87R10919 MWC-F

By:  Powell S.B. No. 1861

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility of certain groups or associations that include self-employed individuals to participate in a multiple employer welfare arrangement.

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

SECTION 1.  Section 846.201, Insurance Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b)  Except as otherwise limited by the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.), a multiple employer welfare arrangement may only provide benefits to:

(1)  active or retired owners, officers, directors, or employees of or partners in:

(A)  participating employers; or

(B)  bona fide groups or associations of employers; and

(2)  the beneficiaries of a person described by Subdivision (1).

(c)  A group or association is considered a bona fide group or association of employers for the purpose of this section if:

(1)  the group or association has at least one substantial business purpose unrelated to offering and providing health coverage or other employee benefits to its employer-members and their employees, including the purpose of promoting the common business interests of its members or promoting the economic interests of its members in a trade or employer opportunity, regardless of whether the business purpose is a for-profit activity;

(2)  the group or association would be a viable entity in the absence of sponsoring an employee benefit plan;

(3)  each employer-member of the group or association participating in the group health plan is a person acting directly as an employer of at least one employee who is covered under the plan, which may include a sole proprietor or principal of a business entity and regardless of whether any other person is employed by the sole proprietor or principal of a business entity;

(4)  the group or association has a formal organizational structure with a governing body and by-laws or other similar indications of formality;

(5)  the functions and activities of the group or association are controlled by its employer-members, and the group's or association's employer-members that participate in the group health plan control the plan; and

(6)  the employer-members have a commonality of interest because the members:

(A)  are in the same trade, industry, line or business, or profession; or

(B)  have a principal place of business in the same region that does not extend beyond the boundaries of:

(i)  a state; or

(ii)  a metropolitan area regardless of whether the metropolitan area includes more than one state.

SECTION 2.  This Act takes effect September 1, 2021.