

1-1 By: Harper-Brown (Senate Sponsor - Carona) H.B. No. 2390
1-2 (In the Senate - Received from the House May 11, 2005;
1-3 May 13, 2005, read first time and referred to Committee on State
1-4 Affairs; May 19, 2005, reported favorably by the following vote:
1-5 Yeas 7, Nays 0; May 19, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the establishment of an employee welfare benefit plan
1-9 by certain private educational institutions.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. The Education Code is amended by adding Title 6
1-12 to read as follows:

1-13 TITLE 6. BENEFITS CONSORTIUMS

1-14 CHAPTER 2000. BENEFITS CONSORTIUMS FOR CERTAIN

1-15 PRIVATE EDUCATIONAL INSTITUTIONS

1-16 Sec. 2000.001. DEFINITIONS. In this chapter:

1-17 (1) "Employee welfare benefit plan" has the meaning
1-18 assigned by Section 3(1), Employee Retirement Income Security Act
1-19 of 1974 (29 U.S.C. Section 1002(1)).

1-20 (2) "Private educational institution" means any
1-21 nonpublic, nonprofit, and accredited school that:

1-22 (A) is owned and operated by an individual,
1-23 religious institution, partnership, association, or corporation,
1-24 or a department, division, or section of one of those entities; and

1-25 (B) designates itself as a private educational
1-26 center that includes a program of elementary, secondary, religious,
1-27 college, or university education whose primary purpose is to
1-28 provide private or religious-based education.

1-29 Sec. 2000.002. FORMATION OF BENEFITS CONSORTIUM. Two or
1-30 more private educational institutions may form a benefits
1-31 consortium for the purpose of establishing a self-funded employee
1-32 welfare benefit plan by adopting articles of incorporation or a
1-33 declaration of trust. The articles of incorporation or declaration
1-34 of trust must:

1-35 (1) limit membership in the benefits consortium to
1-36 private educational institutions;

1-37 (2) list the charter members of the benefits
1-38 consortium;

1-39 (3) include the method by which other institutions may
1-40 be admitted as members of the benefits consortium;

1-41 (4) require that each member agree to an initial
1-42 membership term of not less than three years;

1-43 (5) provide that the directors or trustees of the
1-44 benefits consortium be elected from or on behalf of the membership
1-45 of the benefits consortium and prescribe the method for selection
1-46 of directors or trustees of the benefits consortium;

1-47 (6) provide that the directors or trustees have
1-48 complete fiscal control over the plan and are responsible for all
1-49 operations of the plan;

1-50 (7) list the purposes of the benefits consortium,
1-51 including the types of risks shared by members of the consortium;

1-52 (8) establish bylaws of the benefits consortium; and

1-53 (9) provide for amendment of the articles of
1-54 incorporation or declaration of trust and the bylaws.

1-55 Sec. 2000.003. FILINGS BY BENEFITS CONSORTIUM. A benefits
1-56 consortium formed under this chapter shall:

1-57 (1) file with the commissioner of insurance a copy of
1-58 the consortium's articles of incorporation or declaration of trust
1-59 and any amendments to the articles of incorporation or declaration
1-60 of trust; and

1-61 (2) comply with all reporting requirements under the
1-62 Employee Retirement Income Security Act of 1974 (29 U.S.C. Section
1-63 1001 et seq.).

1-64 Sec. 2000.004. REGULATION OF BENEFITS CONSORTIUM;

2-1 EXEMPTION FROM STATE REGULATION. An employee welfare benefit plan
2-2 established by a benefits consortium under this chapter that is
2-3 sponsored by a trade association in existence for 10 years or more,
2-4 is in good standing with the secretary of state, and meets the
2-5 requirements of this chapter is governed solely by and shall comply
2-6 with the Employee Retirement Income Security Act of 1974 (29 U.S.C.
2-7 Section 1001 et seq.), as implemented by the United States
2-8 Department of Labor.

2-9 SECTION 2. This Act takes effect immediately if it receives
2-10 a vote of two-thirds of all the members elected to each house, as
2-11 provided by Section 39, Article III, Texas Constitution. If this
2-12 Act does not receive the vote necessary for immediate effect, this
2-13 Act takes effect September 1, 2005.

2-14 * * * * *