

1-1 By: Duncan, Hegar, Nelson S.B. No. 859
1-2 (In the Senate - Filed February 22, 2011; March 1, 2011,
1-3 read first time and referred to Committee on State Affairs;
1-4 March 15, 2011, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; March 15, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to small and large employer health group cooperatives.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 1501.051, Insurance Code, is amended by
1-11 amending Subdivision (3-a) and adding Subdivision (3-b) to read as
1-12 follows:

1-13 (3-a) "Eligible single-employee business" means a
1-14 business entity that:

1-15 (A) is owned and operated by a sole proprietor;

1-16 (B) employed an average of fewer than two
1-17 employees on business days during the preceding calendar year; and

1-18 (C) is eligible to participate in a cooperative
1-19 under this subchapter in accordance with Section 1501.066.

1-20 (3-b) "Expanded service area" means any area larger
1-21 than one county in which a health group cooperative offers
1-22 coverage.

1-23 SECTION 2. Subsection (a), Section 1501.058, Insurance
1-24 Code, is amended to read as follows:

1-25 (a) A cooperative shall:

1-26 (1) arrange for small or large employer health benefit
1-27 plan coverage for small employer groups, ~~or~~ large employer
1-28 groups, and, subject to Section 1501.0581, eligible
1-29 single-employee businesses that participate in the cooperative by
1-30 contracting with small or large employer health benefit plan
1-31 issuers that meet the requirements established by Section 1501.061;

1-32 (2) collect premiums to cover the cost of:

1-33 (A) small or large employer health benefit plan
1-34 coverage purchased through the cooperative; and

1-35 (B) the cooperative's administrative expenses;

1-36 (3) establish administrative and accounting
1-37 procedures for the operation of the cooperative;

1-38 (4) establish procedures under which an applicant for
1-39 or participant in coverage issued through the cooperative may have
1-40 a grievance reviewed by an impartial person;

1-41 (5) contract with small or large employer health
1-42 benefit plan issuers to provide services to small or large
1-43 employers covered through the cooperative; and

1-44 (6) develop and implement a plan to maintain public
1-45 awareness of the cooperative and publicize the eligibility
1-46 requirements for, and the procedures for enrollment in, coverage
1-47 through the cooperative.

1-48 SECTION 3. Section 1501.0581, Insurance Code, is amended by
1-49 amending Subsections (a), (b), (k), and (p) and adding Subsections
1-50 (q) through (x) to read as follows:

1-51 (a) The membership of a health group cooperative may consist
1-52 of only small employers; ~~or~~ only large employers; ~~or~~ both small
1-53 and large employers; small employers and eligible single-employee
1-54 businesses; large employers and eligible single-employee
1-55 businesses; or small employers, large employers, and eligible
1-56 single-employee businesses. To participate as a member of a health
1-57 group cooperative, an employer must be a small or large employer as
1-58 described by this chapter or an eligible single-employee business.

1-59 (b) Subject to the requirements imposed on small employer
1-60 health benefit plan issuers under Section 1501.101 and subject to
1-61 Subsections (a-1) and (o), a health group cooperative:

1-62 (1) shall allow a small employer to join a health group
1-63 cooperative, other than a health group cooperative consisting of
1-64 only ~~small employers or both small and~~ large employers, and

2-1 enroll in health benefit plan coverage; ~~and~~

2-2 (2) subject to Subsection (t), may allow eligible
 2-3 single-employee businesses to join a health group cooperative and
 2-4 enroll in health benefit plan coverage; and

2-5 (3) may allow a large employer to join the health group
 2-6 cooperative and enroll in health benefit plan coverage.

2-7 (k) A health group cooperative may offer more than one
 2-8 health benefit plan, but each plan offered must be made available to
 2-9 all employers participating in ~~employees covered by~~ the
 2-10 cooperative.

2-11 (p) A health group cooperative must make the election
 2-12 described by Subsection (o) at the time the cooperative is
 2-13 initially formed. A health group cooperative making this election
 2-14 may not include an eligible single-employee business. Evidence of
 2-15 the election must be filed in writing with the commissioner in the
 2-16 form and at the time prescribed by the commissioner by rule.

2-17 (q) Except as provided by Subsection (r), a health group
 2-18 cooperative may file an election with the commissioner, on a form
 2-19 and in the manner prescribed by the commissioner, to permit
 2-20 eligible single-employee businesses to join the cooperative and to
 2-21 enroll in health benefit plan coverage. The election must be filed
 2-22 not later than the 90th day before the date coverage for eligible
 2-23 single-employee businesses is to become effective.

2-24 (r) A health group cooperative may file an election under
 2-25 Subsection (q) only if a small or large employer health benefit plan
 2-26 issuer has agreed in writing to offer to issue coverage to the
 2-27 cooperative based on its membership after the election to permit
 2-28 eligible single-employee businesses to participate in the
 2-29 cooperative has become effective.

2-30 (s) On the date an election under Subsection (q) becomes
 2-31 effective and until the election is rescinded, the provisions of
 2-32 this subchapter relating to guaranteed issuance of plans, to rating
 2-33 requirements, and to mandated benefits that are applicable to small
 2-34 employers apply to eligible single-employee businesses that are
 2-35 members of the health group cooperative.

2-36 (t) A health group cooperative that files an election with
 2-37 the commissioner to permit an eligible single-employee business to
 2-38 join the health group cooperative and enroll in health benefit plan
 2-39 coverage must permit participation and enrollment in the
 2-40 cooperative's health benefit plan coverage during the initial
 2-41 enrollment and annual open enrollment periods by each eligible
 2-42 single-employee business that elects to participate and agrees to
 2-43 satisfy requirements associated with participation in and coverage
 2-44 through the cooperative. For purposes of this subsection, the
 2-45 provisions of Subsection (a-1) applicable to small employers apply
 2-46 to eligible single-employee businesses.

2-47 (u) A health group cooperative may rescind its election to
 2-48 permit eligible single-employee businesses to join the cooperative
 2-49 and enroll in health benefit plan coverage only if:

2-50 (1) the election has been effective for at least two
 2-51 years, except as provided by Subsection (v);

2-52 (2) the health group cooperative files notice of the
 2-53 rescission with the commissioner not later than the 180th day
 2-54 before the effective date of the rescission; and

2-55 (3) the health group cooperative provides written
 2-56 notice of termination of coverage to all eligible single-employee
 2-57 business members of the cooperative not later than the 180th day
 2-58 before the effective date of the termination.

2-59 (v) The commissioner shall adopt rules under which a health
 2-60 group cooperative may for good cause rescind an election described
 2-61 by Subsection (u) before the second anniversary of the effective
 2-62 date of the election.

2-63 (w) Notwithstanding Subsection (u), a health group
 2-64 cooperative that files notice of rescission may choose to permit
 2-65 existing eligible single-employee businesses to remain active,
 2-66 covered members of the cooperative, but only if all such members of
 2-67 the cooperative are provided the same opportunity.

2-68 (x) A health group cooperative that has rescinded an
 2-69 election under Subsection (u) may not file a subsequent election to

3-1 permit eligible single-employee businesses to join the cooperative
3-2 and enroll in health benefit plan coverage before the fifth
3-3 anniversary of the effective date of the rescission.

3-4 SECTION 4. Subsection (b-3), Section 1501.063, Insurance
3-5 Code, is amended to read as follows:

3-6 (b-3) Except as provided by Section 1501.0581(k), a [A]
3-7 health group cooperative shall have sole authority to make benefit
3-8 elections and perform other administrative functions under this
3-9 code for the cooperative's participating employers.

3-10 SECTION 5. Section 1501.065, Insurance Code, is amended to
3-11 read as follows:

3-12 Sec. 1501.065. CERTAIN ACTIONS BASED ON RISK
3-13 CHARACTERISTICS OR HEALTH STATUS PROHIBITED. A cooperative may not
3-14 limit, restrict, or condition an employer's or employee's
3-15 membership in a cooperative or an employee's choice among benefit
3-16 plans based on:

3-17 (1) risk characteristics of a group or of any member of
3-18 a group; or

3-19 (2) health status related factors, duration of
3-20 coverage, or any similar characteristic related to the health
3-21 status or experience of a group or of any member of a group.

3-22 SECTION 6. Subchapter B, Chapter 1501, Insurance Code, is
3-23 amended by adding Sections 1501.066 and 1501.067 to read as
3-24 follows:

3-25 Sec. 1501.066. ELECTION TO TREAT PARTICIPATING EMPLOYERS
3-26 SEPARATELY FOR RATING PURPOSES. (a) Notwithstanding Section
3-27 1501.063, a health group cooperative may file with the
3-28 commissioner, on a form and in the manner prescribed by the
3-29 commissioner, an election to treat each participating employer
3-30 within the cooperative as a separate employer for purposes of
3-31 rating small and large employer health benefit plans, subject to
3-32 the rating requirements of this code applicable to such plans. An
3-33 existing health group cooperative must file the election with the
3-34 department not later than the 90th day before the date on which the
3-35 election is to become effective.

3-36 (b) A health group cooperative must provide to all
3-37 participating and prospective employers, in a manner prescribed by
3-38 the commissioner, a written notice of the cooperative's election to
3-39 treat participating employers within the cooperative as separate
3-40 employers for purposes of rating small and large employer health
3-41 benefit plans. Employers participating in the cooperative when
3-42 such an election is made must be provided notice of the election not
3-43 later than the 90th day before the date the election is to become
3-44 effective. For a participating employer, the notice must contain
3-45 the quote for the premium rate applicable to the employer as of the
3-46 date the plan is renewed. Prospective employers must be provided
3-47 notice of the election when the prospective employer applies to
3-48 become a participating employer in the health group cooperative.

3-49 (c) An election under this section is effective on the
3-50 earliest date after the election is made on which the plan to which
3-51 the election applies is initially issued or renewed. The election
3-52 remains in effect for not less than 12 months after the effective
3-53 date.

3-54 Sec. 1501.067. ELIGIBLE SINGLE-EMPLOYEE BUSINESS. The
3-55 commissioner shall adopt rules governing the eligibility of a
3-56 single-employee business to participate in a health group
3-57 cooperative under this subchapter. The rules must include
3-58 provisions to ensure that each eligible single-employee business
3-59 has a business purpose and was not formed solely to obtain health
3-60 benefit plan coverage under this subchapter.

3-61 SECTION 7. This Act takes effect immediately if it receives
3-62 a vote of two-thirds of all the members elected to each house, as
3-63 provided by Section 39, Article III, Texas Constitution. If this
3-64 Act does not receive the vote necessary for immediate effect, this
3-65 Act takes effect September 1, 2011.

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