

AN ACT

relating to small and large employer health group cooperatives and to employer contributions to individual health insurance policies.

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

SECTION 1. Section 1501.051, Insurance Code, is amended by amending Subdivision (3-a) and adding Subdivision (3-b) 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 Section 1501.0581, eligible single-employee businesses that participate in the cooperative by

1 contracting with small or large employer health benefit plan  
2 issuers that meet the requirements established by Section 1501.061;

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

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

6 (B) the cooperative's administrative expenses;

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

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

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

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

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

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

1 group cooperative, an employer must be a small or large employer as  
2 described by this chapter or an eligible single-employee business.

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, other than a health group cooperative consisting of  
8 only [~~small employers or both small and~~] large employers, and  
9 enroll in health benefit plan coverage; [~~and~~]

10 (2) subject to Subsection (t), may allow eligible  
11 single-employee businesses to join a health group cooperative and  
12 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 (r), 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 apply  
27 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 for good cause rescind an election described  
15 by Subsection (u) before the second anniversary of the effective  
16 date of the 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 an employee's choice among benefit  
12 plans based on:

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

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

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

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

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

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

18 (c) An election under this section is effective on the  
19 earliest date after the election is made on which the plan to which  
20 the election applies is initially issued or renewed. The election  
21 remains in effect for not less than 12 months after the effective  
22 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. Subtitle A, Title 8, Insurance Code, is amended  
4 by adding Chapter 1221 to read as follows:

5 CHAPTER 1221. EMPLOYER CONTRIBUTIONS TO INDIVIDUAL HEALTH

6 INSURANCE POLICIES

7 Sec. 1221.001. RULES; EMPLOYER CONTRIBUTIONS. The  
8 commissioner by rule, unless it would violate state or federal law,  
9 may develop procedures to allow an employer to make financial  
10 contributions to or premium payments for an employee or retiree's  
11 individual consumer directed health insurance policy in a manner  
12 that eliminates or minimizes the state or federal tax consequences,  
13 or provides positive state or federal tax consequences, to the  
14 employer.

15 SECTION 8. This Act takes effect immediately if it receives  
16 a vote of two-thirds of all the members elected to each house, as  
17 provided by Section 39, Article III, Texas Constitution. If this  
18 Act does not receive the vote necessary for immediate effect, this  
19 Act takes effect September 1, 2011.



\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 859 passed the Senate on March 24, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 27, 2011, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 859 passed the House, with amendment, on May 23, 2011, by the following vote: Yeas 146, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor