

SB063_L.001

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Business, Labor, & Technology.

SB21-063 be amended as follows:

1 Amend printed bill, page 2, line 3, strike everything after "introductory"
2 and substitute "portion; and **add** (7)(d) as follows:".

3 Page 2, strike lines 6 to 11 and substitute "~~which~~ THAT complies with
4 EITHER the following requirements OR SUBSECTION (7)(d) OF THIS
5 SECTION:

6 (d) (I) A MULTIPLE EMPLOYER WELFARE ARRANGEMENT THAT
7 MEETS THE REQUIREMENTS SPECIFIED IN SUBSECTION (7)(c) OF THIS
8 SECTION OTHER THAN SUBSECTION (7)(c)(I) OF THIS SECTION MAY FILE AN
9 APPLICATION FOR A WAIVER WITH THE COMMISSIONER. THE APPLICATION
10 MUST INCLUDE:

11 (A) A COPY OF THE MULTIPLE EMPLOYER WELFARE
12 ARRANGEMENT'S ARTICLES OF INCORPORATION, CONSTITUTION, TRUST
13 AGREEMENT, BYLAWS, AND ANALOGOUS ORGANIC DOCUMENTS THAT
14 GOVERN THE OPERATION OF THE ARRANGEMENT;

15 (B) A LIST OF NAMES, ADDRESSES, AND OFFICIAL CAPACITIES WITH
16 THE MULTIPLE EMPLOYER WELFARE ARRANGEMENT OF THE INDIVIDUALS
17 WHO WILL BE RESPONSIBLE FOR THE MANAGEMENT AND CONDUCT OF THE
18 AFFAIRS OF THE ARRANGEMENT, INCLUDING ALL TRUSTEES, OFFICERS, AND
19 DIRECTORS, ALONG WITH A FULL DISCLOSURE OF THE EXTENT AND NATURE
20 OF ANY CONTRACTS BETWEEN THE INDIVIDUALS AND THE ARRANGEMENT,
21 INCLUDING POSSIBLE CONFLICTS OF INTEREST;

22 (C) A COPY OF THE POLICY, CONTRACT, CERTIFICATE, SUMMARY
23 PLAN DESCRIPTION, OR OTHER EVIDENCE OF THE BENEFITS AND
24 COVERAGES PROVIDED TO COVERED EMPLOYEES, INCLUDING FOR EACH
25 FORM OF EVIDENCE A TABLE OF THE RATES CHARGED OR PROPOSED TO BE
26 CHARGED;

27 (D) A COPY OF THE MULTIPLE EMPLOYER WELFARE
28 ARRANGEMENT'S STOP-LOSS OR EXCESS INSURANCE AGREEMENT, IF ANY;

29 (E) A COPY OF AN AUDITED FINANCIAL STATEMENT OF THE
30 MULTIPLE EMPLOYER WELFARE ARRANGEMENT PREPARED BY A LICENSED
31 CERTIFIED PUBLIC ACCOUNTANT, INCLUDING AN ACTUARIAL OPINION; AND

32 (F) A COPY OF EVERY CONTRACT BETWEEN THE MULTIPLE
33 EMPLOYER WELFARE ARRANGEMENT AND ITS ADMINISTRATOR OR SERVICE
34 COMPANY, INCLUDING, IF APPLICABLE, A COPY OF THE FIDELITY BOND
35 SPECIFIED IN SUBSECTION (7)(d)(II)(C) OF THIS SECTION.

36 (II) TO QUALIFY FOR A WAIVER, A MULTIPLE EMPLOYER WELFARE
37 ARRANGEMENT MUST:

38 (A) MAINTAIN UNALLOCATED RESERVES OF NOT LESS THAN TEN
39 PERCENT OF THE FIRST TWO MILLION DOLLARS OF ANNUAL CONTRIBUTIONS
40 MADE TO THE MULTIPLE EMPLOYER WELFARE ARRANGEMENT IN THE

1 PRECEDING YEAR;

2 (B) BE MANAGED BY AND PROVIDE BENEFITS THROUGH AN
3 ADMINISTRATOR OR SERVICE COMPANY THAT IS IN GOOD STANDING IN ALL
4 OTHER STATES IN WHICH THE ADMINISTRATOR OR SERVICE COMPANY
5 OPERATES;

6 (C) BE MANAGED BY AN ADMINISTRATOR OR SERVICE COMPANY
7 THAT IS A LICENSED THIRD-PARTY ADMINISTRATOR OR IS COVERED BY A
8 FIDELITY BOND IN THE AMOUNT OF FIFTY THOUSAND DOLLARS;

9 (D) PROVIDE TO THE COMMISSIONER QUARTERLY FINANCIAL
10 STATEMENTS TO DEMONSTRATE THAT THE RESERVES REQUIRED PURSUANT
11 TO SUBSECTION (7)(d)(II)(A) OF THIS SECTION ARE BEING MAINTAINED;
12 AND

13 (E) PROVIDE NONDISCRIMINATORY PLAN COVERAGE TO ITS
14 MEMBERS THAT IS APPLIED EVENLY AND EQUITABLY TO ALL EMPLOYEES
15 OF THE MEMBERS.

16 (III) THE COMMISSIONER SHALL CONSIDER GRANTING A WAIVER TO
17 A MULTIPLE EMPLOYER WELFARE ARRANGEMENT THAT HAS SUBMITTED A
18 COMPLETE APPLICATION PURSUANT TO SUBSECTION (7)(d)(I) OF THIS
19 SECTION AND THAT IS IN COMPLIANCE WITH SUBSECTION (7)(d)(II) OF THIS
20 SECTION IN ACCORDANCE WITH THE FOLLOWING FACTORS:

21 (A) WHETHER THE ESTABLISHMENT OF A MULTIPLE EMPLOYER
22 WELFARE ARRANGEMENT HAS THE POTENTIAL TO LOWER INSURANCE
23 COSTS FOR ITS MEMBERS OR PROVIDE ADDITIONAL INSURANCE OPTIONS IN
24 A REGION OR REGIONS OF THE STATE WHERE THERE MAY NOT BE
25 SUFFICIENT COMPETITION;

26 (B) WHETHER THE ADMINISTRATOR OF THE MULTIPLE EMPLOYER
27 WELFARE ARRANGEMENT HAS DEMONSTRATED FINANCIAL SOUNDNESS SO
28 AS TO NOT JEOPARDIZE THE VIABILITY OF THE ARRANGEMENT OR HARM ITS
29 MEMBERS; AND

30 (C) OTHER FACTORS THAT DEMONSTRATE THE NEED FOR
31 ADDITIONAL INSURANCE OPTIONS TO INCREASE COMPETITION OR LOWER
32 HEALTH-CARE COSTS FOR CONSUMERS.

33 (IV) A WAIVER GRANTED PURSUANT TO THIS SUBSECTION (7)(d)
34 ALLOWS THE MULTIPLE EMPLOYER WELFARE ARRANGEMENT TO OPERATE
35 PURSUANT TO THIS SUBSECTION (7) FOR TWO YEARS. TO CONTINUE TO
36 OPERATE PURSUANT TO THIS SUBSECTION (7), AN ARRANGEMENT MUST
37 REAPPLY FOR A WAIVER; EXCEPT THAT IF THE COMMISSIONER GRANTS FIVE
38 CONSECUTIVE WAIVERS PURSUANT TO THIS SUBSECTION (7)(d), AN
39 ARRANGEMENT MAY CONTINUE TO OPERATE PURSUANT TO THIS
40 SUBSECTION (7) WITHOUT AGAIN APPLYING FOR A WAIVER."

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