

SENATE BILL NO. 64—SENATOR AMODEI

FEBRUARY 7, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Authorizes formation of associations of self-insured private employers to provide health coverage. (BDR 57-138)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to health insurance; authorizing the formation of associations of self-insured private employers to provide health coverage; imposing certain requirements upon such an association and its board of trustees; prohibiting certain acts without an agent's license issued by the Commissioner of Insurance; authorizing the Commissioner to impose an administrative fine for certain violations; imposing certain requirements upon a third-party administrator for such an association; providing a penalty; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Title 57 of NRS is hereby amended by adding
2 thereto a new chapter to consist of the provisions set forth as
3 sections 2 to 43, inclusive, of this act.
4 **Sec. 2.** *As used in this chapter, unless the context otherwise*
5 *requires, the words and terms defined in sections 3 to 7, inclusive,*
6 *of this act have the meanings ascribed to them in those sections.*
7 **Sec. 3.** *“Association of self-insured private employers”*
8 *means a nonprofit, unincorporated association composed of two*
9 *or more private employers that has been issued a certificate by the*
10 *Commissioner and is subject to the provisions of this chapter.*



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1 **Sec. 4.** *“Association’s administrator” means a person who is*
2 *employed by or has contracted with the board of trustees of an*
3 *association of self-insured private employers to carry out the*
4 *policies of the board of trustees and to be responsible for the daily*
5 *operation of the association.*

6 **Sec. 5.** 1. *“Employer” means, with respect to a calendar*
7 *year, an employer who employed on business days during the*
8 *preceding calendar year an average of at least 2 employees, but*
9 *not more than 50 employees, who have a normal work week of 30*
10 *hours or more, and who employs at least 2 employees on the first*
11 *day of the year. For the purposes of determining the number of*
12 *eligible employees, organizations which are affiliated or which are*
13 *eligible to file a combined tax return for the purposes of taxation*
14 *constitute one employer.*

15 2. *For the purposes of this section, organizations are*
16 *“affiliated” if one directly, or indirectly, through one or more*
17 *intermediaries, controls or is controlled by, or is under common*
18 *control with, the other, as determined pursuant to the provisions of*
19 *NRS 692C.050.*

20 **Sec. 6.** *“Tangible net worth” means all the assets of an*
21 *association of self-insured private employers reduced by all the*
22 *liabilities of the association, but does not include:*

23 1. *Accounts receivable, if they are factored or collateralized.*

24 2. *An inventory, except inventory held for resale and not*
25 *collateralized.*

26 3. *A prepaid expense.*

27 4. *An unqualified investment.*

28 5. *An allocated bond fund.*

29 6. *An investment in an affiliate.*

30 7. *A restricted fund.*

31 8. *A reserve.*

32 9. *A security cost, including a capitalized bond cost.*

33 10. *A cash equivalent, unless it is described in the footnotes*
34 *for the balance sheet by item, and for investments, by duration and*
35 *nature. A cash flow statement is not a sufficient description.*

36 11. *A contingency or commitment, including any estimated*
37 *cost.*

38 12. *Any book adjustment caused by a change in an*
39 *accounting policy or a restatement.*

40 13. *Goodwill or excess cost over the fair market value of*
41 *assets.*

42 14. *Any other items listed in the assets that are deemed*
43 *unacceptable by the Commissioner because they cannot be*
44 *justified or because they do not directly support the ability of the*
45 *association or the member to pay a claim.*



1 **Sec. 7.** *“Third-party administrator” means a person who*
2 *contracts with an association of self-insured private employers to*
3 *provide administrative services for the association of self-insured*
4 *private employers and to manage claims. The term does not*
5 *include an insurance company.*

6 **Sec. 8.** *An association of self-insured private employers may*
7 *provide health coverage for the employees of an employer that is a*
8 *member of the association only if:*

9 1. *A portion of the premium or benefits are paid by or on*
10 *behalf of the employer;*

11 2. *An eligible employee or his dependent is reimbursed for a*
12 *portion of the premium, whether by wage adjustments or*
13 *otherwise, by or on behalf of the employer; or*

14 3. *The health coverage is considered by the employer or any*
15 *of his eligible employees or dependents as part of a plan or*
16 *program for the purposes of section 106, 125 or 162 of the*
17 *Internal Revenue Code, 26 U.S.C. § 106, 125 or 162.*

18 **Sec. 9.** 1. *An association of self-insured private employers*
19 *may provide health coverage through a trust fund and, if*
20 *necessary, deduct contributions to the maintenance of the fund*
21 *from the compensation of officers and employees and pay the*
22 *deductions into the fund.*

23 2. *The money must be deposited in a state or national bank or*
24 *credit union authorized to transact business in this state.*

25 3. *Any independent administrator of a fund created pursuant*
26 *to this section is subject to the licensing requirements of chapter*
27 *683A of NRS.*

28 4. *Any contract with an independent administrator must be*
29 *approved by the Commissioner as to the reasonableness of*
30 *administrative charges in relation to contributions collected and*
31 *benefits provided.*

32 5. *The provisions of NRS 689B.030 to 689B.050, inclusive,*
33 *apply to coverage provided pursuant to this section.*

34 **Sec. 10.** 1. *A group of two or more employers may not act*
35 *as an association of self-insured private employers unless:*

36 (a) *Each member of the group is a member or associate*
37 *member of a bona fide trade association, as determined by the*
38 *Commissioner, which:*

39 (1) *Is incorporated in this state; and*

40 (2) *Has been in existence for at least 5 years;*

41 (b) *The association of self-insured private employers has been*
42 *issued a certificate to act as such an association by the*
43 *Commissioner; and*

44 (c) *The association of self-insured private employers insures at*
45 *least 51 employees of members of the association.*



