

AN ACT

relating to who is an employee for large and small employers for health benefit plans.

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

SECTION 1. Subdivisions (8), (13), and (14), Section 1501.002, Insurance Code, are amended to read as follows:

(8) "Large employer" means a person who employed an average of at least 51 ~~eligible~~ employees on business days during the preceding calendar year and who employs at least two employees on the first day of the plan year. The term includes a governmental entity subject to Article 3.51-1, 3.51-4, or 3.51-5, to Subchapter C, Chapter 1364, to Chapter 1578, or to Chapter 177, Local Government Code, that otherwise meets the requirements of this subdivision. For purposes of this definition, a partnership is the employer of a partner.

(13) "Premium" means all amounts paid by a small or large employer and ~~eligible~~ employees as a condition of receiving coverage from a small or large employer health benefit plan issuer, including any fees or other contributions associated with a health benefit plan.

(14) "Small employer" means a person who employed an average of at least two employees but not more than 50 ~~eligible~~ employees on business days during the preceding calendar year and who employs at least two employees on the first day of the plan

1 year. The term includes a governmental entity subject to Article  
2 3.51-1, 3.51-4, or 3.51-5, to Subchapter C, Chapter 1364, to  
3 Chapter 1578, or to Chapter 177, Local Government Code, that  
4 otherwise meets the requirements of this subdivision. For purposes  
5 of this definition, a partnership is the employer of a partner.

6 SECTION 2. Section 1501.003, Insurance Code, is amended to  
7 read as follows:

8 Sec. 1501.003. APPLICABILITY: SMALL EMPLOYER HEALTH  
9 BENEFIT PLANS. An individual or group health benefit plan is a  
10 small employer health benefit plan subject to Subchapters C-H if it  
11 provides health care benefits covering two or more [~~eligible~~]  
12 employees of a small employer and:

13 (1) the employer pays a portion of the premium or  
14 benefits;

15 (2) the employer or a covered individual treats the  
16 health benefit plan as part of a plan or program for purposes of  
17 Section 106 or 162, Internal Revenue Code of 1986 (26 U.S.C. Section  
18 106 or 162); or

19 (3) the health benefit plan is an employee welfare  
20 benefit plan under 29 C.F.R. Section 2510.3-1(j).

21 SECTION 3. Section 1501.004, Insurance Code, is amended to  
22 read as follows:

23 Sec. 1501.004. APPLICABILITY: LARGE EMPLOYER HEALTH  
24 BENEFIT PLANS. An individual or group health benefit plan is a  
25 large employer health benefit plan subject to Subchapters C and M if  
26 the plan provides health care benefits to [~~eligible~~] employees of a  
27 large employer and:

1           (1) the employer pays a portion of the premium or  
2 benefits;

3           (2) the employer or a covered individual treats the  
4 health benefit plan as part of a plan or program for purposes of  
5 Section 106 or 162, Internal Revenue Code of 1986 (26 U.S.C. Section  
6 106 or 162); or

7           (3) the health benefit plan is an employee welfare  
8 benefit plan under 29 C.F.R. Section 2510.3-1(j).

9           SECTION 4. Subsection (a), Section 1501.009, Insurance  
10 Code, is amended to read as follows:

11           (a) An independent school district may elect to participate  
12 as a small employer without regard to the number of [~~eligible~~]  
13 employees in the district. An independent school district that  
14 makes the election is treated as a small employer under this chapter  
15 for all purposes.

16           SECTION 5. Subsections (a) and (b), Section 1501.011,  
17 Insurance Code, are amended to read as follows:

18           (a) For an employer that did not exist throughout the  
19 calendar year preceding the year in which the determination of  
20 whether the employer is a small employer is made, the determination  
21 is based on the average number of employees [~~and eligible~~  
22 ~~employees~~] the employer reasonably expects to employ on business  
23 days in the calendar year in which the determination is made.

24           (b) For an employer that did not exist throughout the  
25 calendar year preceding the year in which the determination of  
26 whether the employer is a large employer is made, the determination  
27 is based on the average number of [~~eligible~~] employees the employer

1 reasonably expects to employ on business days in the calendar year  
2 in which the determination is made.

3         SECTION 6. The change in law made by this Act applies only  
4 to a health benefit plan delivered, issued for delivery, or renewed  
5 on or after January 1, 2014. A plan that is delivered, issued for  
6 delivery, or renewed before January 1, 2014, is governed by the law  
7 in effect immediately before the effective date of this Act, and  
8 that law continues in effect for that purpose.

9         SECTION 7. This Act takes effect September 1, 2013.

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

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

I hereby certify that S.B. No. 1332 passed the Senate on April 11, 2013, by the following vote: Yeas 31, Nays 0.

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

I hereby certify that S.B. No. 1332 passed the House on May 10, 2013, by the following vote: Yeas 137, Nays 6, two present not voting.

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

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor