

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

634L0716

SENATE BILL NO. 163

Introduced by: Senators Dempster, Broderick, Earley, McCracken, and Schoenbeck and
Representatives Vehle, Murschel, O'Brien, and Peters

1 FOR AN ACT ENTITLED, An Act to exempt certain multiple employer welfare arrangements
2 from unauthorized insurers process provisions.

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

4 Section 1. That chapter 58-8 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 The provisions of §§ 58-8-6 to 58-8-19, inclusive, do not apply to any transaction involving
7 a multiple employer welfare arrangement, as defined in section 3 of the federal Employee
8 Retirement Income Security Act of 1974, 29 USC § 1002, paragraph 40, if the multiple
9 employer welfare arrangement meets all of the following conditions:

- 10 (1) The multiple employer welfare arrangement is administered by an authorized insurer
11 or an authorized third-party administrator;
- 12 (2) The multiple employer welfare arrangement was established by a trade, industry, or
13 professional association of employers that has a constitution or bylaws and has been
14 organized and maintained in good faith for at least ten continuous years;
- 15 (3) The association or group of employers sponsoring the multiple employer welfare



1 arrangement is engaged in substantial activity for its members other than sponsorship
2 of an employer welfare benefit plan;

3 (4) The association sponsoring the multiple employer welfare arrangement is a nonprofit
4 entity organized or authorized to do business under applicable South Dakota law;

5 (5) The association sponsoring the multiple employer welfare arrangement has registered
6 with and obtained a certificate of registration issued by the division;

7 (6) The multiple employer welfare arrangement is subject to the jurisdiction of the
8 division, including regulatory oversight and solvency standards as established by rule
9 adopted by the division pursuant to chapter 1-26.

10 Section 2. That chapter 58-8 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Any multiple employer welfare arrangement registered with the director that does not meet
13 the solvency standards established by rule adopted by the division is subject to chapters 58-18
14 to 58-18C, inclusive.

15 Section 3. That chapter 58-8 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 A multiple employer welfare arrangement that meets all of the requirements of section 1 of
18 this Act may not be considered any of the following:

19 (1) An insurance company or association of any kind or character under chapter 58-5 or
20 58-5A; or

21 (2) A member insurer of the South Dakota Life and Health Insurance Guaranty
22 Association pursuant to chapter 58-29C.

23 Section 4. That chapter 58-8 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 A multiple employer welfare arrangement registered with the division shall file with the
2 division on or before March first of each year a copy of the report required to be filed with the
3 United States Department of Labor pursuant to 29 C.F.R. § 2520.101-2.

4 Section 5. That chapter 58-8 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 If not otherwise provided, a foreign or domestic multiple employer welfare arrangement
7 doing business in this state shall pay to the division any fees as required in chapter 10-44 and
8 § 58-6-68.