By:  Oliverson, et al. (Senate Sponsor - Hancock) H.B. No. 3923

(In the Senate - Received from the House May 5, 2021; May 10, 2021, read first time and referred to Committee on Business & Commerce; May 20, 2021, reported favorably by the following vote: Yeas 9, Nays 0; May 20, 2021, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Hancock              X

Nichols              X

Campbell             X

Creighton            X

Johnson              X

Menéndez             X

Paxton               X

Schwertner           X

Whitmire             X

A BILL TO BE ENTITLED

AN ACT

relating to multiple employer welfare arrangements.

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

SECTION 1.  Subchapter A, Chapter 846, Insurance Code, is amended by adding Section 846.0035 to read as follows:

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

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

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

(b)  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;

(2)  Chapter 422;

(3)  Subchapters C, F, and K, Chapter 1451; and

(4)  Chapter 4201.

(c)  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 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; and

(2)  Chapter 1467.

SECTION 2.  Section 846.052(b), Insurance Code, is amended to read as follows:

(b)  The application form must be completed and submitted along with all information required by the commissioner, including:

(1)  a copy of each organizational document;

(2)  current financial statements of the arrangement;

(3)  a fully detailed statement indicating the plan under which the arrangement proposes to transact business;

(4)  an initial actuarial opinion in compliance with the requirements of Section 846.153(a)(2) and subject to Section 846.157(b); and

(5)  demonstration [~~a statement~~] by the applicant [~~certifying~~] that the arrangement is in compliance with all applicable federal and state laws [~~provisions of the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.)~~].

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

(b)  The employers in the multiple employer welfare arrangement must:

(1)  be members of an association or group of five or more businesses that are in the same trade or industry, including closely related businesses that provide support, services, or supplies primarily to that trade or industry; or

(2)  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.

(c)  If the employers in the multiple employer welfare arrangement are members of an association, the association must:

(1)  be engaged in substantial activity for its members other than sponsorship of an employee welfare benefit plan; and

(2)  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)  For purposes of a multiple employer welfare arrangement to which Section 846.0035 applies, a working owner of a trade or business without employees may qualify as both an employer and as an employee of the trade or industry for the purposes of this section. In this subsection, "working owner" means an individual who:

(1)  has an ownership right of any nature in a trade or business, whether incorporated or unincorporated, including a partner and other self-employed individual;

(2)  earns wages or self-employment income from the trade or business for providing personal services to the trade or business; and

(3)  either:

(A)  works on average at least 20 hours per week or at least 80 hours per month providing personal services to the working owner's trade or business; or

(B)  has wages or self-employment income from the individual's trade or business that at least equals the individual's cost of coverage for participation by the individual and any covered beneficiaries in the group health plan sponsored by the group or association in which the individual is participating.

SECTION 4.  This Act takes effect September 1, 2021.

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