

# State of South Dakota

EIGHTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2014

825V0568

## SENATE STATE AFFAIRS ENGROSSED NO. **SB 99** - 02/19/2014

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;
- 15 (4) The association sponsoring the multiple employer trust is engaged in substantial



1 activity for its members other than sponsorship of an employer welfare benefit plan;

2 (5) The association sponsoring the multiple employer trust is a nonprofit entity organized  
3 under applicable South Dakota law;

4 (6) The multiple employer trust, upon authorization by the director, participates in the  
5 South Dakota Life and Health Insurance Guaranty Association pursuant to chapter  
6 58-29C and is a member pursuant to subdivision 58-29C-48(12); and

7 (7) The multiple employer trust:

8 (a) Meets the capital and surplus requirements of § 58-6-23;

9 (b) Meets the risk based capital requirements of § 58-4-48;

10 (c) Is subject to the hazardous financial condition requirements of §§ 58-4-39 to  
11 58-4-42, inclusive;

12 (d) Invests its assets pursuant to the requirements of chapters 58-26 and 58-27;

13 (e) Is subject to chapter 58-3 on the same basis as insurers; and

14 (f) Is subject to the insurers supervision, rehabilitation, and liquidation provisions  
15 of chapter 58-29B.

16 The director may waive the requirement of subdivision (5) of this section if the director  
17 determines that the waiver is in the public interest. The director shall promulgate rules, pursuant  
18 to § 58-18-89, to set forth the requirements for any waiver.

19 Section 2. That § 58-18-89 be amended to read as follows:

20 58-18-89. The director shall promulgate rules, pursuant to chapter 1-26, pertaining to  
21 multiple employer trusts in the following areas:

22 (1) Consumer protection issues including minimum coverage standards for health  
23 policies; claims processing and payment practices; resolution of consumer  
24 complaints; compliance with federal HIPAA standards; plan termination processes

- 1 and managed care protections; financial and market conduct record keeping and  
2 reporting; and unfair trade practices;~~and~~
- 3 (2) Financial and plan solvency issues including investment capital requirements; surplus  
4 and deposit requirements; claims reserves, stop loss coverage, and standards for entry  
5 and exit of plan members including a nonrefundable minimum deposit of not less  
6 than two thousand five hundred dollars plus two percent of first year contributions  
7 on an annual basis; and production of financial statements, audited financial  
8 statements, and actuarial opinions; and
- 9 (3) Setting forth the public interest requirements necessary to obtain a waiver of  
10 subdivision 58-18-88 (5).