As Introduced

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H. B. No. 511

Representative Sears

Cosponsors: Representatives Boose, Grossman, Henne, Romanchuk, Smith, Wachtmann, Young

A BILL

To amend sections 1739.05, 1751.14, 3923.123, 3923.24, 3923.241, and 3924.01 and to suspend sections 1751.53 and 3923.38 of the Revised Code to suspend the operation of continuation of coverage requirements and make other insurance-related changes. 1 2 3 4 5 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 1739.05, 1751.14, 3923.123, 3923.24, 3923.241, and 3924.01 of the Revised Code are amended to read as follows: 7 8 9

Sec. 1739.05. (A) A multiple employer welfare arrangement that is created pursuant to sections 1739.01 to 1739.22 of the Revised Code and that operates a group self-insurance program may be established only if any of the following applies: 10 11 12 13

(1) The arrangement has and maintains a minimum enrollment of three hundred employees of two or more employers. 14 15

(2) The arrangement has and maintains a minimum enrollment of three hundred self-employed individuals. 16 17

(3) The arrangement has and maintains a minimum enrollment of three hundred employees or self-employed individuals in any combination of divisions (A)(1) and (2) of this section.

(B) A multiple employer welfare arrangement that is created pursuant to sections 1739.01 to 1739.22 of the Revised Code and that operates a group self-insurance program shall comply with all laws applicable to self-funded programs in this state, including sections 3901.04, 3901.041, 3901.19 to 3901.26, 3901.38, 3901.381 to 3901.3814, 3901.40, 3901.45, 3901.46, 3902.01 to 3902.14, 3923.24, 3923.282, 3923.30, 3923.301, ~~3923.38,~~ 3923.581, 3923.63, 3923.80, 3924.031, 3924.032, and 3924.27 of the Revised Code.

(C) A multiple employer welfare arrangement created pursuant to sections 1739.01 to 1739.22 of the Revised Code shall solicit enrollments only through agents or solicitors licensed pursuant to Chapter 3905. of the Revised Code to sell or solicit sickness and accident insurance.

(D) A multiple employer welfare arrangement created pursuant to sections 1739.01 to 1739.22 of the Revised Code shall provide benefits only to individuals who are members, employees of members, or the dependents of members or employees, or are eligible for continuation of coverage ~~under section 1751.53 or 3923.38 of the Revised Code or~~ under Title X of the "Consolidated Omnibus Budget Reconciliation Act of 1985," 100 Stat. 227, 29 U.S.C.A. 1161, as amended.

Sec. 1751.14. (A) Notwithstanding section 3901.71 of the Revised Code, any policy, contract, or agreement for health care services authorized by this chapter that is issued, delivered, or renewed in this state and that provides that coverage of an unmarried dependent child will terminate upon attainment of the limiting age for dependent children specified in the policy, contract, or agreement, shall also provide in substance both of

the following: 49

(1) Once an unmarried child has attained the limiting age for dependent children, as provided in the policy, contract, or agreement, upon the request of the subscriber, the health insuring corporation shall offer to cover the unmarried child until the child attains ~~twenty-eight~~ <u>twenty-six</u> years of age if all of the following are true: 50 51 52 53 54 55

(a) The child is the natural child, stepchild, or adopted child of the subscriber. 56 57

(b) The child is a resident of this state or a full-time student at an accredited public or private institution of higher education. 58 59 60

(c) The child is not employed by an employer that offers any health benefit plan under which the child is eligible for coverage. 61 62 63

(d) The child is not eligible for coverage under the medicaid program or the medicare program. 64 65

(2) That attainment of the limiting age for dependent children shall not operate to terminate the coverage of a dependent child if the child is and continues to be both of the following: 66 67 68 69

(a) Incapable of self-sustaining employment by reason of mental retardation or physical handicap; 70 71

(b) Primarily dependent upon the subscriber for support and maintenance. 72 73

(B) Proof of incapacity and dependence for purposes of division (A)(2) of this section shall be furnished to the health insuring corporation within thirty-one days of the child's attainment of the limiting age. Upon request, but not more frequently than annually, the health insuring corporation may 74 75 76 77 78

require proof satisfactory to it of the continuance of such incapacity and dependency. 79 80

(C) Nothing in this section shall do any of the following: 81

(1) Require that any policy, contract, or agreement offer coverage for dependent children or provide coverage for an unmarried dependent child's children as dependents on the policy, contract, or agreement; 82 83 84 85

