

1 AN ACT

2 relating to the establishment of an employee welfare benefit plan
3 by certain private educational institutions.

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

5 SECTION 1. The Education Code is amended by adding Title 6
6 to read as follows:

7 TITLE 6. BENEFITS CONSORTIUMS

8 CHAPTER 2000. BENEFITS CONSORTIUMS FOR CERTAIN

9 PRIVATE EDUCATIONAL INSTITUTIONS

10 Sec. 2000.001. DEFINITIONS. In this chapter:

11 (1) "Employee welfare benefit plan" has the meaning
12 assigned by Section 3(1), Employee Retirement Income Security Act
13 of 1974 (29 U.S.C. Section 1002(1)).

14 (2) "Private educational institution" means any
15 nonpublic, nonprofit, and accredited school that:

16 (A) is owned and operated by an individual,
17 religious institution, partnership, association, or corporation,
18 or a department, division, or section of one of those entities; and

19 (B) designates itself as a private educational
20 center that includes a program of elementary, secondary, religious,
21 college, or university education whose primary purpose is to
22 provide private or religious-based education.

23 Sec. 2000.002. FORMATION OF BENEFITS CONSORTIUM. Two or
24 more private educational institutions may form a benefits

1 consortium for the purpose of establishing a self-funded employee
2 welfare benefit plan by adopting articles of incorporation or a
3 declaration of trust. The articles of incorporation or declaration
4 of trust must:

5 (1) limit membership in the benefits consortium to
6 private educational institutions;

7 (2) list the charter members of the benefits
8 consortium;

9 (3) include the method by which other institutions may
10 be admitted as members of the benefits consortium;

11 (4) require that each member agree to an initial
12 membership term of not less than three years;

13 (5) provide that the directors or trustees of the
14 benefits consortium be elected from or on behalf of the membership
15 of the benefits consortium and prescribe the method for selection
16 of directors or trustees of the benefits consortium;

17 (6) provide that the directors or trustees have
18 complete fiscal control over the plan and are responsible for all
19 operations of the plan;

20 (7) list the purposes of the benefits consortium,
21 including the types of risks shared by members of the consortium;

22 (8) establish bylaws of the benefits consortium; and

23 (9) provide for amendment of the articles of
24 incorporation or declaration of trust and the bylaws.

25 Sec. 2000.003. FILINGS BY BENEFITS CONSORTIUM. A benefits
26 consortium formed under this chapter shall:

27 (1) file with the commissioner of insurance a copy of

1 the consortium's articles of incorporation or declaration of trust
2 and any amendments to the articles of incorporation or declaration
3 of trust; and

4 (2) comply with all reporting requirements under the
5 Employee Retirement Income Security Act of 1974 (29 U.S.C. Section
6 1001 et seq.).

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

16 SECTION 2. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2005.

President of the Senate

Speaker of the House

I certify that H.B. No. 2390 was passed by the House on May 10, 2005, by the following vote: Yeas 141, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2390 was passed by the Senate on May 23, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor