

1988

Session Law 88-116

Florida Senate & House of Representatives

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Date: 04/21/88

HB 1555

HOUSE OF REPRESENTATIVES
COMMITTEE ON INSURANCE
STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: PCB INS 88-04
RELATING TO: Multiple-employer Welfare Arrangements
SPONSOR(S): Committee on Insurance
EFFECTIVE DATE: October 1, 1988
COMPANION BILL(S):
OTHER COMMITTEES OF REFERENCE: (1)
(2)

I. SUMMARY:

This bill provides that employers participating in multiple employer welfare arrangements (MEWAs) are liable for assessments.

A. PRESENT SITUATION:

MEWAs are plans of group self-insurance established by two or more employers for providing health insurance benefits to their employees. MEWAs are operated by a board of trustees who retain an administrator or service company or agent to administer the plan. MEWAs have been regulated by the state since 1983 after Congress amended the Employee Retirement Income Security Act (ERISA) to authorize states to regulate multiple employer plans to the extent not inconsistent with ERISA. The 1983 act required MEWAs to file a fidelity bond in an amount not less than 10 percent of the funds handled annually, not to exceed \$50,000, but did not impose any financial requirements. The department was authorized to examine the loss reserves, financial condition, reinsurance, and working capital of a MEWA and could take corrective action if the department found the MEWA's financial condition to be inadequate.

Among the legislative changes made in 1985 were that MEWAs must operate in accordance with sound actuarial principles, maintain specific excess insurance and loss reserves in accordance with sound actuarial principles, and file a deposit or surety bond with the department as insolvency protection, up to a maximum of \$100,000. MEWAs were also required to file annual reports of financial condition.

Despite the legislative efforts in 1985 to insure the financial solvency of MEWAs, the Department of Insurance is concerned about the worsening financial condition of many MEWAs in the state and the potentially adverse effect upon the current and future employees enrolled therein. There are currently 28 MEWAs

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in the state covering 91,978 employees and generating a premium volume of \$127 million. Of these 28 MEWAs, three were placed in receivership last year and six others are operating under voluntary plans of rehabilitation. Eighteen MEWAs show a negative net worth. The department thus proposes that like other forms of self-insurance, such as commercial self-insurance funds and professional self-insurance funds, the members should be liable for deficit assessments. The most recently approved MEWAs provide for deficit assessments against their members.

B. EFFECT OF PROPOSED CHANGES:

The bill provides that employer participants in a MEWA have a contingent assessment liability for losses and expenses incurred while the participant's policy was in effect. Each policy issued by a MEWA must disclose that assessment liability.

Existing MEWAs will not be assessable until September 30, 1989. A MEWA must assess its employers if its fund balance at the end of the fiscal year is less than zero and may assess employers if its prior year's statement of operations shows a loss or if its fund balance is zero or greater. The bill requires MEWAs to maintain a fund balance in excess of or equal to zero. However, any existing MEWA under a plan of self-rehabilitation is exempt from the fund balance requirement until it no longer has a negative fund balance.

Assessments are based upon the ratio of an employer's earned premium to that of all employers in the MEWA. The liability of participating employers is individual rather than joint except that they are proportionately liable for assessments not paid by another employer. The MEWA is required to institute legal action to collect the assessment from non-paying employers. The department is also authorized to assess employers in the event of liquidation or rehabilitation of a MEWA.

The bill also requires MEWAs to submit their forms, including policy forms, to the department for approval. Specified reasons for rejection of forms are provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

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4. Appropriations Consequences:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

While the bill subjects employers who participate in MEWAs to assessments which are very likely to be levied given the current financial condition of many MEWAs, the actual impact of the assessments upon them cannot be determined at this time.

2. Direct Private Sector Benefits:

If the assessment requirements succeed in stabilizing the financial condition of existing MEWAs, the participants will be able to derive whatever cost savings can be realized from continued participation in this form of self-insurance.

3. Effects on Competition, Private Enterprise, and Employment Markets:

This bill may stabilize MEWAs as a viable alternative to employers in providing health insurance to their employees.

D. FISCAL COMMENTS:

The department advises that it can absorb the added responsibilities contained in this act within its existing resources.

III. LONG RANGE CONSEQUENCES:

The department believes that making employer/members of MEWAs assessable will further secure the financial stability of MEWAs and allow them to remain a viable option to employers wishing to self-insure for health insurance coverage for their employees. In so doing the bill is consistent with various health policies specified in the state comprehensive plan.

