

REFERENCE TITLE: employers; group insurance pooling

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SB 1590

Introduced by
Senators Barto, Crandall, Klein, Murphy: Gould, Melvin, Pearce R,
Yarbrough

AN ACT

AMENDING TITLE 20, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 22; RELATING
TO EMPLOYER HEALTH INSURANCE POOLS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 20, Arizona Revised Statutes, is amended by adding
3 chapter 22, to read:

4 CHAPTER 22

5 EMPLOYER HEALTH INSURANCE POOLS

6 ARTICLE 1. GENERAL PROVISIONS

7 20-4001. Employer health insurance pools; definition

8 A. TWO OR MORE EMPLOYERS MAY ENTER INTO CONTRACTS OR AGREEMENTS IN
9 ORDER TO ESTABLISH A HEALTH BENEFITS PLAN OR MAY POOL RETENTION OF THEIR
10 RISKS OF LOSS FOR HEALTH CLAIMS. EMPLOYERS MAY ESTABLISH A POOL EITHER:

- 11 1. ON A COOPERATIVE OR CONTRACT BASIS.
12 2. BY THE FORMATION OF A NONPROFIT CORPORATION.

13 B. AN EMPLOYER POOL IS SUBJECT TO 29 UNITED STATES CODE CHAPTER 18.
14 AN EMPLOYER POOL IS NOT DEEMED TO BE CONDUCTING INSURANCE RELATED BUSINESS
15 EXCEPT THAT THE DEPARTMENT MAY CONDUCT:

- 16 1. AUDITS AND REVIEWS RELATED TO PLAN DESIGN.
17 2. AUDITS AND REVIEWS RELATED TO CLAIMS DENIALS.

18 C. A BOARD OF TRUSTEES SHALL OPERATE THE POOL. THE BOARD OF TRUSTEES
19 SHALL CONSIST OF AT LEAST THREE PERSONS WHO HAVE FIDUCIARY OR OWNERSHIP
20 RESPONSIBILITIES IN THE MEMBER EMPLOYERS' BUSINESS THAT IS PARTICIPATING IN
21 THE POOL AND SHALL HAVE REPRESENTATIVES FROM AT LEAST TWO MEMBER EMPLOYERS.
22 THE BOARD OF TRUSTEES SHALL NOTIFY THE DIRECTOR OF THE DEPARTMENT OF THE
23 EXISTENCE OF THE POOL. THE BOARD OF TRUSTEES SHALL DO ALL OF THE FOLLOWING:

- 24 1. ESTABLISH TERMS AND CONDITIONS OF COVERAGE WITHIN THE POOL,
25 INCLUDING EXCLUSIONS OF COVERAGE.
26 2. ENSURE THAT ALL CLAIMS ARE PROCESSED PROMPTLY.
27 3. TAKE ALL NECESSARY PRECAUTIONS TO SAFEGUARD THE ASSETS OF THE
28 GROUP.
29 4. MAINTAIN MINUTES OF ITS MEETINGS.
30 5. DESIGNATE AN ADMINISTRATOR TO CARRY OUT THE POLICIES ESTABLISHED BY
31 THE BOARD OF TRUSTEES AND TO PROVIDE DAY-TO-DAY MANAGEMENT OF THE GROUP AND
32 DELINEATE IN THE WRITTEN MINUTES OF ITS MEETINGS THE AREAS OF AUTHORITY IT
33 DELEGATES TO THE ADMINISTRATOR.

34 D. THE BOARD OF TRUSTEES SHALL NOT:

- 35 1. EXTEND CREDIT TO INDIVIDUAL MEMBERS FOR PAYMENT OF A PREMIUM,
36 EXCEPT PURSUANT TO PAYMENT PLANS ESTABLISHED BY THE BOARD.
37 2. BORROW ANY MONIES FROM THE GROUP OR IN THE NAME OF THE GROUP EXCEPT
38 IN THE ORDINARY COURSE OF BUSINESS.

