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CASH RESERVES FOR MEWAs

House Bill 5782 as enrolled RECEIVED
Second Analysis (7-25-90)

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Sponsor: Rep. Mary C. Brown
House Committee: Insurance
Senate Committee: Commerce & Technology
Mich. State Law Library

THE APPARENT PROBLEM:

A multiple employer welfare arrangement (or MEWA) is a means by which a group of employers in the same or similar industries can form a self-insurance pool in order to provide benefits to employees. Typically, a trade association forms a MEWA as a way for employer members to offer health care benefits to employees without buying a comprehensive insurance policy from an insurance company. Public Act 121 of 1986 created a new chapter in the Insurance Code to regulate MEWAs, and, among other things, required that they hold certain amounts in cash reserves to assure that they can meet their obligations. The statute requires that cash reserves be in "federally guaranteed obligations which have a fixed recoverable principal amount." State insurance regulators have granted a temporary certificate of operation to one MEWA (the Spartan Retailers Voluntary Employee Health and Fringe Benefit Trust) that is using a letter of credit to meet its cash reserve requirements. The trust, regulators say, was self-insured before the MEWA statute was enacted and did not have enough cash to meet the new reserve requirement. A temporary certificate was granted allowing the MEWA to use a letter of credit until cash reserves could be built up. It has been proposed that a letter of credit from a federally guaranteed financial institution be considered acceptable to meet cash reserve requirements.

THE CONTENT OF THE BILL:

The bill would amend Chapter 70 of the Insurance Code, which regulates multiple employer welfare arrangements (MEWAs), to amend the definition of "cash reserves" so that the term would include an irrevocable and unconditional letter of credit. To qualify, a letter of credit would have to be issued by a federally insured financial institution (in a form and upon such terms as approved by the insurance commissioner) and be subject to draw by the insurance commissioner on five days' written notice or by the MEWA for the benefit of subscribers if the MEWA was unable to pay claims as they came due.

The bill would also remove a provision from Chapter 36 that prevents insurance companies providing group disability policies from covering the dependents of group members for "loss of time for any cause."

MCL 500.3601 et al.

FISCAL IMPLICATIONS:

The Department of Licensing and Regulation says that the bill has no budgetary or revenue implications. (5-21-90)

ARGUMENTS:

For:

The bill would allow MEWAs more flexibility in meeting their statutory cash reserve requirement. A letter of credit is a less expensive way for MEWAs to meet the requirement

and yet would provide the same protection to consumers. Regulators point out that the bill would require the letter of credit be irrevocable, be in a form approved by the insurance commissioner, and be subject to draw by the commissioner. This means funds will be available should they be needed to meet the obligations of the MEWA. Only a financially strong MEWA will be able to obtain such a letter of credit. The use of a letter of credit has been permitted by regulators on a temporary basis and seems to have worked successfully. (Regulators have said that while they would have preferred to keep the old cash reserve definition, they recognize "that the proposed amendment should accommodate a unique situation without weakening the ability of the cash reserve requirement to protect consumers.")

Against:

It should be noted that bank deposits, treasury bills, and other federally guaranteed obligations are more secure than letters of credit. It is possible the commissioner could be prevented through court action from drawing on a MEWA's letter of credit and it is possible that less financially secure MEWAs could obtain letters of credit from financial institutions.

For:

The bill would also repeal an archaic provision that does not allow a group disability policy to cover the loss of work time of a spouse of a member of the group. At least one company has designed a policy that provides such useful coverage as an option and needs the amendment to provide the coverage in the state.

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