- 1 2. *An association of self-insured private employers that*
2 *wishes to be issued a certificate must file with the Commissioner*
3 *an application for certification.*
- 4 3. *The application must include:*
 - 5 (a) *The name of the association.*
 - 6 (b) *The address of:*
 - 7 (1) *The principal office of the association; and*
 - 8 (2) *The location where the books and records of the*
9 *association will be maintained.*
 - 10 (c) *The date on which the association was organized.*
 - 11 (d) *The name and address of each member of the association.*
 - 12 (e) *The names of the initial members of the board of trustees*
13 *and the name of the initial association's administrator.*
 - 14 (f) *Such other information as the Commissioner may require.*
- 15 4. *The application must be accompanied by:*
 - 16 (a) *A nonrefundable filing fee of \$1,000.*
 - 17 (b) *Proof of compliance with section 11 of this act.*
 - 18 (c) *Proof that the association or its third-party administrator is*
19 *licensed or otherwise authorized to conduct business in this state*
20 *pursuant to title 57 of NRS.*
 - 21 (d) *A copy of the agreements entered into with the*
22 *association's administrator and a third-party administrator.*
 - 23 (e) *A copy of the bylaws of the association.*
 - 24 (f) *A copy of an agreement jointly and severally binding*
25 *the association and each member of the association to secure the*
26 *provision of health coverage pursuant to the provisions of this*
27 *chapter.*
 - 28 (g) *A pro forma financial statement prepared by an*
29 *independent certified public accountant in accordance with*
30 *generally accepted accounting principles that shows the financial*
31 *ability of the association to provide health coverage pursuant to*
32 *the provisions of this chapter.*
 - 33 (h) *A financial statement reviewed and prepared by an*
34 *independent certified public accountant for each proposed*
35 *member of the association or evidence of the ability of the*
36 *association or its proposed members to provide a solvency bond*
37 *pursuant to subsection 3 of section 11 of this act.*
 - 38 (i) *Proof that each member of the association will make the*
39 *initial payment to the association required pursuant to section 28*
40 *of this act on a date specified by the Commissioner. The payment*
41 *shall be deemed to be a part of the assessment required to be paid*
42 *by each member for the first year of self-insurance if certification*
43 *is issued to the association.*



1 5. Any financial information relating to a member of an
2 association received by the Commissioner pursuant to the
3 provisions of this section is confidential and must not be disclosed.

4 6. As used in this section, "associate member of a bona
5 fide trade association" means a supplier whose business, as
6 determined by the Commissioner:

7 (a) Is limited to a specific industry; and

8 (b) Primarily involves providing a product or service that is
9 directly used or consumed by substantially all the members of the
10 trade association or bears a direct relationship to the business of
11 the members of the trade association.

12 **Sec. 11. 1.** An association of self-insured private employers
13 shall:

14 (a) Execute an indemnity agreement jointly and severally
15 binding the association and each member of the association to
16 secure the provision of health coverage pursuant to this chapter.
17 The indemnity agreement must be in a form prescribed by
18 the Commissioner. An association may add provisions to the
19 indemnity agreement if the provisions are first approved by the
20 Commissioner.

21 (b) Except as otherwise provided in this subsection, maintain a
22 policy of specific and aggregate excess insurance in a form and
23 amount required by the Commissioner. The excess insurance must
24 be written by an insurer approved by the Commissioner. To
25 determine the amount of excess insurance required, the
26 Commissioner shall consider:

27 (1) The number of members in the association;

28 (2) The types of services provided by the members of the
29 association;

30 (3) The number of years the association has been in
31 existence; and

32 (4) Such other information as the Commissioner deems
33 necessary.

34 This paragraph does not prohibit an association from purchasing
35 secondary excess insurance in addition to the excess insurance
36 required by this paragraph.

37 (c) Collect an annual assessment from each member of the
38 association in an aggregate amount of at least \$100,000 or in an
39 aggregate amount which the Commissioner determines is
40 satisfactory based on an annual review conducted by the
41 Commissioner of the actuarial solvency of the association.

42 (d) Except as otherwise provided in paragraph (e), deposit as
43 security with the Commissioner a bond executed by the association
44 as principal, and by a licensed surety, payable to the State of
45 Nevada, and conditioned upon the provision of health coverage to



1 *employees of members of the association. The bond must be in an*
2 *amount determined by the Commissioner to be reasonably*
3 *sufficient to ensure payment of obligations related to the provision*
4 *of health coverage, but in no event may it be less than \$100,000.*

5 *(e) In lieu of a bond, deposit with the Commissioner a like*
6 *amount of lawful money of the United States or any other form of*
7 *security authorized by NRS 100.065. If security is provided in the*
8 *form of a savings certificate, certificate of deposit or investment*
9 *certificate, the certificate must state that the amount is unavailable*
10 *for withdrawal except upon order of the Commissioner.*

11 *2. Except as otherwise provided in subsection 3, in addition to*
12 *complying with the requirements of subsection 1, an association of*
13 *self-insured private employers shall maintain a combined tangible*
14 *net worth of at least \$1,000,000.*

15 *3. In lieu of complying with the requirements of subsection 2,*
16 *the association's administrator shall ensure that a solvency bond,*
17 *in a form prescribed by the Commissioner and in an aggregate*
18 *amount of at least \$1,000,000, is deposited with the Commissioner*
19 *by the association or members of the association on behalf of the*
20 *association.*

21 *4. The association's administrator shall deposit with the*
22 *Commissioner a bond executed by the association's administrator*
23 *as principal, and by a licensed surety, payable to the State of*
24 *Nevada, and conditioned upon the faithful performance of his*
25 *duties. The bond must be in an amount determined by the*
26 *Commissioner.*

27 *5. Any third-party administrator providing claims services for*
28 *the association shall deposit with the Commissioner a bond*
29 *executed by the third-party administrator as principal, and by a*
30 *licensed surety, payable to the State of Nevada, and conditioned*
31 *upon the faithful performance of its duties. The bond must be in*
32 *an amount determined by the Commissioner.*

33 *6. The Commissioner may increase or decrease the amount of*
34 *any bond or money required to be deposited by this section in*
35 *accordance with chapter 681B of NRS and his regulations for*
36 *loss reserves in health insurance. If the Commissioner requires*
37 *an association, association's administrator or third-party*
38 *administrator to increase its deposit, the Commissioner may*
39 *specify the form of the additional security. The association,*
40 *association's administrator or third-party administrator shall*
41 *comply with such a requirement within 60 days after receiving*
42 *notice from the Commissioner.*

43 *7. The Account for Health Coverage for Associations of Self-*
44 *insured Private Employers is hereby created in the State Agency*
45 *Fund for Bonds. All money received by the Commissioner*



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1 *pursuant to this section must be deposited with the State Treasurer*
2 *to the credit of the Account. All claims against the Account must*
3 *be paid as other claims against the State are paid.*

4 **Sec. 12.** *A surety or bonding company shall not furnish a*
5 *bond or any other form of security required by the provisions of*
6 *this chapter for an association of self-insured private employers or*
7 *a member of such an association unless the surety or bonding*
8 *company holds a certificate of authority issued by the*
9 *Commissioner.*

10 **Sec. 13. 1.** *The Commissioner shall grant or deny an*
11 *application for certification as an association of self-insured*
12 *private employers within 60 days after receiving the application. If*
13 *the application is materially incomplete or does not comply with*
14 *the applicable provisions of law, the Commissioner shall notify the*
15 *applicant of the additional information or changes required.*
16 *Under such circumstances, if the Commissioner is unable to act*
17 *upon the application within this 60-day period, he may extend the*
18 *period for granting or denying the application, but for not longer*
19 *than an additional 90 days.*

20 **2.** *Upon determining that an association is qualified as an*
21 *association of self-insured private employers, the Commissioner*
22 *shall issue a certificate to that effect to the association and the*
23 *association's administrator. No certificate may be issued to an*
24 *association that, within the 2 years immediately preceding its*
25 *application, has had its certification as an association of self-*
26 *insured private employers involuntarily withdrawn by the*
27 *Commissioner.*

28 **3.** *A certificate issued pursuant to this section must include,*
29 *without limitation:*

30 *(a) The name of the association;*

31 *(b) The name of each employer that the Commissioner*
32 *determines is a member of the association at the time of the*
33 *issuance of the certificate;*

34 *(c) An identification number assigned to the association by the*
35 *Commissioner; and*

36 *(d) The date on which the certificate was issued.*

37 **4.** *A certificate issued pursuant to this section remains in*
38 *effect until withdrawn by the Commissioner or canceled at the*
39 *request of the association. Coverage for an association granted a*
40 *certificate becomes effective on the date of certification or the date*
41 *specified in the certificate, as appropriate.*

42 **5.** *The Commissioner shall not grant a request to cancel a*
43 *certificate unless the association has insured or reinsured all*
44 *incurred obligations with an insurer authorized to do business in*
45 *this state pursuant to an agreement filed with and approved by the*



1 *Commissioner. The agreement must include coverage for all*
2 *incurred claims, including claims that have been incurred but not*
3 *reported to the association, as well as those that have been*
4 *incurred and reported but not yet paid, and the expenses*
5 *associated with those claims.*

6 **Sec. 14.** 1. *An association certified as an association of*
7 *self-insured private employers directly assumes the responsibility*
8 *for providing health coverage to the employees of the members of*
9 *the association and their beneficiaries pursuant to this chapter.*

10 2. *The claims of employees and their beneficiaries while in*
11 *the employment of a member of an association must be handled in*
12 *the manner provided by this chapter, and the association is subject*
13 *to the regulations of the Commissioner with respect to payment of*
14 *those claims.*

15 3. *The security deposited pursuant to section 11 of this act*
16 *does not relieve an association from responsibility for the*
17 *administration of claims and the provision of health coverage*
18 *pursuant to this chapter.*

19 **Sec. 15.** 1. *An association of self-insured private employers*
20 *must be operated by a board of trustees consisting of at least five*
21 *members whom the members of the association elect for terms set*
22 *forth in the bylaws of the association. At least two-thirds of the*
23 *members of the board of trustees must be employees, officers or*
24 *directors of the members of the association. No association's*
25 *administrator or third-party administrator employed by the*
26 *association, or any owner, officer, employee or other person*
27 *affiliated with the association's administrator or third-party*
28 *administrator, may serve as a member of the board of trustees.*
29 *Each member of the board of trustees must be a resident of this*
30 *state or an officer of a corporation authorized to do business in*
31 *this state.*

32 2. *The board of trustees of an association shall:*

33 (a) *Ensure the prompt payment of claims relating to the health*
34 *coverage provided pursuant to this chapter.*

35 (b) *Take such actions as are necessary to protect the assets of*
36 *the association.*

37 (c) *Employ full time an association's administrator to carry*
38 *out the policies of the board of trustees and perform such duties as*
39 *the board delegates to him. An association's administrator shall*
40 *not perform any of the duties assigned to a third-party*
41 *administrator.*

42 (d) *Employ a third-party administrator to carry out the duties*
43 *set forth in section 40 of this act.*



1 (e) *Employ an independent certified public accountant to*
2 *prepare the statement of financial condition required by section 24*
3 *of this act.*

4 (f) *Maintain minutes of its meetings and make the minutes*
5 *available for inspection by the Commissioner.*

6 3. *The board of trustees of an association shall not:*

7 (a) *Extend credit to any member of the association for the*
8 *payment of the annual assessment for that member, except*
9 *pursuant to a payment plan approved by the Commissioner; or*

10 (b) *Borrow any money from the association or in the name of*
11 *the association, except in the ordinary course of its business,*
12 *without the prior approval of the Commissioner.*

13 **Sec. 16.** 1. *The board of trustees of an association of self-*
14 *insured private employers is responsible for the money collected*
15 *and disbursed by the association.*

16 2. *The board of trustees shall:*

17 (a) *Establish a claims account in a federally insured financial*
18 *institution in this state approved by the Commissioner. Except as*
19 *otherwise provided in subsection 3, at least 75 percent of the*
20 *annual assessment collected by the association from its members*
21 *must be deposited in this account to pay:*

22 (1) *Claims;*

23 (2) *Expenses related to those claims; and*

24 (3) *The costs associated with the association's policy of*
25 *excess insurance.*

26 (b) *Establish an administrative account in a federally insured*
27 *financial institution in this state approved by the Commissioner.*
28 *The amount of the annual assessment collected by the association*
29 *that is not deposited in its claims account must be deposited in the*
30 *administrative account to pay the administrative expenses of the*
31 *association.*

32 3. *The Commissioner may authorize an association to deposit*
33 *less than 75 percent of its annual assessment in its claims account*
34 *if the association presents evidence satisfactory to the*
35 *Commissioner that the association's policy of excess insurance is*
36 *sufficient.*

37 4. *The board of trustees may invest the money of the*
38 *association not needed to pay the obligations of the association*
39 *pursuant to chapter 682A of NRS.*

40 5. *The Commissioner shall review the accounts of an*
41 *association established pursuant to this section at such times as he*
42 *deems necessary to ensure compliance with the provisions of this*
43 *section.*



