

## BILL ANALYSIS

Senate Research Center  
79R8578 AJA-F

S.B. 1739  
By: Carona  
State Affairs  
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As Filed

### AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Independent Colleges and Universities of Texas, Inc. (ICUT) is a nonprofit association representing the 40 private colleges and universities in Texas. In June 2002, ICUT began forming a health insurance consortium in an attempt to stabilize rising health insurance costs.

Twenty-three ICUT members formed Collegiate Association Resource of the Southwest, Inc. (CARES). On September 1, 2004, the Texas Department of Insurance (TDI) granted CARES a temporary one year certificate of authority to operate as a multiple employer welfare arrangement. The universities now enrolled represent approximately 3,000 faculty and staff.

Though TDI granted CARES temporary authority to operate, it did not approve the rating structure submitted by CARES. The institutions that founded CARES believe they must take into account an institution's claims history when setting rates at the university level, and they believe this rating structure is critical for the long-term viability of the consortium. Therefore, CARES would be better suited for regulation under the Employee Retirement Income Security Act of 1974 (ERISA).

As proposed, S.B. 1739 requires CARES to operate under ERISA regulations, giving the colleges and universities of CARES more flexibility in setting rates for the consortium and increasing the likelihood of the consortium's long-term success. This could influence additional colleges and universities to enroll, including others from adjoining states.

### RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### SECTION BY SECTION ANALYSIS

SECTION 1. Amends the Education Code by adding Title 6, as follows:

#### TITLE 6. BENEFITS CONSORTIUMS

##### CHAPTER 2000. BENEFITS CONSORTIUMS FOR CERTAIN PRIVATE EDUCATIONAL INSTITUTIONS

Sec. 2000.001. DEFINITIONS. Defines "employee welfare benefit plan" and "private educational institution."

Sec. 2000.002. FORMATION OF BENEFITS CONSORTIUM. Authorizes two or more private educational institutions to form a benefits consortium for the purpose of establishing a self-funded employee welfare benefit plan by adopting articles of incorporation or a declaration of trust. Sets forth requirements for the articles of incorporation or declaration of trust.

Sec. 2000.003. FILINGS BY BENEFITS CONSORTIUM. Requires a benefits consortium formed under this chapter to file with the commissioner of insurance a copy of the consortium's articles of incorporation or declaration of trust and any amendments to the articles of incorporation or declaration of trust and to comply with all reporting

requirements under the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.).

Sec. 2000.004. REGULATION OF BENEFITS CONSORTIUM; EXEMPTION FROM STATE REGULATION. Requires an employee welfare benefit plan established by a benefits consortium under this chapter that is sponsored by a trade association in existence for 10 years or more, is in good standing with the secretary of state, and meets the requirements of this chapter to be governed solely by and to comply with the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.), as implemented by the United States Department of Labor.

SECTION 2. Effective date: upon passage or September 1, 2005.