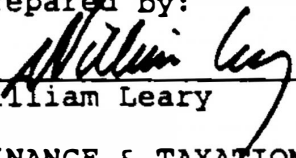
IV. COMMENTS:

V. AMENDMENTS:

VI. SIGNATURES:

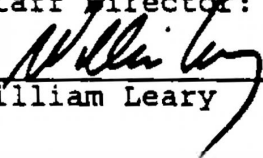
INSURANCE COMMITTEE:

Prepared by:



William Leary

Staff Director:



William Leary

FINANCE & TAXATION:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Staff Director:

STORAGE NAME: h1555-f.ins
Date: 06/21/88

HOUSE OF REPRESENTATIVES
COMMITTEE ON INSURANCE
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: HB 1555

RELATING TO: Multiple-Employer Welfare Arrangements

SPONSOR(S): Committee on Insurance, Reps. Simon, Wise & Bainter

EFFECTIVE DATE: October 1, 1988

DATE BECAME LAW: June 16, 1988

CHAPTER #: 88-116 Laws of Florida

COMPANION BILL(S): CS/SB 619

OTHER COMMITTEES OF REFERENCE: (1) _____

(2) _____

I. SUMMARY:

This bill provides that employers participating in multiple employer welfare arrangements (MEWAs) are liable for assessments.

A. PRESENT SITUATION:

MEWAs are plans of group self-insurance established by two or more employers for providing health insurance benefits to their employees. MEWAs are operated by a board of trustees who retain an administrator or service company or agent to administer the plan. MEWAs have been regulated by the state since 1983 after Congress amended the Employee Retirement Income Security Act (ERISA) to authorize states to regulate multiple employer plans to the extent not inconsistent with ERISA. The 1983 act required MEWAs to file a fidelity bond in an amount not less than 10 percent of the funds handled annually, not to exceed \$50,000, but did not impose any financial requirements. The department was authorized to examine the loss reserves, financial condition, reinsurance, and working capital of a MEWA and could take corrective action if the department found the MEWA's financial condition to be inadequate.

Among the legislative changes made in 1985 were that MEWAs must operate in accordance with sound actuarial principles, maintain specific excess insurance and loss reserves in accordance with sound actuarial principles, and file a deposit or surety bond with the department as insolvency protection, up to a maximum of \$100,000. MEWAs were also required to file annual reports of financial condition.

Despite the legislative efforts in 1985 to insure the financial solvency of MEWAs, the Department of Insurance is concerned about the worsening financial condition of many MEWAs in the state and the potentially adverse effect upon the current and future employees enrolled therein. There are currently 28 MEWAs in the state covering 91,978 employees and generating a premium volume of \$127 million. Of these 28 MEWAs, three were placed in receivership last year and six others are operating under voluntary plans of rehabilitation. Eighteen MEWAs show a negative net worth. The department thus proposes that like other forms of self-insurance, such as commercial self-insurance funds and professional self-insurance funds, the members should be liable for deficit assessments. The most recently approved MEWAs provide for deficit assessments against their members.

B. EFFECT OF PROPOSED CHANGES:

The bill provides that employer participants in a MEWA have a contingent assessment liability for losses and expenses incurred while the participant's policy was in effect. Each policy issued by a MEWA must disclose that assessment liability.

Existing MEWAs will not be assessable until September 30, 1989. A MEWA must assess its employers if its fund balance at the end of the fiscal year is less than zero and may assess employers if its prior year's statement of operations shows a loss or if its fund balance is zero or greater. The bill requires MEWAs to maintain a fund balance in excess of or equal to zero. However, any existing MEWA under a plan of self-rehabilitation is exempt from the fund balance requirement until it no longer has a negative fund balance.

Assessments are based upon the ratio of an employer's earned premium to that of all employers in the MEWA. The liability of participating employers is individual rather than joint except that they are proportionately liable for assessments not paid by another employer. The MEWA is required to institute legal action to collect the assessment from non-paying employers. The department is also authorized to assess employers in the event of liquidation or rehabilitation of a MEWA.

The bill also requires MEWAs to submit their forms, including policy forms, to the department for approval. Specified reasons for rejection of forms are provided.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Appropriations Consequences:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None

2. Recurring or Annualized Continuation Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

While the bill subjects employers who participate in MEWAs to assessments which are very likely to be levied given the current financial condition of many MEWAs, the actual impact of the assessments upon them cannot be determined at this time.

2. Direct Private Sector Benefits:

If the assessment requirements succeed in stabilizing the financial condition of existing MEWAs, the participants will be able to derive whatever cost savings can be realized from continued participation in this form of self-insurance.

3. Effects on Competition, Private Enterprise, and Employment Markets:

This bill may stabilize MEWAs as a viable alternative to employers in providing health insurance to their employees.

D. FISCAL COMMENTS:

The department advises that it can absorb the added responsibilities contained in this act within its existing resources.

III. LONG RANGE CONSEQUENCES:

The department believes that making employer/members of MEWAs assessable will further secure the financial stability of MEWAs and

allow them to remain a viable option to employers wishing to self-insure for health insurance coverage for their employees. In so doing the bill is consistent with various health policies specified in the state comprehensive plan.

IV. COMMENTS:

V. LEGISLATIVE HISTORY:

A. Enacted Bill:

The bill began as PCB INS 88-04 and was reported favorably on 4/19/88 by the Subcommittee on Health & Life Insurance & General Insurance Regulation with 3 amendments. These amendments included an exception to the negative fund balance prohibition for existing MEWAs operating under a plan of rehabilitation. On 4/20/88, the bill was reported favorably by the Insurance Committee with 2 amendments requiring department approval of policy forms issued by a MEWA. The bill was introduced as HB 1555 on 5/2/88 and placed on the calendar. On 5/25/88, the bill passed the House by a vote of 116-0. The bill was substituted for CS/SB 619 on 5/25/88 and passed the Senate 35-0. On 6/2/88 the bill was presented to the Governor and was approved by the Governor on 6/16/88.

