

By: Averitt, Nelson

S.B. No. 972

A BILL TO BE ENTITLED

AN ACT

relating to small and large employer health group cooperatives.

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

SECTION 1. Section 1501.051, Insurance Code, is amended by redesignating existing Subdivision (3-a) as Subdivision (3-b) and adding a new Subdivision (3-a) to read as follows:

(3-a) "Eligible single-employee business" means a business entity that:

(A) is owned and operated by a sole proprietor;

(B) employed an average of fewer than two employees on business days during the preceding calendar year; and

(C) is eligible to participate in a cooperative under this subchapter in accordance with Section 1501.066.

(3-b) "Expanded service area" means any area larger than one county in which a health group cooperative offers coverage.

SECTION 2. Subsection (a), Section 1501.058, Insurance Code, is amended to read as follows:

(a) A cooperative shall:

(1) arrange for small or large employer health benefit plan coverage for small employer groups, [or] large employer groups, and, subject to Sections 1501.0581(q)-(s), eligible single-employee businesses that participate in the cooperative by contracting with small or large employer health benefit plan

1 issuers that meet the requirements established by Section 1501.061;

2 (2) collect premiums to cover the cost of:

3 (A) small or large employer health benefit plan
4 coverage purchased through the cooperative; and

5 (B) the cooperative's administrative expenses;

6 (3) establish administrative and accounting
7 procedures for the operation of the cooperative;

8 (4) establish procedures under which an applicant for
9 or participant in coverage issued through the cooperative may have
10 a grievance reviewed by an impartial person;

11 (5) contract with small or large employer health
12 benefit plan issuers to provide services to small or large
13 employers covered through the cooperative; and

14 (6) develop and implement a plan to maintain public
15 awareness of the cooperative and publicize the eligibility
16 requirements for, and the procedures for enrollment in, coverage
17 through the cooperative.

18 SECTION 3. Section 1501.0581, Insurance Code, is amended by
19 amending Subsections (a), (b), (k), and (p) and adding Subsections
20 (q) through (x) to read as follows:

21 (a) The membership of a health group cooperative may consist
22 of only small employers; or only large employers; ~~or~~ both small
23 and large employers; small employers and eligible single-employee
24 businesses; large employers and eligible single-employee
25 businesses; or small employers, large employers, and eligible
26 single-employee businesses. To participate as a member of a health
27 group cooperative, an employer must be a small or large employer as

1 described by this chapter or an eligible single-employee business
2 as defined by Section 1501.051(3-a).

3 (b) Subject to the requirements imposed on small employer
4 health benefit plan issuers under Section 1501.101 and subject to
5 Subsections (a-1) and (o), a health group cooperative:

6 (1) shall allow a small employer to join a health group
7 cooperative, except a health group cooperative consisting of only
8 ~~[small employers or both small and]~~ large employers, and to enroll
9 in health benefit plan coverage; ~~[and]~~

10 (2) subject to the requirements of Subsection (t), may
11 allow eligible single-employee businesses to join a health group
12 cooperative and enroll in health benefit plan coverage; and

13 (3) may allow a large employer to join the health group
14 cooperative and enroll in health benefit plan coverage.

15 (k) A health group cooperative may offer more than one
16 health benefit plan, but each plan offered must be made available to
17 all employers participating in ~~[employees covered by]~~ the
18 cooperative.

19 (p) A health group cooperative must make the election
20 described by Subsection (o) at the time the cooperative is
21 initially formed. A health group cooperative making this election
22 may not include an eligible single-employee business. Evidence of
23 the election must be filed in writing with the commissioner in the
24 form and at the time prescribed by the commissioner by rule.

25 (q) Except as provided by Subsection (t), a health group
26 cooperative may file an election with the commissioner, on a form
27 and in the manner prescribed by the commissioner, to permit

1 eligible single-employee businesses to join the cooperative and to
2 enroll in health benefit plan coverage. The election must be filed
3 not later than the 90th day before the date coverage for eligible
4 single-employee businesses is to become effective.

5 (r) A health group cooperative may file an election under
6 Subsection (q) only if a small or large employer health benefit plan
7 issuer has agreed in writing to offer to issue coverage to the
8 cooperative based on its membership after the election to permit
9 eligible single-employee businesses to participate in the
10 cooperative has become effective.

11 (s) On the date an election under Subsection (q) becomes
12 effective and until the election is rescinded, the provisions of
13 this subchapter relating to guaranteed issuance of plans, to rating
14 requirements, and to mandated benefits that are applicable to small
15 employers apply to eligible single-employee businesses that are
16 members of the health group cooperative.

17 (t) A health group cooperative that files an election with
18 the commissioner to permit an eligible single-employee business to
19 join the health group cooperative and enroll in health benefit plan
20 coverage must permit participation and enrollment in the
21 cooperative's health benefit plan coverage during the initial
22 enrollment and annual open enrollment periods by each eligible
23 single-employee business that elects to participate and agrees to
24 satisfy requirements associated with participation in and coverage
25 through the cooperative. For purposes of this subsection, the
26 provisions of Subsection (a-1) applicable to small employers
27 applies to eligible single-employee businesses.