(2) Require an employer to pay for any part of the premium for an unmarried dependent child that has attained the limiting age for dependents, as provided in the policy, contract, or agreement; 86 87 88 89

(3) Require an employer to offer health insurance coverage to the dependents of any employee. 90 91

(D) This section does not apply to any health insuring corporation policy, contract, or agreement offering only supplemental health care services or specialty health care services. 92 93 94 95

(E) As used in this section, "health benefit plan" has the same meaning as in section 3924.01 of the Revised Code and also includes both of the following: 96 97 98

(1) A public employee benefit plan; 99

(2) A health benefit plan as regulated under the "Employee Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. 100 101

Sec. 3923.123. (A) As used in this section: 102

(1) "Association" means a voluntary unincorporated association of insurers formed for the sole purpose of enabling cooperative action to provide health coverage in accordance with this section. 103 104 105 106

(2) "Insurer" includes any insurance company authorized to do 107

the business of sickness and accident insurance in this state and any health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code.

(3) "Insured" means a person covered under a group policy or contract issued pursuant to this section.

(4) "Qualified unemployed person" means one who became unemployed while a resident of this state from employment or self-employment and has since been continuously unemployed or is employed only so that the person does not have, or have a right to purchase, group health coverage. An individual who is, or who becomes, covered by medicare is not a qualified unemployed person. ~~A person eligible for coverage under this section, who is also eligible for continuation of coverage under section 1751.53 or 3923.38 of the Revised Code, may elect either coverage, but not both. A person who elects continuation of coverage under either of such sections may, upon the termination of the continuation of coverage, elect any coverage available under this section.~~

(B) Any insurer may join with one or more other insurers, in an association, to offer, sell, and issue to a policyholder or subscriber selected by the association a policy or contract of group health coverage, covering residents of this state who are qualified unemployed persons and the spouses or dependents of such residents. The coverage shall be offered, issued, and administered in the name of the association. Membership in the association shall be open to any insurer and each insurer which participates shall be liable for a specified percentage of the risks. The policy or contract may be executed on behalf of the association by a duly authorized person.

(C) The persons eligible for coverage under the policy or contract shall be all residents of this state who are qualified unemployed persons and their spouses and dependents, subject to reasonable underwriting restrictions to be set forth in the plan

of the association. The policy or contract may provide basic hospital and surgical coverage, basic medical coverage, major medical coverage, and any combination of these; provided that it shall not be required as a condition for obtaining major medical coverage that any basic coverage be taken. 140 141 142 143 144

(D) The association shall file with the superintendent of insurance any policy, contract, certificate, or other evidence of coverage, application, or other forms pertaining to such insurance together with the premium rates to be charged therefor. The superintendent may approve, disapprove, and withdraw approval of the forms in accordance with section 3923.02 of the Revised Code, or the premium rates if by reasonable assumptions such rates are excessive in relation to the benefits provided. In determining whether such rates by reasonable assumptions are excessive in relation to the benefits provided, the superintendent shall give due consideration to past and prospective claim experience, within and outside this state, and to fluctuations in such claim experience, to a reasonable risk charge, to contribution to surplus and contingency funds, to past and prospective expenses, both within and outside this state, and to all other relevant factors within and outside this state, including any differing operating methods of the insurers joining in the issuance of the policy or contract. In reviewing the forms the superintendent shall not be bound by the requirements of sections 3923.04 to 3923.07 of the Revised Code with respect to standard provisions to be included in sickness and accident policies or forms. 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165

(E) The association may enroll eligible persons for coverage under the policy or contract through any person licensed by, or authorized under the law of, this state to sell the policies or contracts, or to enroll persons in the health plans, of any of the insurers participating in the association. 166 167 168 169 170

(F) The association shall file annually with the 171

superintendent on such date and in such form as the superintendent may prescribe, a financial summary of its operations. 172 173

(G) The association may sue and be sued in its associate name and for such purposes only shall be treated as a domestic corporation. Service of process against such association made upon a managing agent, any member thereof, or any agent authorized by appointment to receive service of process, shall have the same force and effect as if such service had been made upon all members of the association. 174 175 176 177 178 179 180

(H) Under any policy issued as provided in this section, the policyholder, or such person as the policyholder shall designate, shall alone be a member of each domestic mutual insurance company joining in the issue of the policy and shall be entitled to one vote by virtue of such policy at the meetings of each such mutual insurance company. Notice of the annual meetings of each such mutual insurance company may be given by written notice to the policyholder or as otherwise prescribed in said policy. 181 182 183 184 185 186 187 188

