

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 975 Session of 2023

INTRODUCED BY HANBIDGE, CEPHAS, PROBST, HILL-EVANS, D. WILLIAMS, ROZZI, MADDEN, SANCHEZ, KINKEAD, N. NELSON, HOWARD, CERRATO, GREEN AND O'MARA, APRIL 24, 2023

REFERRED TO COMMITTEE ON FINANCE, APRIL 24, 2023

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," providing for employee
4 child-care public private partnership; establishing the
5 Employee Child-Care Public Private Partnership Fund and the
6 employee child-care public private partnership tax credit;
7 imposing duties on the Department of Human Services; and
8 imposing a penalty.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. The act of June 13, 1967 (P.L.31, No.21), known
12 as the Human Services Code, is amended by adding an article to
13 read:

14 ARTICLE VII-A

15 EMPLOYEE CHILD-CARE PUBLIC PRIVATE PARTNERSHIP

16 Section 701-A. Definitions.

17 The following words and phrases when used in this article
18 shall have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 "Child-care provider." Includes:

1 (1) A child-care center as defined under 55 Pa. Code §
2 3270.4 (relating to definitions).

3 (2) A group child-care home as defined under 55 Pa. Code
4 § 3280.4 (relating to definitions).

5 (3) A family child-care home as defined under 55 Pa.
6 Code § 3290.4 (relating to definitions).

7 "Contribution." A direct payment to a child-care provider
8 either directly by an employer or through a third-party vendor
9 to subsidize an employee's eligible child-care costs.

10 "Eligible child-care costs." Costs incurred by an individual
11 for services rendered by a child-care provider.

12 "Employee." An individual employed by an employer and whose
13 job is located within this Commonwealth.

14 "Employer." A nonprofit or for-profit entity with at least
15 one employee who employs employees in at least 20 calendar weeks
16 in the current or preceding calendar year.

17 "Fund." The Employee Child-Care Public Private Partnership
18 Fund established under section 705-A.

19 "Local business." A business with fewer than 50 employees
20 who are individually contracted to work more than 35 hours per
21 week.

22 "Match." Money paid directly to a child-care provider by the
23 department from the fund.

24 "Partnership." The Employee Child-Care Public Private
25 Partnership.

26 "State median household income." The most recent estimate
27 available of real median household income for this Commonwealth,
28 as determined by the United States Census Bureau and adjusted
29 for family size.

30 Section 702-A. Employee Child-Care Public Private Partnership.

1 (a) Establishment.--The Employee Child-Care Public Private
2 Partnership is established within the department.

3 (b) Duties of the department.--

4 (1) To administer the partnership, the department may:

5 (i) Coordinate and share information with other
6 executive branch agencies and departments.

7 (ii) Enter into contracts with third parties to
8 administer the partnership or specific parts of the
9 partnership in accordance with applicable Federal and
10 State procurement laws.

11 (2) The department shall:

12 (i) Create and publish a standardized contract for
13 participation in the partnership.

14 (ii) Review and process a contract between an
15 employer, employee and a child-care provider that is
16 submitted to the department.

17 (iii) Notify parties of a contract of the parties'
18 enrollment status in the partnership.

19 (iv) Manage and administer the fund.

20 (v) Verify the eligibility of an employee, employer
21 or child-care provider as parties to a contract for
22 participation in the partnership prior to disbursement of
23 a match.

24 (vi) Collect and verify household income information
25 from eligible employees and determine the amount of match
26 for which a party to a contract is eligible.

27 (vii) Distribute educational materials about the
28 partnership's objectives, benefits and eligibility
29 requirements to employers, employees and child-care
30 providers.

1 (c) Participation.--As a benefit of employment, an employer
2 may elect to participate in the partnership established under
3 this section. To participate in the partnership, an employer
4 must enter into a standardized contract created by the
5 department with both an employee and a child-care provider.

6 Section 703-A. Employer and employee obligations.

7 (a) Employer duties.--To participate in the partnership, an
8 employer must:

9 (1) Submit a completed standardized contract to the
10 department for review.

11 (2) Submit additional information as deemed necessary by
12 the department.

13 (3) Make a contribution to an employee's eligible child-
14 care costs by submitting payment for child-care services
15 directly to the employee's child-care provider or through a
16 third-party vendor in accordance with the contract.

17 (b) Employee costs.--If an employer's payment under a
18 contract and the department's match do not completely cover the
19 cost of child-care services, an employee shall be responsible
20 for the balance. A member of the employee's household or family
21 may become a party to a contract to pay for an employee's
22 balance of child-care services.

23 Section 704-A. Administration.

24 (a) Contract review.--After submission of a completed
25 contract, the department, within 20 business days, shall review
26 the contract. If the employee, employer and proposed child-care
27 provider meet partnership eligibility requirements as
28 established by regulation, the department shall become a party
29 to the contract in accordance with subsection (b) and agree to
30 distribute a match that is equal to the contribution made by the

1 employer of up to 100% of an employee's cost of child-care
2 services. The match payment shall be paid from money in the
3 fund.

