

By: Romero, Jr.

H.B. No. 3911

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

1 business interests of its members or promoting the economic  
2 interests of its members in a trade or employer opportunity,  
3 regardless of whether the business purpose is a for-profit  
4 activity;

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

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

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

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

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

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

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

26 (i) a state; or

27 (ii) a metropolitan area regardless of

1 whether the metropolitan area includes more than one state.

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