39 E. A CONTRACT OR AGREEMENT MADE PURSUANT TO THIS SECTION SHALL CONTAIN
40 THE FOLLOWING:

- 41 1. A PROVISION FOR A SYSTEM OR PROGRAM OF LOSS CONTROL.
42 2. A PROVISION FOR TERMINATION OF MEMBERSHIP, INCLUDING EITHER:
43 (a) CANCELLATION OF INDIVIDUAL MEMBERS OF THE POOL BY THE POOL.
44 (b) ELECTION BY AN INDIVIDUAL MEMBER OF THE POOL TO TERMINATE ITS
45 PARTICIPATION.

1 3. A PROVISION REQUIRING THE POOL TO PROCESS ALL CLAIMS FOR WHICH EACH
2 MEMBER INCURS LIABILITY DURING EACH MEMBER'S PERIOD OF MEMBERSHIP.

3 4. A PROVISION FOR THE MAINTENANCE OF CLAIM RESERVES EQUAL TO KNOWN
4 INCURRED LOSSES AND AN ESTIMATE OF INCURRED BUT NOT REPORTED CLAIMS.

5 5. A PROVISION FOR A FINAL ACCOUNTING AND SETTLEMENT OF THE
6 OBLIGATIONS OF OR REFUNDS TO A TERMINATING MEMBER TO OCCUR WHEN ALL INCURRED
7 CLAIMS ARE CONCLUDED, SETTLED OR PAID.

8 6. A PROVISION THAT THE POOL MAY ESTABLISH OFFICES WHERE NECESSARY IN
9 THIS STATE AND EMPLOY NECESSARY STAFF TO CARRY OUT THE PURPOSES OF THE POOL.

10 7. A PROVISION THAT THE POOL MAY RETAIN LEGAL COUNSEL, ACTUARIES,
11 AUDITORS, ENGINEERS, PRIVATE CONSULTANTS AND ADVISORS.

12 8. A PROVISION THAT THE POOL MAY MAKE AND ALTER BYLAWS AND RULES
13 PERTAINING TO THE EXERCISE OF ITS PURPOSE AND POWERS.

14 9. A PROVISION THAT THE POOL MAY PURCHASE, LEASE OR RENT REAL AND
15 PERSONAL PROPERTY IT DEEMS NECESSARY.

16 10. A PROVISION THAT THE POOL MAY ENTER INTO FINANCIAL SERVICES
17 AGREEMENTS WITH BANKS AND OTHER FINANCIAL INSTITUTIONS, THAT IT MAY ISSUE
18 CHECKS IN ITS OWN NAME AND THAT IT MAY INVEST ITS MONIES IN EQUITY
19 SECURITIES, MUTUAL FUNDS AND INVESTMENT FUNDS REGISTERED WITH THE UNITED
20 STATES SECURITIES AND EXCHANGE COMMISSION, DEBT OBLIGATIONS AND ANY ELIGIBLE
21 INVESTMENT.

22 F. THE POOL OR A MEMBER SHALL NOT TERMINATE ITS AGREEMENT OR CONTRACT
23 UNTIL THE CURRENT CONTRACT YEAR IS COMPLETED AND SHALL PROVIDE AT LEAST SIXTY
24 DAYS' WRITTEN NOTICE OF THE TERMINATION OR CANCELLATION.

25 G. A MEMBER OF A POOL SHALL COMMIT TO PARTICIPATING IN THE POOL FOR A
26 PERIOD OF AT LEAST TWENTY-FOUR MONTHS.

27 H. A MEMBER OF A POOL THAT IS IN GOOD STANDING WITH REGARD TO THE
28 MEMBER'S FINANCIAL RESPONSIBILITY AS PART OF THE POOL MAY NOT BE REMOVED FROM
29 THE POOL FOR REASONS THAT RELATE TO THE MEDICAL LOSS RISK OF THE EMPLOYER.