Sec. 3923.24. (A) Notwithstanding section 3901.71 of the Revised Code, every certificate furnished by an insurer in connection with, or pursuant to any provision of, any group sickness and accident insurance policy delivered, issued for delivery, renewed, or used in this state on or after January 1, 1972, every policy of sickness and accident insurance delivered, issued for delivery, renewed, or used in this state on or after January 1, 1972, and every multiple employer welfare arrangement offering an insurance program, which provides that coverage of an unmarried dependent child of a parent or legal guardian will terminate upon attainment of the limiting age for dependent children specified in the contract shall also provide in substance both of the following: 189 190 191 192 193 194 195 196 197 198 199 200 201

(1) Once an unmarried child has attained the limiting age for 202

dependent children, as provided in the policy, upon the request of the insured, the insurer shall offer to cover the unmarried child until the child attains ~~twenty-eight~~ <u>twenty-six</u> years of age if all of the following are true: 203 204 205 206

(a) The child is the natural child, stepchild, or adopted child of the insured. 207 208

(b) The child is a resident of this state or a full-time student at an accredited public or private institution of higher education. 209 210 211

(c) The child is not employed by an employer that offers any health benefit plan under which the child is eligible for coverage. 212 213 214

(d) The child is not eligible for the medicaid program or the medicare program. 215 216

(2) That attainment of the limiting age for dependent children shall not operate to terminate the coverage of a dependent child if the child is and continues to be both of the following: 217 218 219 220

(a) Incapable of self-sustaining employment by reason of mental retardation or physical handicap; 221 222

(b) Primarily dependent upon the policyholder or certificate holder for support and maintenance. 223 224

(B) Proof of such incapacity and dependence for purposes of division (A)(2) of this section shall be furnished by the policyholder or by the certificate holder to the insurer within thirty-one days of the child's attainment of the limiting age. Upon request, but not more frequently than annually after the two-year period following the child's attainment of the limiting age, the insurer may require proof satisfactory to it of the continuance of such incapacity and dependency. 225 226 227 228 229 230 231 232

(C) Nothing in this section shall require an insurer to cover a dependent child who is mentally retarded or physically handicapped if the contract is underwritten on evidence of insurability based on health factors set forth in the application, or if such dependent child does not satisfy the conditions of the contract as to any requirement for evidence of insurability or other provision of the contract, satisfaction of which is required for coverage thereunder to take effect. In any such case, the terms of the contract shall apply with regard to the coverage or exclusion of the dependent from such coverage. Nothing in this section shall apply to accidental death or dismemberment benefits provided by any such policy of sickness and accident insurance. 233 234 235 236 237 238 239 240 241 242 243 244

(D) Nothing in this section shall do any of the following: 245

(1) Require that any policy offer coverage for dependent children or provide coverage for an unmarried dependent child's children as dependents on the policy; 246 247 248

(2) Require an employer to pay for any part of the premium for an unmarried dependent child that has attained the limiting age for dependents, as provided in the policy; 249 250 251

(3) Require an employer to offer health insurance coverage to the dependents of any employee. 252 253

(E) This section does not apply to any policies or certificates covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, or vision care; coverage under a one-time-limited-duration policy of not longer than six months; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical-payment insurance; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or 254 255 256 257 258 259 260 261 262 263

equivalent self-insurance. 264

(F) As used in this section, "health benefit plan" has the same meaning as in section 3924.01 of the Revised Code and also includes both of the following: 265 266 267

(1) A public employee benefit plan; 268

(2) A health benefit plan as regulated under the "Employee Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. 269 270

Sec. 3923.241. (A) Notwithstanding section 3901.71 of the Revised Code, any public employee benefit plan that provides that coverage of an unmarried dependent child will terminate upon attainment of the limiting age for dependent children specified in the plan shall also provide in substance both of the following: 271 272 273 274 275

(1) Once an unmarried child has attained the limiting age for dependent children, as provided in the plan, upon the request of the employee, the public employee benefit plan shall offer to cover the unmarried child until the child attains ~~twenty-eight~~ twenty-six years of age if all of the following are true: 276 277 278 279 280

(a) The child is the natural child, stepchild, or adopted child of the employee. 281 282

(b) The child is a resident of this state or a full-time student at an accredited public or private institution of higher education. 283 284 285

(c) The child is not employed by an employer that offers any health benefit plan under which the child is eligible for coverage. 286 287 288

(d) The child is not eligible for the medicaid program or the medicare program. 289 290