B. Disposition of Companion:

Senate Bill 619 was filed by Senator Hair on 3/31/88. The bill was reported favorably by the Commerce Committee on 4/20/88 as a committee substitute. On 5/12/88, the bill was withdrawn from the Appropriations Committee and placed on the calendar. On 5/25/88, HB 1555 was substituted for CS/SB 619 and the latter was laid on the table.

V. SIGNATURES:

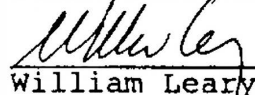
INSURANCE COMMITTEE:

Prepared by:



William Leary

Staff Director:



William Leary

FINANCE & TAXATION:

Prepared by:

APPROPRIATIONS:
Prepared by:

Staff Director:

Staff Director:

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Wilkes</u> <i>W</i>	<u>Fort</u> <i>FF</i>	1. <u>COM</u>	<u>Fav/CS</u>
2. _____	_____	2. <u>AP</u>	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Multiple-Employer Welfare Arrangements

BILL NO. AND SPONSOR:

CS/SB 619 by Commerce and Senator Hair

I. SUMMARY:

A. Present Situation:

Multiple Employer Welfare Arrangements (MEWAs) are plans of group self-insurance established by two or more employers for providing health insurance benefits to their employees. MEWAs are operated by a board of trustees who retain an administrator or service company or agent to administer the plan. MEWAs have been regulated by the state since 1983 after Congress amended the Employee Retirement Income Security Act (ERISA) to authorize states to regulate multiple employer plans to the extent not inconsistent with ERISA. The 1983 act required MEWAs to file a fidelity bond in an amount not less than 10 percent of the funds handled annually, not to exceed \$50,000, but did not impose any financial requirements. The department was authorized to examine the loss reserves, financial condition, reinsurance, and working capital of a MEWA and could take corrective action if the department found the MEWA's financial condition to be inadequate.

Among the legislative changes made in 1985 were that MEWAs must operate in accordance with sound actuarial principles, maintain specific excess insurance and loss reserves in accordance with sound actuarial principles, and file a deposit or surety bond with the department as insolvency protection, up to a maximum of \$100,000. MEWAs were also required to file annual reports of financial condition.

Despite the legislative efforts in 1985 to insure the financial solvency of MEWAs, the Department of Insurance is concerned about the worsening financial condition of many MEWAs in the state and the potentially adverse effect upon the current and future employees enrolled therein. There are currently 28 MEWAs in the state covering 91,978 employees and generating a premium volume of \$127 million. Of these 28 MEWAs, three were placed in receivership last year and six others are operating under voluntary plans of rehabilitation. Eighteen MEWAs show a negative net worth. The department thus proposes that like other forms of self-insurance, such as commercial self-insurance funds and professional self-insurance funds, the members should be liable for deficit assessments. The most recently approved MEWAs provide for deficit assessments against their members.

B. Effect of Proposed Changes:

The bill provides that employer participants in a MEWA have a contingent assessment liability for losses and expenses incurred while the participant's policy was in effect. Each policy issued by a MEWA must disclose that assessment liability.

Existing MEWAs will not be assessable until September 30, 1989. A MEWA must assess its employers if its fund balance at the end of the fiscal year is less than zero and may assess employers if its prior year's statement of operations shows a loss or if its fund balance is zero or greater. The bill requires MEWAs to maintain a fund balance in excess of or equal to zero. Existing MEWAs operating under an approved plan of self-rehabilitation may continue to comply with the plan until the MEWA no longer has a negative fund balance.

Assessments are based upon the ratio of an employer's earned premium to that of all employers in the MEWA. The liability of participating employers is individual rather than joint except that they are proportionately liable for assessments not paid by another employer. The MEWA is required to institute legal action to collect the assessment from non-paying employers. The department is also authorized to assess employers in the event of liquidation or rehabilitation of a MEWA.

A MEWA policy must be filed and approved by the Department of Insurance within 30 days of filing. The department may extend an additional 15 days the time in which it has to approve or disapprove the form. The department may disapprove the form only if it is misleading, illegible, contrary to public policy, or violates any provision of the Insurance Code.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

While the bill subjects employers who participate in MEWAs to assessments which are very likely to be levied given the current financial condition of many MEWAs, the actual impact of the assessments upon them cannot be determined at this time.

If the assessment requirements succeed in stabilizing the financial condition of existing MEWAs, the participants will be able to derive whatever cost savings can be realized from continued participation in this form of self-insurance.

This bill may stabilize MEWAs as a viable alternative to employers in providing health insurance to their employees.

B. Government:

The department advises that it can absorb the added responsibilities contained in this act within its existing resources.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.