1 (u) A health group cooperative may rescind its election to
2 permit eligible single-employee businesses to join the cooperative
3 and enroll in health benefit plan coverage only if:

4 (1) the election has been effective for at least two
5 years, except as provided by Subsection (v);

6 (2) the health group cooperative files notice of the
7 rescission with the commissioner not later than the 180th day
8 before the effective date of the rescission; and

9 (3) the health group cooperative provides written
10 notice of termination of coverage to all eligible single-employee
11 business members of the cooperative not later than the 180th day
12 before the effective date of the termination.

13 (v) The commissioner shall adopt rules under which a health
14 group cooperative may rescind an election described by Subsection
15 (u) before the second anniversary of the effective date of the
16 election.

17 (w) Notwithstanding Subsection (u), a health group
18 cooperative that files notice of rescission may choose to permit
19 existing eligible single-employee businesses to remain active,
20 covered members of the cooperative, but only if all such members of
21 the cooperative are provided the same opportunity.

22 (x) A health group cooperative that has rescinded an
23 election under Subsection (u) may not file a subsequent election to
24 permit eligible single-employee businesses to join the cooperative
25 and enroll in health benefit plan coverage before the fifth
26 anniversary of the effective date of the rescission.

27 SECTION 4. Subsection (b-3), Section 1501.063, Insurance

1 Code, is amended to read as follows:

2 (b-3) Except as provided by Section 1501.0581(k), a [A]
3 health group cooperative shall have sole authority to make benefit
4 elections and perform other administrative functions under this
5 code for the cooperative's participating employers.

6 SECTION 5. Section 1501.065, Insurance Code, is amended to
7 read as follows:

8 Sec. 1501.065. CERTAIN ACTIONS BASED ON RISK
9 CHARACTERISTICS OR HEALTH STATUS PROHIBITED. A cooperative may not
10 limit, restrict, or condition an employer's or employee's
11 membership in a cooperative or, except as provided by Section
12 1501.0581(k), an employer's or employee's choice among benefit
13 plans based on:

14 (1) risk characteristics of a group or of any member of
15 a group; or

16 (2) health status related factors, duration of
17 coverage, or any similar characteristic related to the health
18 status or experience of a group or of any member of a group.

19 SECTION 6. Subchapter B, Chapter 1501, Insurance Code, is
20 amended by adding Sections 1501.066 and 1501.067 to read as
21 follows:

22 Sec. 1501.066. ELECTION TO TREAT PARTICIPATING EMPLOYERS
23 SEPARATELY FOR RATING PURPOSES. (a) Notwithstanding Section
24 1501.063, a health group cooperative may file with the
25 commissioner, on a form and in the manner prescribed by the
26 commissioner, an election to treat participating employers within
27 the cooperative as separate employers for purposes of rating small

1 and large employer health benefit plans, subject to the rating
2 requirements of this code applicable to such plans. An existing
3 health group cooperative must file the election with the department
4 not later than the 90th day before the date on which the election is
5 to become effective.

6 (b) A health group cooperative must provide to all
7 participating and prospective employers, in a manner prescribed by
8 the commissioner, a written notice of its election to treat
9 participating employers within the cooperative as separate
10 employers for purposes of rating small and large employer health
11 benefit plans. Employers participating in the cooperative when
12 such an election is made must be provided notice of the election not
13 later than the 90th day before the date the election is to become
14 effective. For a participating employer, the notice must contain
15 the quote for the premium rate applicable to the employer as of the
16 date the plan is renewed. Prospective employers must be provided
17 notice of the election when the prospective employer applies to
18 become a participating employer in the health group cooperative.

19 (c) An election under this section is effective either on
20 the date the plan to which the election applies is initially issued
21 or on the date the plan is renewed and remains in effect for not less
22 than 12 months after that date.

23 Sec. 1501.067. ELIGIBLE SINGLE-EMPLOYEE BUSINESS. The
24 commissioner shall adopt rules governing the eligibility of a
25 single-employee business to participate in a health group
26 cooperative under this subchapter. The rules must include
27 provisions to ensure that each eligible single-employee business

1 has a business purpose and was not formed solely to obtain health
2 benefit plan coverage under this subchapter.

3 SECTION 7. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2009.

COMMITTEE AMENDMENT NO. 1

Amend S.B. 972 (engrossed) as follows:

(1) On page 8, between lines 2 and 3, insert the following:

SECTION 7. Chapter 1501, Insurance Code, as amended by this Act, applies 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 effective date of this Act. 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 effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(2) On page 8, line 3, strike "SECTION 7" and substitute "SECTION 8".

Smithee