

SIGNIFICANT ISSUES

In an updated FIR, GSD has suggested that a remaining issue is that “eligible non-profit entities” are improperly incorporated as participants in the plan in Section 10-7B-6, which applies to public sector employers, when they should be subject to participation in the plan in Section 10-7B-6.1, which applies to private sector, small employers. This would help ensure the bill does not unintentionally violate the New Mexico Constitution’s anti-donation clause. However, the later amended bill appears to address this issue by adding language that tracks an exception to the anti-donation clause for the care and maintenance of sick or indigent persons. In addition, GSD noted that medically underwriting the private sector entities, and setting up another actuarially sound account to segregate funding for private sector employer claims from public sector employer claims, would require a substantial initial investment of staff time and resources.

Synopsis of Bill

House Bill 421 amends the Group Benefits Act at NMSA 1978, Sections 10-7B-1 et seq., to allow eligible non-profit entities to join with state employees and local public bodies to participate in the group health benefit self-insurance plans administered by GSD.

Further, the bill defines an eligible non-profit entity as one that provides proof of 501(c)3 tax exempt status from the IRS, as well as a showing that at least 50 percent of the entity’s annual operating budget is funded by the public, including federal, state or local government funds.

FISCAL IMPLICATIONS

The bill would allow GSD to charge a reasonable fee to cover administrative costs.

The bill limits an eligible entity’s contribution to the cost of any group benefits self-insurance plan to the same or below the percentage for those benefits as provided by law. Presently, under the plan administered by GSD, state agencies pay a statutory contribution rate of 80 percent for their employees earning \$50 thousand or less; 70 percent for their employees earning between \$50 thousand and \$60 thousand; and 60 percent for their employees earning over \$60 thousand. Whether or not these same percentages would apply to the private sector entities, is not known.

SIGNIFICANT ISSUES

GSD reports the bill amends the current statute to add a separate definition for nonprofit entities that may conflict with the current Act. The bill requires an eligible entity to be a designated nonprofit under 501(c)(3) of the Federal Revenue Code and to receive at least 50 percent of its budget from public funds. However, in defining a “small employer”, the Act includes nonprofits that employ 50 or fewer. See NMSA § 10-7B-6(F). Thus, there may be confusion if there is a “small employer” nonprofit that does not receive 50 percent of its budget from public funds.

OAG also noted that the bill does not appear to limit eligible non-profit entities to NM-based organizations. Moreover, the required showing that 50 percent or more of funding is from public, federal, state or local government sources is limited to that expressed in the budget, as opposed to actual income. Budgets do not provide proof of income, nor are they binding.

ALTERNATIVES

Limit nonprofit entities eligible to participate in GSD's group health plan to be New Mexico corporations, or provide most of its program benefits to causes in New Mexico, etc.

Requiring a showing of actual public funding sources for prior years rather than budgeted.

AHO/al/sb/jle