(2) That attainment of the limiting age for dependent children shall not operate to terminate the coverage of a 291 292

dependent child if the child is and continues to be both of the following: 293 294

(a) Incapable of self-sustaining employment by reason of mental retardation or physical handicap; 295 296

(b) Primarily dependent upon the plan member for support and maintenance. 297 298

(B) Proof of incapacity and dependence for purposes of division (A)(2) of this section shall be furnished to the public employee benefit plan within thirty-one days of the child's attainment of the limiting age. Upon request, but not more frequently than annually, the public employee benefit plan may require proof satisfactory to it of the continuance of such incapacity and dependency. 299 300 301 302 303 304 305

(C) Nothing in this section shall do any of the following: 306

(1) Require that any public employee benefit plan offer coverage for dependent children or provide coverage for an unmarried dependent child's children as dependents on the public employee benefit plan; 307 308 309 310

(2) Require an employer to pay for any part of the premium for an unmarried dependent child that has attained the limiting age for dependents, as provided in the plan; 311 312 313

(3) Require an employer to offer health insurance coverage to the dependents of any employee. 314 315

(D) This section does not apply to any public employee benefit plan covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, or vision care; coverage under a one-time-limited-duration policy of not longer than six months; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile 316 317 318 319 320 321 322

medical-payment insurance; or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance. 323 324 325 326

(E) As used in this section, "health benefit plan" has the same meaning as in section 3924.01 of the Revised Code and also includes both of the following: 327 328 329

(1) A public employee benefit plan; 330

(2) A health benefit plan as regulated under the "Employee Retirement Income Security Act of 1974," 29 U.S.C. 1001, et seq. 331 332

Sec. 3924.01. As used in sections 3924.01 to 3924.14 of the Revised Code: 333 334

(A) "Actuarial certification" means a written statement prepared by a member of the American academy of actuaries, or by any other person acceptable to the superintendent of insurance, that states that, based upon the person's examination, a carrier offering health benefit plans to small employers is in compliance with sections 3924.01 to 3924.14 of the Revised Code. "Actuarial certification" shall include a review of the appropriate records of, and the actuarial assumptions and methods used by, the carrier relative to establishing premium rates for the health benefit plans. 335 336 337 338 339 340 341 342 343 344

(B) "Adjusted average market premium price" means the average market premium price as determined by the board of directors of the Ohio health reinsurance program either on the basis of the arithmetic mean of all carriers' premium rates for an OHC plan sold to groups with similar case characteristics by all carriers selling OHC plans in the state, or on any other equitable basis determined by the board. 345 346 347 348 349 350 351

(C) "Base premium rate" means, as to any health benefit plan 352

that is issued by a carrier and that covers at least two but no 353
more than fifty employees of a small employer, the lowest premium 354
rate for a new or existing business prescribed by the carrier for 355
the same or similar coverage under a plan or arrangement covering 356
any small employer with similar case characteristics. 357

(D) "Carrier" means any sickness and accident insurance 358
company or health insuring corporation authorized to issue health 359
benefit plans in this state or a MEWA. A sickness and accident 360
insurance company that owns or operates a health insuring 361
corporation, either as a separate corporation or as a line of 362
business, shall be considered as a separate carrier from that 363
health insuring corporation for purposes of sections 3924.01 to 364
3924.14 of the Revised Code. 365

(E) "Case characteristics" means, with respect to a small 366
employer, the geographic area in which the employees work; the age 367
and sex of the individual employees and their dependents; the 368
appropriate industry classification as determined by the carrier; 369
the number of employees and dependents; and such other objective 370
criteria as may be established by the carrier. "Case 371
characteristics" does not include claims experience, health 372
status, or duration of coverage from the date of issue. 373

(F) "Dependent" means the spouse or child of an eligible 374
employee, subject to applicable terms of the health benefits plan 375
covering the employee. 376

(G) "Eligible employee" means an employee who works a normal 377
work week of ~~twenty-five~~ thirty or more hours. "Eligible employee" 378
does not include a temporary or substitute employee, or a seasonal 379
employee who works only part of the calendar year on the basis of 380
natural or suitable times or circumstances. 381

(H) "Health benefit plan" means any hospital or medical 382
expense policy or certificate or any health plan provided by a 383

carrier, that is delivered, issued for delivery, renewed, or used in this state on or after the date occurring six months after November 24, 1995. "Health benefit plan" does not include policies covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, or vision care; coverage under a one-time-limited-duration policy of no longer than six months; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical-payment insurance; or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance. 384 385 386 387 388 389 390 391 392 393 394 395 396