1 **Sec. 17. 1.** *An association's administrator employed by an*
2 *association of self-insured private employers, or an employee,*
3 *officer or director of an association's administrator, may not be an*
4 *employee, officer or director of a third-party administrator*
5 *employed by the association or have a direct or indirect financial*
6 *interest in the third-party administrator of the association.*

7 **2.** *The third-party administrator of an association of self-*
8 *insured private employers, or an employee, officer or director of*
9 *the third-party administrator, may not be an employee, officer or*
10 *director of an association's administrator employed by the*
11 *association or have a direct or indirect financial interest in that*
12 *association's administrator.*

13 **3.** *Any contract entered into by an association of self-insured*
14 *private employers and a third-party administrator must include a*
15 *provision which states that, unless the Commissioner otherwise*
16 *provides, the third-party administrator shall administer any claim*
17 *or other obligation of the association to its conclusion during the*
18 *period of the contract.*

19 **Sec. 18.** *A person shall not advertise or offer for sale in this*
20 *state any policies or memberships, or solicit or receive any money,*
21 *subscriptions, applications, premiums, assessments, memberships*
22 *or any other fee or charge in connection with a proposed*
23 *association of self-insured private employers unless licensed as an*
24 *agent pursuant to chapter 683A of NRS.*

25 **Sec. 19. 1.** *If an employer wishes to become a member of*
26 *an association of self-insured private employers, the employer*
27 *must:*

28 **(a)** *Submit an application for membership to the board of*
29 *trustees or third-party administrator of the association; and*

30 **(b)** *Enter into an indemnity agreement as required by section*
31 *11 of this act.*

32 **2.** *The membership of the applicant becomes effective when*
33 *all members of the association have indicated their approval of the*
34 *application or on a later date specified by the association. The*
35 *application for membership and the action taken on the*
36 *application must be maintained as permanent records of the board*
37 *of trustees.*

38 **3.** *Each member who is a member of an association during*
39 *the 12 months immediately following the formation of the*
40 *association must have a tangible net worth of at least \$200,000.*
41 *Any employer who seeks to become a member of the association*
42 *subsequently must meet the requirement for tangible net worth of*
43 *at least \$200,000 unless the Commissioner adjusts the requirement*
44 *for membership in the association after conducting an annual*



1 *review of the actuarial solvency of the association in accordance*
2 *with subsection 1 of section 11 of this act.*

3 4. *A member of an association may terminate his membership*
4 *at any time. To terminate his membership, a member must submit*
5 *to the association's administrator a notice of intent to withdraw*
6 *from the association at least 120 days before the effective date of*
7 *withdrawal. The association's administrator shall, within 10 days*
8 *after receipt of the notice, notify the Commissioner of the*
9 *employer's intent to withdraw from the association.*

10 5. *The members of an association may cancel the*
11 *membership of any member of the association in accordance with*
12 *the bylaws of the association.*

13 6. *The association shall:*

14 (a) *Notify the Commissioner of the termination or cancelation*
15 *of the membership of any member of the association within 10*
16 *days after the termination or cancelation; and*

17 (b) *At the expense of the member whose membership is*
18 *terminated or canceled, maintain coverage for that member for 30*
19 *days after notice is given pursuant to paragraph (a), unless the*
20 *association first receives notice from the Commissioner that the*
21 *member has:*

22 (1) *Become a member of another association of self-*
23 *insured private employers; or*

24 (2) *Become insured by an insurer.*

25 7. *If a member of an association changes his name or form of*
26 *organization, the member remains liable for any obligations*
27 *incurred or any responsibilities imposed pursuant to this chapter*
28 *under his former name or form of organization.*

29 8. *An association is liable for the payment of any obligations*
30 *required to be paid by a member of the association pursuant to this*
31 *chapter during his period of membership. The insolvency or*
32 *bankruptcy of a member does not relieve the association of*
33 *liability for the provision of health coverage.*

34 **Sec. 20.** *An association of self-insured private employers*
35 *shall notify the Commissioner of any change in the information*
36 *submitted in its application for certification or in the manner of its*
37 *compliance with section 11 of this act not later than 30 days after*
38 *the change.*

39 **Sec. 21.** 1. *The Commissioner may examine the books,*
40 *records, accounts and assets of an association of self-insured*
41 *private employers as he deems necessary to carry out the*
42 *provisions of this chapter.*

43 2. *The expense of any examination conducted pursuant to*
44 *this section must be paid by the association.*



1 **Sec. 22.** *An association of self-insured private employers*
2 *shall be deemed to have appointed the Commissioner as its*
3 *resident agent to receive any initial legal process authorized by law*
4 *to be served upon the association for as long as the association is*
5 *obligated to provide health coverage pursuant to this chapter.*

6 **Sec. 23.** *1. An association of self-insured private employers*
7 *may merge with another association of self-insured private*
8 *employers if:*

9 *(a) The members of the merging associations are engaged in*
10 *the same or similar trade;*

11 *(b) The resulting association assumes in full all obligations of*
12 *the merging associations; and*

13 *(c) The merger is approved by the Commissioner.*

14 *2. The Commissioner shall conduct a hearing on the*
15 *proposed merger if any member of the merging associations so*
16 *requests. The Commissioner may, on his own motion, conduct*
17 *such a hearing.*

18 **Sec. 24.** *1. An association of self-insured private employers*
19 *shall file with the Commissioner an audited statement of financial*
20 *condition prepared by an independent certified public accountant.*
21 *The statement must be filed on or before April 1 of each year or, if*
22 *the fiscal year of the association does not coincide with the*
23 *calendar year, within 90 days after the conclusion of the*
24 *association's fiscal year, and contain information for the previous*
25 *fiscal year.*

26 *2. The statement required by subsection 1 must be in a form*
27 *prescribed by the Commissioner and include, without limitation:*

28 *(a) A statement of the reserves for:*

29 *(1) Actual claims and expenses;*

30 *(2) Claims filed with the association but not reported, and*
31 *the expenses associated with those claims;*

32 *(3) Assessments that are due, but not paid; and*

33 *(4) Unpaid debts, which must be shown as liabilities.*

34 *(b) An actuarial opinion regarding reserves that is prepared by*
35 *a member of the American Academy of Actuaries or another*
36 *specialist in loss reserves identified in the annual statement*
37 *adopted by the National Association of Insurance Commissioners.*
38 *The actuarial opinion must include a statement of:*

