

BILL ANALYSIS

Senate Research Center
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H.B. 3923
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Business & Commerce
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Multiple employer welfare agreements offer a way for small businesses and sole proprietorships to join together and negotiate better rates when buying health insurance coverage, thus allowing them to secure coverage for their employees that is comparable to that offered under large employer group plans. The United States Department of Labor has finalized new rules establishing more flexible criteria for these arrangements under the federal Employee Retirement Income Security Act of 1974 that make it easier for employers that share a common profession or geographic location to form an arrangement together. H.B. 3923 seeks to bring state law more in line with these new federal regulations so as to provide this flexibility to employers in Texas.

H.B. 3923 amends current law relating to multiple employer welfare arrangements.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 846, Insurance Code, by adding Section 846.0035, as follows:

Sec. 846.0035. **APPLICABILITY OF CERTAIN LAWS TO ASSOCIATION PROVIDING HEALTH BENEFITS.** (a) Provides that this section applies only to a multiple employer welfare arrangement:

(1) that was issued an initial certificate of authority under Section 846.054 (Issuance of Initial Certificate of Authority) on or after January 1, 2022; or

(2) that elects to be bound by this section in the manner prescribed by the commissioner of insurance (commissioner).

(b) Provides that a multiple employer welfare arrangement that provides a comprehensive health benefit plan, as determined by the commissioner, is subject to the following laws as if the arrangement were an insurer, individuals entitled to coverage under the plan were insureds, and the health benefits were provided through an insurance policy:

(1) Chapter 421 (Reserves in General);

(2) Chapter 422 (Asset Protection Act);

(3) Subchapters C (Selection of Practitioners), F (Access to Obstetrical or Gynecological Care), and K (Health Care Provider Directories), Chapter 1451 (Access to Certain Practitioners and Facilities); and

(4) Chapter 4201 (Utilization Review Agents).

(c) Provides that a multiple employer welfare arrangement that provides a comprehensive health benefit plan, as determined by the commissioner, that is determined by the commissioner to be structured in the manner of a preferred provider benefit plan or an exclusive provider benefit plan as defined in Section 1301.001 (Definitions) is subject to the following laws as if the arrangement were an insurer, individuals entitled to coverage under the plan were insureds, and the health benefits were provided through an insurance policy:

(1) Chapter 1301 (Preferred Provider Benefit Plans); and

(2) Chapter 1467 (Out-of-Network Claim Dispute Resolution).

SECTION 2. Amends Section 846.052(b), Insurance Code, as follows:

(b) Requires that the application form for an initial certificate of authority be completed and submitted along with all information required by the commissioner, including demonstration by the applicant that the arrangement is in compliance with all applicable federal and state laws, rather than including a statement by the applicant certifying that the arrangement is in compliance with all applicable provisions of the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.).

SECTION 3. Amends Section 846.053, Insurance Code, by amending Subsections (b) and (c) and adding Subsection (d-1), as follows:

(b) Requires the employers in the multiple employer welfare arrangement to, for a multiple employer welfare arrangement to which Section 846.0035 applies, each have a principal place of business in the same region that does not exceed the boundaries of this state or the boundaries of a metropolitan statistical area designated by the United States Office of Management and Budget. Makes nonsubstantive changes.

(c) Requires the association, if the employers in the multiple employer welfare arrangement are members of an association, to, if Section 846.0035 does not apply to the multiple employer welfare arrangement, have been in existence for at least two years before engaging in any activities relating to providing employee health benefits to its members.

(d-1) Authorizes a working owner of a trade or business without employees, for purposes of a multiple employer welfare arrangement to which Section 846.0035 applies, to qualify as both an employer and as an employee of the trade or industry for the purposes of Section 846.053 (Eligibility Requirements for Initial Certificate of Authority). Defines "working owner."

SECTION 4. Effective date: September 1, 2021.