4 (b) Department as a party to a contract.--

5 (1) The department shall become a party to a proposed
6 contract under this section if the fund reflects a positive
7 balance based on both:

8 (i) The department's existing contractual
9 obligations already accrued under this article.

10 (ii) The department's additional financial
11 obligation imposed by the proposed contract.

12 (2) The department may not become a party to a proposed
13 contract if the corresponding financial obligation would
14 cause the fund to accrue a negative balance.

15 (c) Waiting list.--The department shall maintain a waiting
16 list of contracts submitted after available money was committed.
17 The department shall become a party to a proposed contract from
18 the waiting list as new money becomes available, and according
19 to the order in which the contract was received.

20 (d) Match.--The department shall issue a match directly to a
21 child-care provider or through a third-party vendor for the
22 duration of the contract.

23 (e) Disclosure of personal information.--The department may
24 not disclose an employee's personal information without that
25 individual's express written consent.

26 (f) Timing.--

27 (1) When the fund has a positive balance, the department
28 shall:

29 (i) Promulgate regulations to administer the
30 partnership.

1 (ii) Solicit third-party vendor contracts, if deemed
2 necessary.

3 (2) The department may begin to accept proposed
4 contracts under this article on April 1, 2025.

5 (3) The department may not disperse matches from the
6 fund for the next year prior to July 1 of each year.

7 (4) The department shall accept proposed contracts for
8 each fiscal year after the initial year of matches:

9 (i) starting April 1 for employers with existing
10 approved contracts pursuant to the partnership; or

11 (ii) starting May 15 for all other employers.

12 (g) Reports.--

13 (1) Twice a year, beginning July 15, 2025, and each July
14 15 and December 15 thereafter, the department shall publish a
15 report detailing the efficacy of the partnership and submit
16 the report to the chairperson and minority chairperson of the
17 Aging and Youth Committee of the Senate, the chairperson and
18 minority chairperson of the Children and Youth Committee of
19 the House of Representatives, the chairperson and minority
20 chairperson of the Health and Human Services Committee of the
21 Senate and the chairperson and minority chairperson of the
22 Human Services Committee of the House of Representatives. The
23 report shall include:

24 (i) Appropriations made in the past fiscal year to
25 the fund.

26 (ii) The total number of standardized contracts
27 submitted by employers.

28 (iii) The total amount of matches paid out of the
29 fund by the department.

30 (iv) A breakdown by county of the matches paid.

1 (v) Information on the size, geographical location
2 and industry type of employers who participated in the
3 partnership.

4 (vi) The number, license type, quality rating and
5 geographical distribution of participating child-care
6 providers.

7 (vii) The average cost for services charged by
8 child-care providers participating in the partnership and
9 information on how these costs have increased or
10 decreased during the most recent reporting period and
11 previous reporting periods.

12 (viii) The number and total dollar value of
13 contracts not approved by the department.

14 (ix) The demographic information of employees
15 participating in the partnership.

16 (2) Before February 1, 2025, the department shall
17 publish a report detailing implementation plans for the
18 partnership and submit the report to the chairperson and
19 minority chairperson of the Health and Human Services
20 Committee of the Senate and the chairperson and minority
21 chairperson of the Human Services Committee of the House of
22 Representatives.

23 (h) Regulations.--The department shall promulgate
24 regulations to administer the partnership, including:

25 (1) Creating a standardized agreement for employers,
26 employees and child-care providers that wish to participate
27 in the partnership that includes:

28 (i) The name, address, physical location, size,
29 industry and point of contact for an employer.

30 (ii) The name, address, physical location and point

1 of contact for a child-care provider.

2 (iii) The name and home address of the employee.

3 (iv) The total contribution to be paid by the
4 employer to the child-care provider, either directly or
5 through a third-party vendor.

6 (v) The total amount of the match to be paid to the
7 child-care provider, either directly or through a third-
8 party vendor.

9 (vi) The duration of the contract, which shall not
10 extend past June 30 each year.

11 (vii) Frequency of contributions to be made directly
12 to the child-care provider in accordance with the child-
13 care provider's established billing cycle.

14 (viii) Demographic information of the employee.

15 (2) Establishing eligibility verification procedures for
16 the parties of the contract as a prerequisite for the
17 partnership and the issuance of a match.

18 (3) Collecting and verifying household income
19 information from eligible employees and determining the
20 amount of the match that the employee is eligible to receive
21 in accordance with section 706-A.

22 (4) Creating procedures for issuing a notice to all
23 parties to a contract of enrollment in the partnership upon
24 receiving and processing the contract and determining
25 eligibility.

26 (5) Compiling confidentiality protocols for the
27 department to safeguard the personal information of
28 participating employees, employers and child-care providers.

29 (6) Reporting requirements for an employee or a child-
30 care provider to report a lapse or nonpayment of a

1 contribution.

2 (7) Creating procedures for issuing and logging a match
3 to child-care providers under the partnership.

4 (8) Maintaining records of the fund and payments made
5 from the fund.

6 (9) Creating criteria for participant disqualification
7 from the partnership.

8 (10) Establishing procedures for appeal hearings.

9 (11) Establishing procedures for recouping matches or
10 portions of matches that result in overpayments to
11 participating child-care providers.