39 *(1) Actual claims and the expenses associated with those*
40 *claims; and*

41 *(2) Claims filed with the association but not reported, and*
42 *the expenses associated with those claims.*

43 *3. The Commissioner may adopt a uniform financial*
44 *reporting system for associations of self-insured private employers*



1 *to ensure the accurate and complete reporting of financial*
2 *information.*

3 *4. The Commissioner may require the filing of such other*
4 *reports as he deems necessary to carry out the provisions of this*
5 *section.*

6 **Sec. 25.** *The annual assessment required to be paid by each*
7 *member of an association of self-insured private employers must*
8 *be calculated pursuant to regulations adopted by the*
9 *Commissioner.*

10 **Sec. 26.** *1. The Commissioner shall cause to be conducted*
11 *at least annually an audit of each association of self-insured*
12 *private employers to verify:*

13 *(a) The number of employees of each member of the*
14 *association;*

15 *(b) The assessment required to be paid by each member of the*
16 *association; and*

17 *(c) Any other information the Commissioner determines is*
18 *necessary.*

19 *2. The audit required by this section must be conducted by an*
20 *auditor approved by the Commissioner.*

21 *3. A report of the audit must be filed with the Commissioner*
22 *in a form required by the Commissioner.*

23 *4. The expenses of any audit conducted pursuant to this*
24 *section must be paid by the association.*

25 **Sec. 27.** *1. If the assets of an association of self-insured*
26 *private employers exceed the amount necessary for the association*
27 *to:*

28 *(a) Pay its obligations and administrative expenses;*

29 *(b) Carry reasonable reserves; and*

30 *(c) Provide for contingencies,*
31 *the board of trustees of the association may, after obtaining the*
32 *approval of the Commissioner, declare and distribute dividends to*
33 *the members of the association.*

34 *2. Any dividend declared pursuant to subsection 1 must be*
35 *distributed not less than 12 months after the end of the fiscal year.*

36 *3. A dividend may be paid only to those members who are*
37 *members of the association for the entire fiscal year. The payment*
38 *of a dividend must not be conditioned upon the member*
39 *continuing his membership in the association after the fiscal year.*

40 *4. An association shall give to each prospective member of*
41 *the association a written description of its plan for distributing*
42 *dividends when the prospective member applies for membership in*
43 *the association.*



1 **Sec. 28.** *1. Each association of self-insured private*
2 *employers shall adopt a plan for the payment of annual*
3 *assessments by the members of the association which must be*
4 *approved by the Commissioner.*

5 *2. The plan must include a requirement for:*

6 *(a) An initial payment, in advance, of a portion of the annual*
7 *assessment due from each member of the association. The initial*
8 *payment must be in an amount equal to at least 25 percent of the*
9 *member's annual assessment.*

10 *(b) Payment of the balance of the annual assessment due in*
11 *quarterly or monthly installments.*

12 **Sec. 29.** *Each association of self-insured private employers*
13 *shall maintain:*

14 *1. Actuarially appropriate loss reserves. The reserves must*
15 *include reserves for:*

16 *(a) Actual claims and the expenses associated with those*
17 *claims; and*

18 *(b) Claims filed with the association but not reported, and the*
19 *expenses associated with those claims.*

20 *2. Reserves for uncollected debts.*

21 **Sec. 30.** *1. If the assets of an association of self-insured*
22 *private employers are insufficient to make certain the prompt*
23 *payment of claims relating to the health coverage provided*
24 *pursuant to this chapter and to maintain the reserves required by*
25 *section 29 of this act, the association shall immediately notify the*
26 *Commissioner of the deficiency and:*

27 *(a) Transfer any surplus acquired from a previous fiscal year*
28 *to the current fiscal year to make up the deficiency;*

29 *(b) Transfer money from its administrative account to its*
30 *claims account;*

31 *(c) Collect an additional assessment from its members in an*
32 *amount required to make up the deficiency; or*

33 *(d) Take any other action to make up the deficiency which is*
34 *approved by the Commissioner.*

35 *2. If the association wishes to transfer any surplus from one*
36 *fiscal year to another, the association must first notify the*
37 *Commissioner of the transfer.*

38 *3. The Commissioner shall order the association to make up*
39 *any deficiency pursuant to subsection 1 if the association fails to*
40 *do so within 30 days after notifying the Commissioner of the*
41 *deficiency. The association shall be deemed insolvent if it fails to:*

42 *(a) Collect an additional assessment from its members within*
43 *30 days after being ordered to do so by the Commissioner; or*

44 *(b) Make up the deficiency in any other manner within 60 days*
45 *after being ordered to do so by the Commissioner.*



1 **Sec. 31. 1.** *The Commissioner may issue an order requiring*
2 *an association of self-insured private employers or a member of*
3 *the association to cease and desist from engaging in any act or*
4 *practice found to be in violation of any provision of this chapter or*
5 *any regulation adopted pursuant to this chapter.*

6 2. *If the Commissioner determines that an association or a*
7 *member of the association has violated an order to cease and*
8 *desist, the Commissioner may impose an administrative fine of not*
9 *more than \$10,000 for each violation of the order, not to exceed*
10 *an aggregate amount of \$100,000, or withdraw the certificate of*
11 *the association, or both.*

12 **Sec. 32. 1.** *The Commissioner may impose an*
13 *administrative fine for each violation of any provision of this*
14 *chapter or any regulation adopted pursuant to this chapter. Except*
15 *as otherwise provided in this chapter, the amount of the fine may*
16 *not exceed \$1,000 for each violation or an aggregate amount of*
17 *\$10,000.*

18 2. *The Commissioner may withdraw the certificate of an*
19 *association of self-insured private employers if:*

20 (a) *The certificate was obtained by fraud;*

21 (b) *The application for certification contained a material*
22 *misrepresentation;*

23 (c) *The association is found to be insolvent;*

24 (d) *The association fails to have two or more members;*

25 (e) *The association fails to pay the costs of any examination or*
26 *any penalty, fee or assessment required by the provisions of this*
27 *chapter;*

28 (f) *The association fails to comply with any of the provisions of*
29 *this chapter or any regulation adopted pursuant to this chapter;*

30 (g) *The association fails to comply with any order of the*
31 *Commissioner within the time prescribed by the provisions of this*
32 *chapter or in the order of the Commissioner;*

33 (h) *The association or its third-party administrator*
34 *misappropriates, converts, illegally withholds or refuses to pay any*
35 *money to which a person is entitled and that was entrusted to the*
36 *association in its fiduciary capacity; or*

37 (i) *The association markets or operates in another state*
38 *without being licensed or certified in that state to do so.*

39 3. *If the Commissioner withdraws the certification of an*
40 *association of self-insured private employers, each employer who*
41 *is a member of the association remains liable for his obligations*
42 *incurred before and after the order of withdrawal.*

43 **Sec. 33. 1.** *Before any action may be taken pursuant to*
44 *subsection 2, the Commissioner shall arrange an informal*
45 *meeting with an association of self-insured private employers to*



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1 discuss and seek correction of any conduct which would be
2 grounds for withdrawal of the certificate of the association.

