

1-1 By: Averitt, Nelson S.B. No. 972
1-2 (In the Senate - Filed February 19, 2009; March 9, 2009, read
1-3 first time and referred to Committee on State Affairs;
1-4 March 26, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; March 26, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 972 By: Lucio

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to small and large employer health group cooperatives.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. Section 1501.051, Insurance Code, is amended by
1-13 redesignating existing Subdivision (3-a) as Subdivision (3-b) and
1-14 adding a new Subdivision (3-a) to read as follows:
1-15 (3-a) "Eligible single-employee business" means a
1-16 business entity that:
1-17 (A) is owned and operated by a sole proprietor;
1-18 (B) employed an average of fewer than two
1-19 employees on business days during the preceding calendar year; and
1-20 (C) is eligible to participate in a cooperative
1-21 under this subchapter in accordance with Section 1501.066.
1-22 (3-b) "Expanded service area" means any area larger
1-23 than one county in which a health group cooperative offers
1-24 coverage.
1-25 SECTION 2. Subsection (a), Section 1501.058, Insurance
1-26 Code, is amended to read as follows:
1-27 (a) A cooperative shall:
1-28 (1) arrange for small or large employer health benefit
1-29 plan coverage for small employer groups, ~~or~~ large employer
1-30 groups, and, subject to Sections 1501.0581(q)-(s), eligible
1-31 single-employee businesses that participate in the cooperative by
1-32 contracting with small or large employer health benefit plan
1-33 issuers that meet the requirements established by Section 1501.061;
1-34 (2) collect premiums to cover the cost of:
1-35 (A) small or large employer health benefit plan
1-36 coverage purchased through the cooperative; and
1-37 (B) the cooperative's administrative expenses;
1-38 (3) establish administrative and accounting
1-39 procedures for the operation of the cooperative;
1-40 (4) establish procedures under which an applicant for
1-41 or participant in coverage issued through the cooperative may have
1-42 a grievance reviewed by an impartial person;
1-43 (5) contract with small or large employer health
1-44 benefit plan issuers to provide services to small or large
1-45 employers covered through the cooperative; and
1-46 (6) develop and implement a plan to maintain public
1-47 awareness of the cooperative and publicize the eligibility
1-48 requirements for, and the procedures for enrollment in, coverage
1-49 through the cooperative.
1-50 SECTION 3. Section 1501.0581, Insurance Code, is amended by
1-51 amending Subsections (a), (b), (k), and (p) and adding Subsections
1-52 (q) through (x) to read as follows:
1-53 (a) The membership of a health group cooperative may consist
1-54 of only small employers; only large employers; ~~or~~ both small
1-55 and large employers; small employers and eligible single-employee
1-56 businesses; large employers and eligible single-employee
1-57 businesses; or small employers, large employers, and eligible
1-58 single-employee businesses. To participate as a member of a health
1-59 group cooperative, an employer must be a small or large employer as
1-60 described by this chapter or an eligible single-employee business
1-61 as defined by Section 1501.051(3-a).
1-62 (b) Subject to the requirements imposed on small employer
1-63 health benefit plan issuers under Section 1501.101 and subject to

2-1 Subsections (a-1) and (o), a health group cooperative:

2-2 (1) shall allow a small employer to join a health group
2-3 cooperative, except a health group cooperative consisting of only
2-4 [small employers or both small and] large employers, and to enroll
2-5 in health benefit plan coverage; [and]

2-6 (2) subject to the requirements of Subsection (t), may
2-7 allow eligible single-employee businesses to join a health group
2-8 cooperative and enroll in health benefit plan coverage; and

2-9 (3) may allow a large employer to join the health group
2-10 cooperative and enroll in health benefit plan coverage.

2-11 (k) A health group cooperative may offer more than one
2-12 health benefit plan, but each plan offered must be made available to
2-13 all employers participating in [employees covered by] the
2-14 cooperative.

2-15 (p) A health group cooperative must make the election
2-16 described by Subsection (o) at the time the cooperative is
2-17 initially formed. A health group cooperative making this election
2-18 may not include an eligible single-employee business. Evidence of
2-19 the election must be filed in writing with the commissioner in the
2-20 form and at the time prescribed by the commissioner by rule.

2-21 (q) Except as provided by Subsection (t), a health group
2-22 cooperative may file an election with the commissioner, on a form
2-23 and in the manner prescribed by the commissioner, to permit
2-24 eligible single-employee businesses to join the cooperative and to
2-25 enroll in health benefit plan coverage. The election must be filed
2-26 not later than the 90th day before the date coverage for eligible
2-27 single-employee businesses is to become effective.

2-28 (r) A health group cooperative may file an election under
2-29 Subsection (q) only if a small or large employer health benefit plan
2-30 issuer has agreed in writing to offer to issue coverage to the
2-31 cooperative based on its membership after the election to permit
2-32 eligible single-employee businesses to participate in the
2-33 cooperative has become effective.

2-34 (s) On the date an election under Subsection (q) becomes
2-35 effective and until the election is rescinded, the provisions of
2-36 this subchapter relating to guaranteed issuance of plans, to rating
2-37 requirements, and to mandated benefits that are applicable to small
2-38 employers apply to eligible single-employee businesses that are
2-39 members of the health group cooperative.

