a person acting directly
9 as an employer of at least one employee who is covered under the
10 plan, which may include a sole proprietor or principal of a business
11 entity and regardless of whether any other person is employed by the
12 sole proprietor or principal of a business entity;

13 (4) the group or association has a formal
14 organizational structure with a governing body and by-laws or other
15 similar indications of formality;

16 (5) the functions and activities of the group or
17 association are controlled by its employer-members, and the group's
18 or association's employer-members that participate in the group
19 health plan control the plan; and

20 (6) the employer-members have a commonality of
21 interest because the members:

22 (A) are in the same trade, industry, line or
23 business, or profession; or

24 (B) have a principal place of business in the
25 same region that does not extend beyond the boundaries of:

26 (i) a state; or

27 (ii) a metropolitan area regardless of

1 whether the metropolitan area includes more than one state.

2 SECTION 2. This Act takes effect September 1, 2021.