3 2. Except as otherwise provided in subsection 3, before the
4 Commissioner may withdraw the certificate of any association of
5 self-insured private employers, the Commissioner must give
6 written notice to the association by certified mail that its certificate
7 will be withdrawn 10 days after receipt of the notice unless, within
8 that time, the association corrects the conduct set forth in the
9 notice as the reason for the withdrawal or submits a written
10 request for a hearing to the Commissioner.

11 3. The Commissioner may grant additional time, not to
12 exceed an additional 120 days, before the withdrawal of the
13 certificate of an association if:

14 (a) The grounds for withdrawal of the certificate of the
15 association are based on paragraph (d) of subsection 2 of section
16 32 of this act; and

17 (b) The association is financially sound and capable of
18 fulfilling its commitments.

19 4. If the association requests a hearing:

20 (a) The Commissioner shall set a date for a hearing within 20
21 days after receiving the request and give the association at least 10
22 business days' notice of the time and place of the hearing.

23 (b) A record of the hearing must be kept, but it need not be
24 transcribed unless requested by the association with the cost of
25 transcription to be charged to the association.

26 (c) Within 5 business days after the hearing, the Commissioner
27 shall affirm or disaffirm the withdrawal of the certificate of the
28 association and give the association written notice thereof by
29 certified mail. If withdrawal of certification is affirmed, the
30 withdrawal becomes effective 10 business days after the
31 association receives notice of the affirmance, unless within that
32 period, the association corrects the conduct which was grounds for
33 the withdrawal or petitions for judicial review of the affirmance.

34 5. If the withdrawal of certification is affirmed following
35 judicial review, the withdrawal becomes effective 5 days after entry
36 of the final decree of affirmance.

37 **Sec. 34. 1.** If for any reason the status of an association of
38 self-insured private employers as an association of self-insured
39 employers is terminated, the security deposited pursuant to section
40 11 of this act must remain on deposit for at least 36 months in
41 such an amount as is necessary to secure the outstanding and
42 contingent liability arising from the provision of health coverage
43 secured by the security.

44 2. At the expiration of the 36-month period, or such other
45 period as the Commissioner deems proper, the Commissioner may



1 *accept in lieu of any security so deposited a policy of paid-up*
2 *insurance in a form approved by the Commissioner.*

3 **Sec. 35.** *Any association of self-insured private employers*
4 *that is aggrieved by a decision of the Commissioner may petition*
5 *for judicial review in the manner provided by chapter 233B of*
6 *NRS.*

7 **Sec. 36. 1.** *For the purposes of this chapter, an association*
8 *of self-insured private employers is insolvent if it is unable to pay*
9 *its outstanding obligations as they mature in the regular course of*
10 *its business.*

11 **2.** *A licensed surety providing a surety bond pursuant to*
12 *section 11 of this act may terminate liability on its surety bond by*
13 *giving the Commissioner and the association, association's*
14 *administrator or third-party administrator 90 days' written notice.*
15 *The termination does not limit liability that was incurred under*
16 *the surety bond before the termination. If the association fails to*
17 *requalify as an association of self-insured private employers on or*
18 *before the termination date, the association's certificate is*
19 *withdrawn when the termination becomes effective.*

20 **Sec. 37. 1.** *The Commissioner may assess all associations*
21 *of self-insured private employers to provide for claims against any*
22 *insolvent association.*

23 **2.** *All money received from such assessments must be*
24 *deposited with the State Treasurer to the credit of the Account for*
25 *Insolvent Associations of Self-insured Private Employers, which is*
26 *hereby created in the Fund for Self-insured Providers of Health*
27 *Coverage, which is hereby created in the State Treasury as a*
28 *special revenue fund. Money in the Account must be used solely to*
29 *carry out the provisions of this section. All claims against the*
30 *Account must be paid as other claims against the State are paid.*
31 *The State Treasurer shall invest money in the Account in the same*
32 *manner and in the same securities in which he may invest money*
33 *in the State General Fund. Income realized from the investment of*
34 *the money in the Account must be credited to the Account.*

35 **Sec. 38.** *The Commissioner may adopt such regulations as*
36 *are necessary to carry out the provisions of this chapter.*

37 **Sec. 39. 1.** *An association of self-insured private employers*
38 *may enter into a contract to have its plan of health coverage*
39 *administered by a third-party administrator.*

40 **2.** *An association shall not enter into a contract with any*
41 *person for the administration of any part of the plan of health*
42 *coverage unless that person maintains an office in this state*
43 *and has a certificate issued by the Commissioner pursuant to*
44 *NRS 683A.085.*



1 **Sec. 40. 1.** *A person shall not act as a third-party*
2 *administrator for an association of self-insured private employers*
3 *pursuant to this chapter without first obtaining a certificate issued*
4 *by the Commissioner pursuant to NRS 683A.085.*

5 2. *A person who acts as a third-party administrator pursuant*
6 *to this chapter shall:*

7 (a) *Administer from one or more offices located in this state all*
8 *the claims arising under each plan of health coverage that he*
9 *administers and maintain in those offices all the records*
10 *concerning those claims;*

11 (b) *Administer each plan of health coverage directly, without*
12 *subcontracting with another third-party administrator; and*

13 (c) *Upon the termination of his contract with an association,*
14 *transfer forthwith to a certified third-party administrator chosen*
15 *by the association all the records in his possession concerning*
16 *claims arising under the plan of health coverage.*

17 3. *The Commissioner may, under exceptional circumstances,*
18 *waive the requirements of subsection 2.*