2-40 (t) A health group cooperative that files an election with
2-41 the commissioner to permit an eligible single-employee business to
2-42 join the health group cooperative and enroll in health benefit plan
2-43 coverage must permit participation and enrollment in the
2-44 cooperative's health benefit plan coverage during the initial
2-45 enrollment and annual open enrollment periods by each eligible
2-46 single-employee business that elects to participate and agrees to
2-47 satisfy requirements associated with participation in and coverage
2-48 through the cooperative. For purposes of this subsection, the
2-49 provisions of Subsection (a-1) applicable to small employers
2-50 applies to eligible single-employee businesses.

2-51 (u) A health group cooperative may rescind its election to
2-52 permit eligible single-employee businesses to join the cooperative
2-53 and enroll in health benefit plan coverage only if:

2-54 (1) the election has been effective for at least two
2-55 years, except as provided by Subsection (v);

2-56 (2) the health group cooperative files notice of the
2-57 rescission with the commissioner not later than the 180th day
2-58 before the effective date of the rescission; and

2-59 (3) the health group cooperative provides written
2-60 notice of termination of coverage to all eligible single-employee
2-61 business members of the cooperative not later than the 180th day
2-62 before the effective date of the termination.

2-63 (v) The commissioner shall adopt rules under which a health
2-64 group cooperative may rescind an election described by Subsection
2-65 (u) before the second anniversary of the effective date of the
2-66 election.

2-67 (w) Notwithstanding Subsection (u), a health group
2-68 cooperative that files notice of rescission may choose to permit
2-69 existing eligible single-employee businesses to remain active,
2-70 covered members of the cooperative, but only if all such members of

3-1 the cooperative are provided the same opportunity.

3-2 (x) A health group cooperative that has rescinded an
3-3 election under Subsection (u) may not file a subsequent election to
3-4 permit eligible single-employee businesses to join the cooperative
3-5 and enroll in health benefit plan coverage before the fifth
3-6 anniversary of the effective date of the rescission.

3-7 SECTION 4. Subsection (b-3), Section 1501.063, Insurance
3-8 Code, is amended to read as follows:

3-9 (b-3) Except as provided by Section 1501.0581(k), a [A]
3-10 health group cooperative shall have sole authority to make benefit
3-11 elections and perform other administrative functions under this
3-12 code for the cooperative's participating employers.

3-13 SECTION 5. Section 1501.065, Insurance Code, is amended to
3-14 read as follows:

3-15 Sec. 1501.065. CERTAIN ACTIONS BASED ON RISK
3-16 CHARACTERISTICS OR HEALTH STATUS PROHIBITED. A cooperative may not
3-17 limit, restrict, or condition an employer's or employee's
3-18 membership in a cooperative or, except as provided by Section
3-19 1501.0581(k), an employer's or employee's choice among benefit
3-20 plans based on:

3-21 (1) risk characteristics of a group or of any member of
3-22 a group; or

3-23 (2) health status related factors, duration of
3-24 coverage, or any similar characteristic related to the health
3-25 status or experience of a group or of any member of a group.

3-26 SECTION 6. Subchapter B, Chapter 1501, Insurance Code, is
3-27 amended by adding Sections 1501.066 and 1501.067 to read as
3-28 follows:

3-29 Sec. 1501.066. ELECTION TO TREAT PARTICIPATING EMPLOYERS
3-30 SEPARATELY FOR RATING PURPOSES. (a) Notwithstanding Section
3-31 1501.063, a health group cooperative may file with the
3-32 commissioner, on a form and in the manner prescribed by the
3-33 commissioner, an election to treat participating employers within
3-34 the cooperative as separate employers for purposes of rating small
3-35 and large employer health benefit plans, subject to the rating
3-36 requirements of this code applicable to such plans. An existing
3-37 health group cooperative must file the election with the department
3-38 not later than the 90th day before the date on which the election is
3-39 to become effective.

3-40 (b) A health group cooperative must provide to all
3-41 participating and prospective employers, in a manner prescribed by
3-42 the commissioner, a written notice of its election to treat
3-43 participating employers within the cooperative as separate
3-44 employers for purposes of rating small and large employer health
3-45 benefit plans. Employers participating in the cooperative when
3-46 such an election is made must be provided notice of the election not
3-47 later than the 90th day before the date the election is to become
3-48 effective. For a participating employer, the notice must contain
3-49 the quote for the premium rate applicable to the employer as of the
3-50 date the plan is renewed. Prospective employers must be provided
3-51 notice of the election when the prospective employer applies to
3-52 become a participating employer in the health group cooperative.

3-53 (c) An election under this section is effective either on
3-54 the date the plan to which the election applies is initially issued
3-55 or on the date the plan is renewed and remains in effect for not less
3-56 than 12 months after that date.

3-57 Sec. 1501.067. ELIGIBLE SINGLE-EMPLOYEE BUSINESS. The
3-58 commissioner shall adopt rules governing the eligibility of a
3-59 single-employee business to participate in a health group
3-60 cooperative under this subchapter. The rules must include
3-61 provisions to ensure that each eligible single-employee business
3-62 has a business purpose and was not formed solely to obtain health
3-63 benefit plan coverage under this subchapter.

3-64 SECTION 7. This Act takes effect immediately if it receives
3-65 a vote of two-thirds of all the members elected to each house, as
3-66 provided by Section 39, Article III, Texas Constitution. If this
3-67 Act does not receive the vote necessary for immediate effect, this
3-68 Act takes effect September 1, 2009.

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