

By: Duncan, Hegar, Nelson  
(Smithee)

S.B. No. 859

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

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

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

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

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

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

24 (q) Except as provided by Subsection (r), a health group  
25 cooperative may file an election with the commissioner, on a form  
26 and in the manner prescribed by the commissioner, to permit  
27 eligible single-employee businesses to join the cooperative and to

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

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

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

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

27 (u) A health group cooperative may rescind its election to

1 permit eligible single-employee businesses to join the cooperative  
2 and enroll in health benefit plan coverage only if:

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

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

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

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

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

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

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

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

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

7           Sec. 1501.065. CERTAIN ACTIONS BASED ON RISK  
8 CHARACTERISTICS OR HEALTH STATUS PROHIBITED. A cooperative may not  
9 limit, restrict, or condition an employer's or employee's  
10 membership in a cooperative or an employee's choice among benefit  
11 plans based on:

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

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

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

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

1 existing health group cooperative must file the election with the  
2 department not later than the 90th day before the date on which the  
3 election is to become effective.

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

17 (c) An election under this section is effective on the  
18 earliest date after the election is made on which the plan to which  
19 the election applies is initially issued or renewed. The election  
20 remains in effect for not less than 12 months after the effective  
21 date.

22 Sec. 1501.067. ELIGIBLE SINGLE-EMPLOYEE BUSINESS. The  
23 commissioner shall adopt rules governing the eligibility of a  
24 single-employee business to participate in a health group  
25 cooperative under this subchapter. The rules must include  
26 provisions to ensure that each eligible single-employee business  
27 has a business purpose and was not formed solely to obtain health

1 benefit plan coverage under this subchapter.

2           SECTION 7. This Act takes effect immediately if it receives  
3 a vote of two-thirds of all the members elected to each house, as  
4 provided by Section 39, Article III, Texas Constitution. If this  
5 Act does not receive the vote necessary for immediate effect, this  
6 Act takes effect September 1, 2011.