19 **Sec. 41.** *The Commissioner shall impose an administrative*
20 *fine of not more than \$1,000 against a third-party administrator*
21 *for each violation and may withdraw the certification of a third-*
22 *party administrator who:*

23 1. *Fails to comply with any regulation adopted by the*
24 *Commissioner regarding reports or other requirements necessary*
25 *to carry out the purposes of this chapter; or*

26 2. *Violates any provision of section 40 of this act or any*
27 *regulation adopted by the Commissioner concerning the*
28 *administration of the plan of health coverage.*

29 **Sec. 42. 1.** *The Commissioner may adopt regulations to*
30 *define when an association of self-insured private employers is*
31 *considered to be in a hazardous financial condition and to*
32 *establish the standards to be considered by the Commissioner in*
33 *determining whether the continued operation of an association of*
34 *self-insured private employers transacting business in this state*
35 *may be considered to be hazardous to its members or creditors or*
36 *to the general public.*

37 2. *If the Commissioner determines after a hearing that any*
38 *association of self-insured private employers is in a hazardous*
39 *financial condition, he may, in lieu of suspending or revoking the*
40 *certificate of the association of self-insured private employers,*
41 *limit the association's certificate as he deems necessary to correct,*
42 *eliminate or remedy any conduct, condition or ground that is*
43 *deemed to be a cause of the hazardous financial condition.*

44 3. *An order or decision issued by the Commissioner pursuant*
45 *to this section is subject to review in accordance with NRS*



1 *679B.310 to 679B.370, inclusive, at the request of any party to the*
2 *proceedings whose interests are substantially affected.*

3 **Sec. 43.** 1. *An association of self-insured private employers*
4 *is subject to the provisions of this chapter and, to the extent*
5 *applicable:*

6 (a) *Chapter 679B of NRS.*

7 (b) *Chapter 686A of NRS.*

8 (c) *The provisions of NRS 689B.0285, 689B.061 to 689B.069,*
9 *inclusive, and 689B.245 to 689B.330, inclusive.*

10 (d) *The provisions of NRS 689C.107, 689C.109, 689C.111,*
11 *689C.156, 689C.1565, 689C.158 to 689C.207, inclusive, 689C.265,*
12 *689C.310, 689C.320 and 689C.355.*

13 (e) *Chapter 696B of NRS.*

14 2. *For the purposes of this section, unless the context*
15 *otherwise requires, any reference in a section of NRS included in*
16 *paragraphs (a) to (e), inclusive, of subsection 1 to:*

17 (a) *“Health benefit plan,” “policy of group health insurance”*
18 *or “policy of group insurance” must be replaced by “health*
19 *coverage provided by an association of self-insured private*
20 *employers”;*

21 (b) *“Insurer” or “carrier” must be replaced by “association of*
22 *self-insured private employers”;*

23 (c) *“Producer” must be replaced by “agent licensed pursuant*
24 *to chapter 683A of NRS”; and*

25 (d) *“Small employer” must be replaced by “employer.”*

26 **Sec. 44.** NRS 232.550 is hereby amended to read as follows:

27 232.550 As used in NRS 232.550 to 232.700, inclusive, unless
28 the context otherwise requires:

29 1. “Administrator” means the Administrator of the Division.

30 2. “Director” means the Director of the Department of
31 Business and Industry.

32 3. “Division” means the Division of Industrial Relations of the
33 Department of Business and Industry.

34 4. “Insurer” includes:

35 (a) A self-insured employer;

36 (b) An association of self-insured public employers ~~as~~ *as*
37 *defined in NRS 616A.055;*

38 (c) An association of self-insured private employers ~~as~~ *as*
39 *defined in NRS 616A.050;* and

40 (d) A private carrier.

41 **Sec. 45.** NRS 244.33505 is hereby amended to read as
42 follows:

43 244.33505 1. In a county in which a license to engage in a
44 business is required, the board of county commissioners shall not



1 issue such a license unless the applicant for the license signs an
2 affidavit affirming that the business:

3 (a) Has received coverage by a private carrier as required
4 pursuant to chapters 616A to 616D, inclusive, and chapter 617 of
5 NRS;

6 (b) Maintains a valid certificate of self-insurance pursuant to
7 chapters 616A to 616D, inclusive, of NRS;

8 (c) Is a member of an association of self-insured public or
9 private employers; or

10 (d) Is not subject to the provisions of chapters 616A to 616D,
11 inclusive, or chapter 617 of NRS.

12 2. In a county in which such a license is not required, the board
13 of county commissioners shall require a business, when applying for
14 a post office box, to submit to the board the affidavit required by
15 subsection 1.

16 3. Each board of county commissioners shall submit to the
17 Administrator of the Division of Industrial Relations of the
18 Department of Business and Industry monthly a list of the names of
19 those businesses which have submitted an affidavit required by
20 subsections 1 and 2.

21 4. Upon receiving an affidavit required by this section, a board
22 of county commissioners shall provide the owner of the business
23 with a document setting forth the rights and responsibilities of
24 employers and employees to promote safety in the workplace, in
25 accordance with regulations adopted by the Division of Industrial
26 Relations of the Department of Business and Industry pursuant to
27 NRS 618.376.

28 **5. As used in this section:**

29 (a) *“Association of self-insured private employers” has the*
30 *meaning ascribed to it in NRS 616A.050.*

31 (b) *“Association of self-insured public employers” has the*
32 *meaning ascribed to it in NRS 616A.055.*

33 **Sec. 46.** NRS 268.0955 is hereby amended to read as follows:

34 268.0955 1. In an incorporated city in which a license to
35 engage in a business is required, the city council or other governing
36 body of the city shall not issue such a license unless the applicant
37 for the license signs an affidavit affirming that the business:

38 (a) Has received coverage by a private carrier as required
39 pursuant to chapters 616A to 616D, inclusive, and chapter 617 of
40 NRS;

41 (b) Maintains a valid certificate of self-insurance pursuant to
42 chapters 616A to 616D, inclusive, of NRS;

43 (c) Is a member of an association of self-insured public or
44 private employers; or



1 (d) Is not subject to the provisions of chapters 616A to 616D,
2 inclusive, or chapter 617 of NRS.

