

# State of South Dakota

EIGHTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2014

825V0568

## HOUSE COMMERCE AND ENERGY ENGROSSED NO. **SB 99** - 03/05/2014

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Senator Rave and Representative Lust

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding self-funded multiple  
2 employer trusts.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-18-88 be amended to read as follows:

5 58-18-88. A self-funded multiple employer trust, as defined in section 3 of the federal  
6 Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002, paragraph 40, may be  
7 authorized by the director if the multiple employer trust meets all of the following conditions:

- 8 (1) The multiple employer trust is administered by an authorized insurer or a licensed  
9 third-party administrator;
- 10 (2) The multiple employer trust meets all of the requirements of § 58-18B-59;
- 11 (3) The multiple employer trust is established by a homogenous trade, industry, or  
12 professional association of employers that has a constitution or bylaws, is organized  
13 under the laws of South Dakota and has been maintained in good faith for purposes  
14 other than providing insurance for at least ten continuous years;



- 1       (4)    The association sponsoring the multiple employer trust is engaged in substantial
- 2            activity for its members other than sponsorship of an employer welfare benefit plan;
- 3       (5)    The association sponsoring the multiple employer trust is a nonprofit entity organized
- 4            under applicable South Dakota law;
- 5       (6)    The multiple employer trust, upon authorization by the director, participates in the
- 6            South Dakota Life and Health Insurance Guaranty Association pursuant to chapter
- 7            58-29C and is a member pursuant to subdivision 58-29C-48(12);
- 8       (7)    The multiple employer trust:
  - 9            (a)    Meets the capital and surplus requirements of § 58-6-23;
  - 10           (b)    Meets the risk based capital requirements of § 58-4-48;
  - 11           (c)    Is subject to the hazardous financial condition requirements of §§ 58-4-39 to
  - 12                58-4-42, inclusive;
  - 13           (d)    Invests its assets pursuant to the requirements of chapters 58-26 and 58-27;
  - 14           (e)    Is subject to chapter 58-3 on the same basis as insurers;
  - 15           (f)    Is subject to the insurers supervision, rehabilitation, and liquidation provisions
  - 16                of chapter 58-29B.

17   The director may authorize a multiple employer trust that is not an association meeting the  
18   requirements of subdivisions (2) to (5), inclusive, of this section, if the multiple employer trust  
19   is comprised exclusively of employers engaged in a common industry for which there is some  
20   degree of common ownership, the ownership of two or more participating employers has existed  
21   since July 1, 2007, the employers forming the trust were previously providing health benefits  
22   collectively to their employees in this state, and the director finds that authorizing the multiple  
23   employer trust pursuant to this section is in the public interest.