

Senate File 2349 - Introduced

SENATE FILE 2349
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SF 2182)

A BILL FOR

1 An Act relating to association health plans, a type of multiple
2 employer welfare arrangement, established by bona fide
3 associations of employers.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 507A.4, subsection 9, Code 2018, is
2 amended to read as follows:

3 9. a. Transactions involving a multiple employer welfare
4 arrangement, as defined in section 3 of the federal Employee
5 Retirement Income Security Act of 1974, 29 U.S.C. §1002,
6 paragraph 40, if the multiple employer welfare arrangement
7 meets all of the following conditions:

8 (1) The arrangement is administered by an authorized
9 insurer or an authorized third-party administrator.

10 ~~(2) The arrangement has been in existence and provided~~
11 ~~health insurance in Iowa for at least five years prior to July~~
12 ~~1, 1997.~~

13 ~~(3)~~ (2) The arrangement ~~was~~ is established by a trade,
14 industry, or professional association of employers that
15 has a constitution or bylaws, and ~~has been~~ is organized and
16 maintained in good faith ~~for at least ten continuous years~~
17 ~~prior to July 1, 1997~~ with membership stability as defined by
18 rules adopted by the commissioner.

19 ~~(4)~~ (3) The arrangement registers with and obtains
20 and maintains a certificate of registration issued by the
21 commissioner ~~of insurance.~~

22 ~~(5)~~ (4) The arrangement is subject to the jurisdiction
23 of the commissioner ~~of insurance, including regulatory~~
24 ~~oversight~~ and complies with all rules and solvency standards as
25 established ~~by rules adopted~~ by the commissioner ~~of insurance~~
26 pursuant to [chapter 17A](#).

27 b. A multiple employer welfare arrangement ~~registered with~~
28 ~~the commissioner of insurance~~ that does not meet the solvency
29 ~~standards~~ requirements established by ~~rule adopted~~ by the
30 commissioner ~~of insurance~~ is pursuant to chapter 17A shall be
31 subject to [chapter 507C](#).

32 c. A multiple employer welfare arrangement that meets all
33 of the conditions of paragraph "a" shall not be considered any
34 of the following:

35 (1) An insurance company or association of any kind or

1 character under [section 432.1](#).

2 (2) A member of the Iowa individual health benefit
3 reinsurance association under [section 513C.10](#).

4 (3) A member insurer of the Iowa life and health insurance
5 guaranty association under [section 508C.5, subsection 12](#).

6 *d.* A multiple employer welfare arrangement registered with
7 the commissioner ~~of insurance~~ shall file with the commissioner
8 ~~of insurance~~ on or before March 1 of each year a copy of the
9 report required to be filed by the multiple employer welfare
10 arrangement with the United States department of labor pursuant
11 to 29 C.F.R. §2520.101-2. A newly formed multiple employer
12 welfare arrangement shall file with the commissioner a copy
13 of the report required to be filed pursuant to 29 C.F.R.
14 §2520.101-2 by a newly formed multiple employer welfare
15 arrangement with the United States department of labor thirty
16 days prior to operating in any state. The copy shall be filed
17 with the commissioner within thirty calendar days of the date
18 that the multiple employer welfare arrangement files the report
19 with the United States department of labor.

20 *e.* ~~When not otherwise provided, a~~ A foreign or domestic
21 multiple employer welfare arrangement doing business in this
22 state shall pay ~~to the commissioner of insurance~~ the fees
23 ~~as required in~~ pursuant to [section 511.24](#) unless otherwise
24 provided by law.

25 Sec. 2. Section 509.1, Code 2018, is amended by adding the
26 following new subsection:

27 NEW SUBSECTION. 8A. A policy of group health insurance
28 coverage issued to an associated health plan pursuant
29 to section 513D.1 that is subject to regulation by the
30 commissioner.

31 Sec. 3. Section 509.1, subsection 9, unnumbered paragraph
32 1, Code 2018, is amended to read as follows:

33 A policy issued to a resident of this state under a group
34 life, accident, or health insurance policy issued to a group
35 other than one described in subsections 1 through 8 8A, subject

1 to the following requirements:

2 Sec. 4. NEW SECTION. 513D.1 **Association health plans.**

3 The commissioner shall adopt rules that allow for the
4 creation of association health plans that are consistent with
5 the United States department of labor's regulations in 29
6 C.F.R. pt. 2510.

7 Sec. 5. NEW SECTION. 513D.2 **Rules and enforcement.**

8 1. The commissioner shall adopt rules, as necessary,
9 pursuant to chapter 17A to administer this chapter.

10 2. The commissioner may take any enforcement action under
11 the commissioner's authority to enforce compliance with this
12 chapter.

13 Sec. 6. **EMERGENCY RULES.** The commissioner may adopt
14 emergency rules under section 17A.4, subsection 3, and
15 section 17A.5, subsection 2, paragraph "b", to administer
16 the provisions of this Act and the rules shall be effective
17 immediately upon filing unless a later date is specified in the
18 rules. Any rules adopted in accordance with this section shall
19 also be published as a notice of intended action as provided
20 in section 17A.4.

21

EXPLANATION

22 The inclusion of this explanation does not constitute agreement with
23 the explanation's substance by the members of the general assembly.

24 This bill relates to association health plans, a type of
25 multiple employer welfare arrangement, established by bona fide
26 associations of employers.

27 The United States department of labor issued proposed
28 rules in 83 Fed. Reg. 617 (January 5, 2018) that broaden the
29 criteria under Title I of the federal Employee Retirement
30 Income Security Act (ERISA) to allow more employers to form
31 an association health plan to offer a group health plan
32 to employees, former employees, family members, and other
33 beneficiaries of the employer members of the association.

34 Currently, employer groups are prohibited from forming
35 associations for the sole purpose of providing group health

1 coverage. Under the proposed federal regulations, an
2 association may exist solely for the purpose of sponsoring
3 a group health plan for its employer members. The current
4 commonality-of-interest regulations require employer members
5 to have a commonality-of-interest such as the same trade,
6 industry, line of business, or profession. The proposed
7 federal regulations also allow the commonality to be based
8 on the employer members having a principal place of business
9 in the same state or the same metropolitan area, including a
10 metropolitan area that crosses state lines.

11 The bill requires the commissioner of insurance to adopt
12 rules that allow for the creation of association health plans
13 that are consistent with the United States department of
14 labor's regulations in 29 C.F.R. pt. 2510. The bill requires
15 the commissioner to adopt rules to administer the bill and
16 allows the commissioner to take any enforcement action under
17 the commissioner's authority to enforce compliance with the
18 bill. The commissioner may engage in emergency rulemaking as
19 necessary.

20 The bill amends Code section 507A.4, unauthorized insurers,
21 to update the language related to the exemption from the
22 provisions of the Code section for multiple employer welfare
23 arrangements. The bill requires that a multiple employer
24 welfare arrangement be established by a trade, industry, or
25 professional association of employers that has a constitution
26 or bylaws, that is organized and maintained in good faith, and
27 has membership stability as defined by rules as adopted by the
28 commissioner.

29 The bill amends Code section 509.1 to allow a policy of
30 group health insurance sponsored by an association health plan
31 pursuant to the provisions of the bill to be delivered in the
32 state.