

SESSION OF 2014

SUPPLEMENTAL NOTE ON SENATE BILL NO. 309

As Amended by Senate Committee on Financial
Institutions and Insurance

Brief*

SB 309 would amend a provision in the Insurance Code to add any other qualified trade, merchant, retail or professional association or business league, and farmers' cooperatives to the list of associations providing health insurance coverage exempted from the jurisdiction of the Kansas Insurance Commissioner.

The bill would define a "qualified trade, merchant, retail or professional association or business league" as any *bona fide* trade, merchant, retail or professional association or business league that has been in existence for at least five calendar years and is composed of five or more employers.

The bill would further specify the exemption for farmers' cooperatives applies to an entity that is organized as a farmers' cooperative under the Kansas Cooperative Marketing Act (KSA 17-1601 *et seq.*) and is an association of farmers' cooperatives and other like associations operated on a cooperative basis and their affiliated companies that provide benefits.

Associations and other qualifying entities would be required to comply with related written notification requirements to specify, among other things, the coverage is not provided by an insurance company and the plan is not under the jurisdiction of the Insurance Commissioner.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Background

The 1991 Legislature exempted five multiple employer welfare arrangement (MEWA) association groups from the jurisdiction of the Insurance Commissioner. Those five associations exempted in KSA 2013 Supp. 40-2222 are a professional association of architects (American Institute of Architects—Kansas), a professional association of dentists (Kansas Dental Association), a trade association of banks (Community Bankers Association of Kansas), a trade association of truckers (National Association of Independent Truckers), and an association of physicians practicing in the Kansas City metropolitan area that provides certain health benefits to the members of the association.

The 2013 Legislature authorized exemption for an additional association, a trade association of banks (the Kansas Bankers Association). 2014 SB 309 would add certain qualified associations and business leagues and farmers' cooperatives to the exemptions in KSA 2013 Supp. 40-2222.

The bill was introduced by the Senate Committee on Public Health and Welfare at the request of a representative from the National Federation of Independent Business (NFIB). At the Senate Financial Institutions and Insurance Committee hearing, a representative of the Kansas Association of Insurance Agents (KAIA) appeared in support of the bill, stating that granting Kansas employers more options and flexibility to provide health insurance for their employees will improve marketplace competition and the overall business climate in Kansas. These self-funded association plans, the representative noted, would not be subject to some provisions of the Affordable Care Act, but would still be subject to both state and federal oversight. The KAIA representative requested an amendment to expand the term "any qualified professional association." Representatives of the Kansas Chamber, the NFIB, and SS&G and Associates appeared as proponents at the Senate Committee hearing. Additionally, written proponent testimony was submitted by

representatives of Aetna, Allied National, the Kansas Restaurant and Hospitality Association, the Kansas Society of Association Executives, and Richey Health Benefits.

There was no neutral or opposition testimony to the bill.

The Senate Committee on Financial Institutions and Insurance adopted an amendment to expand the term “qualified professional association” and insert additional criteria for these entities’ exemption from the law. The amendment was requested by representatives of the KAIA. Additionally, the Committee inserted a provision to allow an exemption for entities organized as farmers’ cooperatives. The amendment was requested by the Kansas Cooperative Council.

The fiscal note prepared by the Division of the Budget on the bill, as introduced, states that the Kansas Insurance Department indicates enactment of the the bill could result in an increase of insurance premiums tax, as qualified professional associations would be subject to the 1.0 percent annual tax on the annual Kansas gross premiums collected. However, the fiscal note continues, the Department states it does not have an estimate of the number of new associations that might be incorporated and would be subject to the tax. Any fiscal effect associated with the bill is not reflected in *The FY 2015 Governor’s Budget Report*.