

February 1, 2021

Honorable Chuck Hufstetler
Chair
Senate Finance Committee
121-C State Capitol
Atlanta, GA 30334

Dear Chair Hufstetler,

On behalf of The ERISA Industry Committee (ERIC), thank you for accepting comments from interested stakeholders as the Committee considers SB 1. ERIC is the only national association that advocates exclusively for large employers on health, retirement, and compensation public policies at the federal, state, and local levels. We speak in one voice for our member companies on their benefit and compensation interests, including many with employees and retirees in Georgia. ERIC member companies' health benefits are governed exclusively at the federal level by the Employee Retirement Income Security Act (ERISA). State laws that refer to or have an impermissible connection with ERISA plans will be stricken down under ERISA preemption.

We write to you today in strong opposition of SB 1 and urge the Committee to vote against the bill.

The U.S. Supreme Court has ruled in *Gobeille v. Liberty Mutual* (136 S. Ct. 936, 2016) that a state may not require an ERISA plan to participate in a state all payer claims database (APCD). The U.S. Congress further confirmed this in December 2020, when it passed legislation that directed the U.S. Department of Labor to build a standardized reporting format that enables **voluntary** participation in state APCDs by ERISA plans. A state law or rule that attempts to mandate or coerce an ERISA plan to participate in a state APCD, will be preempted by ERISA. ERIC and our member companies would consider filing suit to invalidate such a law.

It would also be operationally impractical for ERISA plans to comply with SB 1. The legislation Congress passed in December of 2020 tasked the federal government with creating a uniform, national framework for ERISA plans to voluntarily participate in state APCDs. Since the federal legislation is in early stages of implementation, it would not be advisable for the Georgia Legislature to proceed with SB 1, when the federal government has not issued its guidance for ERISA plans and their voluntary participation in the national APCD.

Overall, this bill attempts to coerce ERISA plans to participate in a program that is preempted by ERISA, and participation is not operationally viable at this time because the framework is not yet developed.

Thank you for accepting our input on SB 1. ERIC strongly urges Committee members to oppose SB 1, and we recommend that this legislation be withdrawn from consideration. If you have any questions concerning our written testimony, or if we can be of further assistance, please contact me at sbelmont@eric.org or 202-627-1914.

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