30 I. THE POOL SHALL BE AUDITED ANNUALLY AT THE EXPENSE OF THE POOL BY A
31 CERTIFIED PUBLIC ACCOUNTANT, WITH A COPY OF THE REPORT SUBMITTED TO EACH
32 EMPLOYER AND TO THE DIRECTOR. THE BOARD OF TRUSTEES OF THE POOL SHALL OBTAIN
33 AN APPROPRIATE ACTUARIAL EVALUATION OF THE CLAIM RESERVES OF THE POOL,
34 INCLUDING AN ESTIMATE OF THE INCURRED BUT NOT REPORTED CLAIMS. THE
35 DEPARTMENT SHALL EXAMINE THE POOL ONCE EVERY FIVE YEARS. THE DIRECTOR MAY
36 EXAMINE THE POOL SOONER THAN FIVE YEARS FROM THE PRECEDING EXAMINATION IF THE
37 DIRECTOR HAS REASON TO BELIEVE THAT THE POOL IS INSOLVENT. THE POOL SUBJECT
38 TO THE EXAMINATION SHALL PAY THE COST OF ANY EXAMINATION.

39 J. IF, AS A RESULT OF THE ANNUAL AUDIT OR AN EXAMINATION BY THE
40 DIRECTOR, IT APPEARS THAT THE ASSETS OF THE POOL ARE INSUFFICIENT TO ENABLE
41 THE POOL TO DISCHARGE ITS LEGAL LIABILITIES AND OTHER OBLIGATIONS, THE
42 DIRECTOR SHALL NOTIFY THE ADMINISTRATOR AND THE BOARD OF TRUSTEES OF THE POOL
43 OF THE DEFICIENCY AND THE DIRECTOR'S LIST OF RECOMMENDATIONS TO ABATE THE
44 DEFICIENCY, INCLUDING A RECOMMENDATION NOT TO ADD ANY NEW MEMBERS UNTIL THE
45 DEFICIENCY IS ABATED. IF THE POOL FAILS TO COMPLY WITH THE RECOMMENDATIONS

1 WITHIN SIXTY DAYS AFTER THE DATE OF THE NOTICE, THE DIRECTOR SHALL NOTIFY
2 EACH EMPLOYER THAT IS A MEMBER OF THE POOL THAT THE POOL HAS FAILED TO COMPLY
3 WITH THE DIRECTOR'S RECOMMENDATIONS.

4 K. IF A POOL IS DETERMINED TO BE INSOLVENT OR IS OTHERWISE FOUND TO BE
5 UNABLE TO DISCHARGE ITS LEGAL LIABILITIES AND OTHER OBLIGATIONS, EACH
6 AGREEMENT OR CONTRACT SHALL PROVIDE THAT THE MEMBERS OF THE POOL SHALL BE
7 ASSESSED ON A PRO RATA BASIS AS CALCULATED BY THE AMOUNT OF EACH MEMBER'S
8 ANNUAL CONTRIBUTION IN ORDER TO SATISFY THE AMOUNT OF DEFICIENCY. THE
9 ASSESSMENT SHALL NOT EXCEED THE AMOUNT OF EACH MEMBER'S ANNUAL CONTRIBUTION
10 TO THE POOL.

11 L. THE POOL SHALL FILE WITH THE DEPARTMENT THE FOLLOWING INFORMATION:
12 1. THE NAMES AND ADDRESSES OF THE POOL'S TRUSTEES, OFFICERS OR
13 DIRECTORS OR MEMBERS OF THE POOL'S GOVERNING BODY.

14 2. THE NAMES, ADDRESSES AND QUALIFICATIONS OF INDIVIDUALS RESPONSIBLE
15 FOR THE CONDUCT OF THE POOL'S AFFAIRS, INCLUDING ANY THIRD-PARTY
16 ADMINISTRATORS.

17 3. THE NAMES AND ADDRESSES OF THE EMPLOYERS PARTICIPATING IN THE POOL.

18 M. EXCESS LOSS CARRIERS LICENSED IN THIS STATE TO PROVIDE EXCESS LOSS
19 PRODUCTS MUST PARTICIPATE EQUALLY IN THE AGGREGATE AND SPECIFIC EXCESS LOSS
20 RISK OF EACH POOL. THE DIRECTOR MAY AUDIT THE RATES FOR EXCESS LOSS
21 INSURANCE OFFERED TO EACH POOL.

22 N. FOR THE PURPOSES OF THIS SECTION, "EMPLOYER" MEANS AN EMPLOYER THAT
23 EMPLOYS AT LEAST TWO EMPLOYEES ON THE FIRST DAY OF THE PLAN YEAR.