

Oppose HB 2021: Don't add expensive drug mandates to employer health benefits

TAHP Opposes HB 2021 because it interferes with health coverage from big Texas Employers. The bill expands all the state's prescription drug and pharmacy mandates to employers that are exempt through federal preemption (ERISA).

Texans with coverage from an employer don't have to worry about having good quality benefits—they know they are covered. They don't need **government interference** that increases their premiums and prescription drug prices.

Federal law protects big employer health plans, allowing them to offer the same benefits to employees across state lines so they don't have to comply with a patchwork of state regulations.

Employers already provide high quality, comprehensive coverage:

- **Big employers already offer the best health benefits** with lower deductibles, lower monthly premiums, and more robust coverage than small employers and individual market plans.
- **98% of large employers offer health benefits**, and 3 out of 4 employees cite health benefits as their reason for accepting a job.
- **86% of employees report they are happy** with their health coverage.

Who will bear the burden of these added costs?

- Employers will pay for these expensive mandates. For self-funded plans, insurers and PBMs only administer benefits and negotiate prices—they **don't take on the risk of paying claims**.
- That's why Federal law preempts state regulations and Texas shouldn't interfere.
- Added costs will pass directly to businesses and their employees.
- Ultimately, employees pay for these mandates with higher premiums and lower salaries.

How bad are these mandates?

- **Messing up employer coverage across state lines** is an administrative headache.
- But Texas mandates are also expensive. One law would force a big employer to wait a full year before switching out **high-cost drugs** for new, lower-cost generic options.
- Another law would hinder how big employers use mail order pharmacy incentives to encourage employees to get prescriptions through lower-cost options.
- One state mandate would **force big employers to have contracts** with higher cost pharmacies.
- Plus, any new bill proposals—like a permanent formulary freeze or a mandate that **rewards hospital drug price gouging**—would also apply to big employers if passed.

Employers, Business Groups and More: Speaking out against attacks on self-funded, job-based health benefits.



The Texas Association of Business & Texas Business Leadership Council Wrote a Letter in Opposition to HB 2021: 2/21/23

- “By preempting ERISA, HB 2021 hurts employer’s ability to offer quality, affordable health care and prescription options that best fit the needs of their employees.” — TAB CEO Glenn Hamer.
- “If this bill were to become law, it would increase prescription drug costs for millions of Texas employees. This would be costly for Texas employers, who would be forced to comply with a range of different state laws and regulations.”
- “It is a TAB top legislative priority to preserve employee, employer and health plan benefits of the Employee Retirement Income Security Act (ERISA) by opposing any attempt to erode the pro-business environment that makes the State of Texas the envy of the nation.”

Texans for Lawsuit Reform (TLR) Spoke Up Against ERISA Preemption: January 2023

- “Ending or eroding ERISA preemption will adversely impact labor markets, disadvantage employees based on where they live or work, cause employers to cut back on benefit coverage and raise the cost of health insurance and retirement plans.”
- “The Texas Legislature should protect ERISA preemption, not weaken it.”

Hobby Lobby Testified to the National Association of Insurance Commissioners (NAIC) in December 2022:

- “As an employer serving 45,000 employees across 47 states, Hobby Lobby has historically relied on the uniformity afforded by ERISA preemption to govern its health and welfare plans.”
- Hobby Lobby further argued against state laws and regulations that are “specifically targeting self-funded employers (**under the cloak of laws and regulations supposedly targeting ‘PBMs’**).”

**Bottom Line: HB 2021 is an attack on the health benefits of Texas’
largest job creators. It’s unnecessary, unjustified, and unwelcome.**