

SUBJECT: Exempting ERISA plans from the Texas Health Care Liability Act

COMMITTEE: Civil Practices — favorable, without amendment

VOTE: 6 ayes — Nixon, Rose, Madden, Martinez Fischer, Talton, Woolley
0 nays
3 absent — King, Raymond, Strama

SENATE VOTE: On final passage, April 7 — 31-0, on Local and Uncontested Calendar

WITNESSES: None

BACKGROUND: The federal Employee Retirement Income Security Act (ERISA) governs employee benefit plans. Plans that are offered by state or local governments or on the individual market are not ERISA plans and are governed by state law only.

Texas governs health benefit plans under the Texas Health Care Liability Act, which sets minimum standards for health services, among other requirements.

DIGEST: SB 554 explicitly would state that the Texas Health Care Liability Act does not apply to ERISA plans.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

SUPPORTERS SAY: SB 554 would amend the Texas Health Care Liability Act to reflect the fact that federal law preempts state law in the case of ERISA plans.

In 2004, the U.S. Supreme Court held that ERISA plans are not governed by the Texas Health Care Liability Act. In *Aetna v. Davila*, 542 U.S. 200 (2004), health plan beneficiaries claimed that their HMO, by refusing to pay for certain services, failed to comply with the Texas Health Care Liability Act, which requires plans to exercise ordinary care when making

treatment decisions (Health and Safety Code, sec. 88.002). The court determined that ERISA preempted state law and the health plan was not liable. SB 554 simply would place in statute what already is the law.

OPPONENTS
SAY:

No apparent opposition.