

BILL ANALYSIS

S.B. 972
By: Averitt
Insurance
Committee Report (Amended)

BACKGROUND AND PURPOSE

The Texas Legislature enacted bills in the past allowing employers to form cooperatives for the purchase of employer health benefit plans in Texas. All three types of cooperatives are private purchasing cooperatives under law, and current law provides for the formation of purchasing cooperatives. Several issues have arisen since private purchasing health care cooperatives were initially formed.

S.B. 972 provides that a health group cooperative that has elected not to restrict its size is recognized as a single large employer group and is authorized to elect to rate each employer group separately within the health group cooperative. The bill requires all health care plans offered to the cooperative to be made available to all employers in the cooperative and allows a sole proprietor to join a health care cooperative if the cooperative elects to allow sole proprietors to join.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of insurance in SECTIONS 3 and 6 of this bill.

ANALYSIS

S.B. 972 amends the Insurance Code to include eligible single-employee businesses that participate in a health group cooperative in the employer groups for which the cooperative is required to arrange for small or large employer health benefit coverage by contracting with certain health benefit plan issuers. The bill defines "eligible single-employee business" to mean a business entity that is owned and operated by a sole proprietor, employed an average of fewer than two employees on business days during the preceding calendar year, and is eligible to participate in a cooperative under the Texas Health Insurance Portability and Availability Act and in accordance with provisions relating to a health group cooperative's election to treat participating employers separately for rating purposes.

S.B. 972 expands the authorized membership of a health group cooperative to allow a cooperative to consist of small employers and eligible single-employee businesses; large employers and eligible single-employee businesses; or a combination of small employers, large employers, and eligible single-employee businesses. The bill exempts a health group cooperative consisting of only large employers, rather than a cooperative consisting of only small employers or both small and large employers, from the requirement that a health group cooperative allow a small employer to join the cooperative and to enroll in health benefit plan coverage and, subject to certain requirements, authorizes eligible single-employee businesses to join a health group cooperative and enroll in health benefit plan coverage. The bill establishes that each health benefit plan offered by a health group cooperative must be made available to all employers participating in, rather than employees covered by, the cooperative. The bill prohibits a health group cooperative consisting of only small employers that elects to restrict its membership from including an eligible single-employee business in its membership.

S.B. 972 authorizes a health group cooperative, with certain exceptions, to file an election with the commissioner of insurance, on a form and in the manner prescribed by the commissioner, to permit eligible single-employee businesses to join the cooperative and to enroll in health benefit plan coverage. The bill requires the election to be filed not later than the 90th day before the date coverage for eligible single-employee businesses is to become effective. The bill authorizes a health group cooperative to file an election under these provisions only if a small or large employer health benefit plan issuer has agreed in writing to offer to issue coverage to the cooperative based on its membership after the election to permit eligible single-employee businesses to participate in the cooperative has become effective.

S.B. 972 establishes that on the date an election to permit eligible single-employee businesses to join the cooperative and to enroll in health benefit plan coverage becomes effective and until the election is rescinded, provisions relating to guaranteed issuance of plans, to rating requirements, and to mandated benefits that are applicable to small employers apply to eligible single-employee businesses that are members of the health group cooperative. The bill requires a health group cooperative that files an election with the commissioner to permit an eligible single-employee business to join the health group cooperative and enroll in health benefit plan coverage to permit participation and enrollment in the cooperative's health benefit plan coverage during the initial enrollment and annual open enrollment periods by each eligible single-employee business that elects to participate and agrees to satisfy the requirements associated with participation in and coverage through the cooperative. The bill provides that certain membership restrictions imposed by a health group cooperative that are applicable to small employers apply to eligible single-employee businesses.

S.B. 972 authorizes a health group cooperative to rescind its election to permit eligible single-employee businesses to join the cooperative and enroll in health benefit plan coverage only if the election has been effective for at least two years, with a certain exception; the health group cooperative files notice of the rescission with the commissioner not later than the 180th day before the effective date of the rescission; and the health group cooperative provides written notice of termination of coverage to all eligible single-employee business members of the cooperative not later than the 180th day before the effective date of the termination. The bill requires the commissioner to adopt rules under which a health group cooperative may rescind its election to permit eligible single-employee businesses to join the cooperative before the second anniversary of the effective date of the election.

S.B. 972 authorizes a health group cooperative that files notice of rescission to choose to permit existing eligible single-employee businesses to remain active, covered members of the cooperative, but only if all such members are provided the same opportunity. The bill prohibits a health group cooperative that has rescinded an election from filing a subsequent election to permit eligible single-employee businesses to join the cooperative and enroll in health benefit plan coverage before the fifth anniversary of the effective date of the rescission.

S.B. 972 makes it an exception to provisions establishing that a health cooperative has sole authority to make benefit elections and perform other administrative functions for the cooperative's participating employers and prohibiting a cooperative from limiting, restricting, or conditioning an employer's or employee's membership in the cooperative or choice among benefit plans that a health group cooperative is authorized to offer more than one health benefit plan but that each plan offered is required to be made available to all employers participating in the cooperative.

S.B. 972 authorizes a health group cooperative to file with the commissioner, on a form and in the manner prescribed by the commissioner, an election to treat participating employers within the cooperative as separate employers for purposes of rating small and large employer health benefit plans, subject to the rating requirements of insurance laws applicable to such plans, and sets out filing requirements for existing health group cooperatives. The bill requires a health

group cooperative to provide to all participating and prospective employers, in a manner prescribed by the commissioner, a written notice of its election to treat participating employers within the cooperative as separate employers for purposes of rating small and large employer health benefit plans. The bill requires employers participating in the cooperative when such an election is made to be provided notice of the election not later than the 90th day before the date the election becomes effective and, for a participating employer, requires the notice to contain the quote for the premium rate applicable to the employer as of the date the plan is renewed. The bill requires a prospective employer to be provided notice of election when the prospective employer applies to become a participating employer in the cooperative. The bill provides that an election is effective either on the date the plan to which the election applies is initially issued or on the date the plan is renewed and remains in effect for not less than 12 months after that date.

S.B. 972 requires the commissioner to adopt rules governing the eligibility of a single-employee business to participate in a health group cooperative under these provisions and requires the rules to ensure that each eligible single-employee business has a business purpose and was not formed solely to obtain such health benefit plan coverage.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

EXPLANATION OF AMENDMENTS

Committee Amendment No. 1.

S.B. 972 is amended to make provisions of the Texas Health Insurance Portability and Availability Act, as amended by this bill, applicable only to an insurance policy, or contract, or evidence of coverage delivered, issued for delivery, or renewed by a health group cooperative that first delivers, issues for delivery, or renews on or after the bill's effective date. The bill is amended to provide that any policy, contract, or evidence of coverage delivered, issued for delivery, or renewed by a health group cooperative that first delivered, issued for delivery, or renewed an insurance policy, or contract, or evidence of coverage prior to the bill's effective date is governed by the law as it existed immediately before that date, and to specify that such law is continued in effect for that purpose.