(I) "Late enrollee" means an eligible employee or dependent who enrolls in a small employer's health benefit plan other than during the first period in which the employee or dependent is eligible to enroll under the plan or during a special enrollment period described in section 2701(f) of the "Health Insurance Portability and Accountability Act of 1996," Pub. L. No. 104-191, 110 Stat. 1955, 42 U.S.C.A. 300gg, as amended. 397 398 399 400 401 402 403

(J) "MEWA" means any "multiple employer welfare arrangement" as defined in section 3 of the "Federal Employee Retirement Income Security Act of 1974," 88 Stat. 832, 29 U.S.C.A. 1001, as amended, except for any arrangement which is fully insured as defined in division (b)(6)(D) of section 514 of that act. 404 405 406 407 408

(K) "Midpoint rate" means, for small employers with similar case characteristics and plan designs and as determined by the applicable carrier for a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate. 409 410 411 412 413

(L) "Pre-existing conditions provision" means a policy provision that excludes or limits coverage for charges or expenses 414 415

incurred during a specified period following the insured's enrollment date as to a condition for which medical advice, diagnosis, care, or treatment was recommended or received during a specified period immediately preceding the enrollment date. Genetic information shall not be treated as such a condition in the absence of a diagnosis of the condition related to such information. 416 417 418 419 420 421 422

For purposes of this division, "enrollment date" means, with respect to an individual covered under a group health benefit plan, the date of enrollment of the individual in the plan or, if earlier, the first day of the waiting period for such enrollment. 423 424 425 426

(M) "Service waiting period" means the period of time after employment begins before an employee is eligible to be covered for benefits under the terms of any applicable health benefit plan offered by the small employer. 427 428 429 430

(N)(1) "Small employer" means, in connection with a group health benefit plan and with respect to a calendar year and a plan year, an employer who employed an average of at least two but no more than fifty eligible employees on business days during the preceding calendar year and who employs at least two employees on the first day of the plan year. 431 432 433 434 435 436

(2) For purposes of division (N)(1) of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, shall be considered one employer. In the case of an employer that was not in existence throughout the preceding calendar year, the determination of whether the employer is a small or large employer shall be based on the average number of eligible employees that it is reasonably expected the employer will employ on business days in the current calendar year. Any reference in division (N) of this section to an "employer" includes any predecessor of the employer. Except as 437 438 439 440 441 442 443 444 445 446 447

otherwise specifically provided, provisions of sections 3924.01 to 3924.14 of the Revised Code that apply to a small employer that has a health benefit plan shall continue to apply until the plan anniversary following the date the employer no longer meets the requirements of this division. 448 449 450 451 452

(O) "OHC plan" means an Ohio health care plan, which is the basic, standard, or carrier reimbursement plan for small employers and individuals established in accordance with section 3924.10 of the Revised Code. 453 454 455 456

Section 2. That existing sections 1739.05, 1751.14, 3923.123, 3923.24, 3923.241, and 3924.01 of the Revised Code are hereby repealed. 457 458 459

Section 3. Sections 1739.05, 1751.14, and 3924.01 as amended by this act, apply only to policies, contracts, and agreements that are delivered, issued for delivery, or renewed in this state on or after January 1, 2015. Sections 3923.123, 3923.24, and 3923.241 as amended by this act, apply only to policies of sickness and accident insurance delivered, issued for delivery, or renewed in this state and public or private employee benefit plans that are established or modified in this state on or after January 1, 2015. 460 461 462 463 464 465 466 467 468

Section 4. (A) During the period beginning on January 1, 2015, and ending January 1, 2018, the operation of sections 1751.53 and 3923.38 of the Revised Code are suspended. Accordingly, group insurance contracts issued on or after January 1, 2015, and before January 1, 2018, shall not be required to provide that any eligible employee, or the employee's dependents, may continue coverage under the contract. 469 470 471 472 473 474 475

(B) If any portion of 42 U.S.C. 300gg-1 to 300gg-6 is amended or repealed in such a way as to nullify insurance requirements 476 477

related to guaranteed availability of coverage or guaranteed renewal of health insurance, prior to January 1, 2018, then sections 1751.53 and 3923.38 of the Revised Code, in either their present form or as they are later amended, shall again become operational. 478 479 480 481 482

(C) As used in this section, "eligible employee" has the same meaning as in section 1751.53 or 3923.38 of the Revised Code, as applicable. 483 484 485