

1-1 By: Oliverson, et al. (Senate Sponsor - Hancock) H.B. No. 3923
1-2 (In the Senate - Received from the House May 5, 2021;
1-3 May 10, 2021, read first time and referred to Committee on Business
1-4 & Commerce; May 20, 2021, reported favorably by the following vote:
1-5 Yeas 9, Nays 0; May 20, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to multiple employer welfare arrangements.
1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-21 SECTION 1. Subchapter A, Chapter 846, Insurance Code, is
1-22 amended by adding Section 846.0035 to read as follows:
1-23 Sec. 846.0035. APPLICABILITY OF CERTAIN LAWS TO ASSOCIATION
1-24 PROVIDING HEALTH BENEFITS. (a) This section applies only to a
1-25 multiple employer welfare arrangement:
1-26 (1) that was issued an initial certificate of
1-27 authority under Section 846.054 on or after January 1, 2022; or
1-28 (2) that elects to be bound by this section in the
1-29 manner prescribed by the commissioner.
1-30 (b) A multiple employer welfare arrangement that provides a
1-31 comprehensive health benefit plan, as determined by the
1-32 commissioner, is subject to the following laws as if the
1-33 arrangement were an insurer, individuals entitled to coverage under
1-34 the plan were insureds, and the health benefits were provided
1-35 through an insurance policy:
1-36 (1) Chapter 421;
1-37 (2) Chapter 422;
1-38 (3) Subchapters C, F, and K, Chapter 1451; and
1-39 (4) Chapter 4201.
1-40 (c) A multiple employer welfare arrangement that provides a
1-41 comprehensive health benefit plan, as determined by the
1-42 commissioner, that is determined by the commissioner to be
1-43 structured in the manner of a preferred provider benefit plan or an
1-44 exclusive provider benefit plan as defined in Section 1301.001 is
1-45 subject to the following laws as if the arrangement were an insurer,
1-46 individuals entitled to coverage under the plan were insureds, and
1-47 the health benefits were provided through an insurance policy:
1-48 (1) Chapter 1301; and
1-49 (2) Chapter 1467.
1-50 SECTION 2. Section 846.052(b), Insurance Code, is amended
1-51 to read as follows:
1-52 (b) The application form must be completed and submitted
1-53 along with all information required by the commissioner, including:
1-54 (1) a copy of each organizational document;
1-55 (2) current financial statements of the arrangement;
1-56 (3) a fully detailed statement indicating the plan
1-57 under which the arrangement proposes to transact business;
1-58 (4) an initial actuarial opinion in compliance with
1-59 the requirements of Section 846.153(a)(2) and subject to Section
1-60 846.157(b); and
1-61 (5) demonstration [~~a statement~~] by the applicant

2-1 [~~certifying~~] that the arrangement is in compliance with all
2-2 applicable federal and state laws [~~provisions of the Employee~~
2-3 ~~Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et~~
2-4 ~~seq.)~~].

2-5 SECTION 3. Section 846.053, Insurance Code, is amended by
2-6 amending Subsections (b) and (c) and adding Subsection (d-1) to
2-7 read as follows:

2-8 (b) The employers in the multiple employer welfare
2-9 arrangement must:

2-10 (1) be members of an association or group of five or
2-11 more businesses that are in the same trade or industry, including
2-12 closely related businesses that provide support, services, or
2-13 supplies primarily to that trade or industry; or

2-14 (2) for a multiple employer welfare arrangement to
2-15 which Section 846.0035 applies, each have a principal place of
2-16 business in the same region that does not exceed the boundaries of
2-17 this state or the boundaries of a metropolitan statistical area
2-18 designated by the United States Office of Management and Budget.

2-19 (c) If the employers in the multiple employer welfare
2-20 arrangement are members of an association, the association must:

2-21 (1) be engaged in substantial activity for its
2-22 members other than sponsorship of an employee welfare benefit plan;
2-23 and

2-24 (2) if Section 846.0035 does not apply to the multiple
2-25 employer welfare arrangement, have been in existence for at least
2-26 two years before engaging in any activities relating to providing
2-27 employee health benefits to its members.

2-28 (d-1) For purposes of a multiple employer welfare
2-29 arrangement to which Section 846.0035 applies, a working owner of a
2-30 trade or business without employees may qualify as both an employer
2-31 and as an employee of the trade or industry for the purposes of this
2-32 section. In this subsection, "working owner" means an individual
2-33 who:

2-34 (1) has an ownership right of any nature in a trade or
2-35 business, whether incorporated or unincorporated, including a
2-36 partner and other self-employed individual;

2-37 (2) earns wages or self-employment income from the
2-38 trade or business for providing personal services to the trade or
2-39 business; and

2-40 (3) either:
2-41 (A) works on average at least 20 hours per week or
2-42 at least 80 hours per month providing personal services to the
2-43 working owner's trade or business; or

2-44 (B) has wages or self-employment income from the
2-45 individual's trade or business that at least equals the
2-46 individual's cost of coverage for participation by the individual
2-47 and any covered beneficiaries in the group health plan sponsored by
2-48 the group or association in which the individual is participating.

2-49 SECTION 4. This Act takes effect September 1, 2021.

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