3 2. In an incorporated city in which such a license is not
4 required, the city council or other governing body of the city shall
5 require a business, when applying for a post office box, to submit to
6 the governing body the affidavit required by subsection 1.

7 3. Each city council or other governing body of an
8 incorporated city shall submit to the Administrator of the Division
9 of Industrial Relations of the Department of Business and Industry
10 monthly a list of the names of those businesses which have
11 submitted an affidavit required by subsections 1 and 2.

12 4. Upon receiving an affidavit required by this section, the city
13 council or other governing body of an incorporated city shall
14 provide the applicant with a document setting forth the rights and
15 responsibilities of employers and employees to promote safety in the
16 workplace in accordance with regulations adopted by the Division
17 of Industrial Relations of the Department of Business and Industry
18 pursuant to NRS 618.376.

19 **5. As used in this section:**

20 (a) *"Association of self-insured private employers" has the*
21 *meaning ascribed to it in NRS 616A.050.*

22 (b) *"Association of self-insured public employers" has the*
23 *meaning ascribed to it in NRS 616A.055.*

24 **Sec. 47.** NRS 281.153 is hereby amended to read as follows:

25 281.153 1. The employer of a police officer or fireman may
26 establish a program that allows a police officer or fireman whom it
27 employs who has suffered a catastrophe resulting in temporary total
28 disability to elect to continue to receive his normal salary for a
29 period of not more than 1 year in lieu of receiving the compensation
30 for the industrial injury or occupational disease for which he is
31 eligible pursuant to chapters 616A to 616D, inclusive, or 617 of
32 NRS, unless the police officer or fireman has made an election
33 pursuant to NRS 281.390.

34 2. A program established pursuant to subsection 1:

35 (a) Must prescribe the conditions pursuant to which a police
36 officer or fireman is eligible to receive his normal salary in
37 accordance with an election pursuant to subsection 1; and

38 (b) May allow a police officer or fireman to return to light-duty
39 employment or employment modified according to his physical
40 restrictions or limitations and receive his normal salary during the
41 period of his election pursuant to subsection 1.

42 3. Unless the employer is self-insured or a member of an
43 association of self-insured public or private employers, the employer
44 shall notify the insurer that provides industrial insurance for that
45 employer of the election by a police officer or fireman pursuant to



1 subsection 1. When the police officer or fireman is no longer
2 eligible to receive his normal salary pursuant to such an election, the
3 employer shall notify the insurer so that the insurer may begin
4 paying to the police officer or fireman the benefits, if any, for
5 industrial insurance for which the police officer or fireman is
6 eligible. If the employer is self-insured or a member of *such* an
7 association of self-insured public or private employers and the
8 police officer or fireman is no longer eligible to receive his normal
9 salary in accordance with an election pursuant to subsection 1, the
10 employer shall begin paying the benefits, if any, for industrial
11 insurance to which the police officer or fireman is entitled.

12 4. During the period in which the police officer or fireman
13 elects to receive his normal salary pursuant to subsection 1, he
14 accrues sick leave, annual leave and retirement benefits at the same
15 rate at which he accrued such leave and benefits immediately before
16 the election.

17 5. As used in this section:

18 (a) *“Association of self-insured private employers” has the*
19 *meaning ascribed to it in NRS 616A.050.*

20 (b) *“Association of self-insured public employers” has the*
21 *meaning ascribed to it in NRS 616A.055.*

22 (c) “Catastrophe” means an illness or accident arising out of or
23 in the course of employment which is life threatening or which will
24 require a period of convalescence that an attending physician
25 expects to exceed 30 days and because of which the employee is
26 unable to perform the duties of his position.

27 ~~(b)~~ (d) “Police officer” has the meaning ascribed to it in
28 NRS 617.135.

29 **Sec. 48.** NRS 624.256 is hereby amended to read as follows:

30 624.256 1. Before granting an original or renewal of a
31 contractor’s license to any applicant, the Board shall require that the
32 applicant submit to the Board:

33 (a) Proof of industrial insurance and insurance for occupational
34 diseases which covers his employees;

35 (b) A copy of his certificate of qualification as a self-insured
36 employer which was issued by the Commissioner of Insurance;

37 (c) If the applicant is a member of an association of self-insured
38 public or private employers, a copy of the certificate issued to the
39 association by the Commissioner of Insurance; or

40 (d) An affidavit signed by the applicant affirming that he is not
41 subject to the provisions of chapters 616A to 616D, inclusive, or
42 chapter 617 of NRS because:

43 (1) He has no employees;

44 (2) He is not or does not intend to be a subcontractor for a
45 principal contractor; and



1 (3) He has not or does not intend to submit a bid on a job for
2 a principal contractor or subcontractor.

3 2. The Board shall notify the Fraud Control Unit for Industrial
4 Insurance established pursuant to NRS 228.420 whenever the Board
5 learns that an applicant or holder of a contractor's license has
6 engaged in business as or acted in the capacity of a contractor within
7 this state without having obtained industrial insurance or insurance
8 for occupational diseases in violation of the provisions of chapters
9 616A to 617, inclusive, of NRS.

10 **3. As used in this section:**

11 (a) *"Association of self-insured private employers" has the*
12 *meaning ascribed to it in NRS 616A.050.*

13 (b) *"Association of self-insured public employers" has the*
14 *meaning ascribed to it in NRS 616A.055.*

15 **Sec. 49.** 1. The Commissioner of Insurance of the
16 Department of Business and Industry shall award certificates to not
17 more than three associations of self-insured private employers on or
18 before January 1, 2005. Not more than two such associations may be
19 formed in Clark County and not more than one in northern Nevada.
20 The Commissioner shall award the certificates in the order in which
21 associations satisfy all the requirements for certification.

22 2. On or before February 1, 2005, the Commissioner shall
23 submit to the Director of the Legislative Counsel Bureau for
24 transmittal to the 73rd session of the Nevada Legislature a report on
25 the effectiveness and safety of associations of self-insured private
26 employers in providing health coverage to employees of certain
27 small employers.

28 3. The Commissioner shall not suspend or revoke the
29 certificate of an association of self-insured private employers
30 awarded a certificate pursuant to sections 2 to 43, inclusive, of this
31 act so long as the association complies with all the provisions of
32 sections 2 to 43, inclusive, of this act and any regulations adopted
33 by the Commissioner pursuant thereto.

34 **Sec. 50.** This act becomes effective on July 1, 2003.