12 Section 705-A. Employee Child-Care Public Private Partnership
13 Fund.

14 (a) Establishment.--The Employee Child-Care Public Private
15 Partnership Fund is established in the State Treasury. The fund
16 shall consist of money appropriated by the General Assembly,
17 contributions, gifts or grants made available for the
18 partnership.

19 (b) Administration.--The fund shall be administered by the
20 department.

21 (c) Interest.--Interest earnings from money in the fund
22 shall become a part of the fund.

23 (d) Use of money.--Money deposited into the fund shall be
24 used for the partnership established under this article and
25 shall not be appropriated or transferred by the General Assembly
26 for another purpose.

27 (e) Issuance of matches.--The department shall issue matches
28 from the money deposited into the fund in accordance with
29 section 706-A.

30 (f) Local business agreements.--In each fiscal year, at

least 25% of the money in the fund shall be distributed to contracts entered into with a local business.

(g) Administration fee.--In fiscal year 2024-2025, up to 5% of the money in the fund may be used by the department to administer the partnership. In every fiscal year thereafter, up to 3% of the money in the fund may be used by the department to administer the partnership.

Section 706-A. Match payments.

(a) Criteria.--Matches shall meet the following criteria:

(1) A match shall not exceed 100% of the contribution made by the employer for contracts in which the employee's household income is equal to or less than 100% of the State median household income.

(2) A match shall decrease by 10% for each 20% increase in household income over 100% of the State median household income and up to 180% of the State median household income.

(3) A match shall equal 50% for contracts in which the employee's household income exceeds 180% of the State median household income.

(b) Not considered compensation.--A match issued under this article shall not be considered taxable income for the employee under the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

Section 707-A. Termination of contracts.

(a) Automatic termination.--Termination of a contract between an employer, employee, child-care provider and the department shall occur, if:

(1) The relationship between the employee and employer is severed. The employer shall notify the child-care provider and the department within three business days of the

1 separation and the contract shall be terminated on the
2 calendar date provided by the employer in the notification.
3 If the employer fails to make this notification and the
4 department issues a match to the child-care provider on
5 behalf of that employer's employee, the employer shall
6 reimburse the department for the unnecessary match.

7 (2) The employer fails to make a contribution for the
8 eligible child-care costs in accordance with the terms of the
9 contract. The child-care provider shall notify the department
10 within five business days of the failure. After receiving
11 notification from the child-care provider, the department
12 shall temporarily cease providing a match and shall notify
13 the employer that the contract will be terminated unless the
14 employer remedies the nonpayment within five business days of
15 receiving notification from the department. If the provider
16 fails to make this notification and receives a match from the
17 department on behalf of that employer's employee, the child-
18 care provider shall reimburse the department for the
19 unnecessary match.

20 (b) Optional termination.--Termination of an active contract
21 between an employer, employee, child-care provider and the
22 department may occur, if:

23 (1) The employee fails to pay the child-care provider
24 for costs not covered by the employer contribution and the
25 match in accordance to the terms of the contract. The child-
26 care provider may give the employee reasonable time to remedy
27 the nonpayment. The child-care provider may notify the
28 department and terminate the contract on the date that the
29 notification was issued. If the child-care provider
30 voluntarily excuses the employee's nonpayment or the child-

1 care provider does not notify the department within two
2 calendar months from the date of the employee's nonpayment
3 and continues to provide services, the contract made between
4 all the parties shall reflect the reduction in value.

5 (2) The child-care provider ceases participation or
6 otherwise loses the child-care provider's rating in the
7 Keystone STARS system. The child-care provider shall notify
8 all parties to the agreement immediately.

9 (c) Employer or employee termination.--The employer or
10 employee may terminate the contract at any time and for any
11 reason. The terminating party shall notify all parties to the
12 contract and specify the desired termination date, which shall
13 occur no sooner than two weeks from the date of notification
14 unless the child-care provider gives consent to an earlier
15 termination date. All parties to the contract shall be
16 financially obligated, according to the provisions of the
17 contract, up to the termination date.

18 Section 708-A. Employee child-care public private partnership
19 tax credit.

20 An employer who participates in the partnership is eligible
21 for a tax credit according to the following guidelines:

22 (1) If an employer is an individual, the credit is
23 available for the amount of the aggregate sum of the
24 employer's total contributions for all employees for up to
25 15% of the individual's tax obligation in a given taxable
26 year against the tax imposed under Article III of the act of
27 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
28 1971.

29 (2) If the employer is organized as a partnership or an
30 unincorporated association, the credit is available on a pro

1 rata basis for each partner or member for the amount of the
2 aggregate sum of the employer's total contributions for all
3 employees for up to 15% of the employer's tax obligation in a
4 given taxable year against the tax imposed under Article III
5 of the Tax Reform Code of 1971.

6 (3) If the employer is a corporation, the credit is
7 available for the amount of the aggregate sum of the
8 employer's total contributions for all employees for up to
9 15% of the employer's tax obligation in a given taxable year
10 against the tax imposed under Article IV of the Tax Reform
11 Code of 1971.

12 Section 709-A. Penalties.

13 A person who intentionally registers false information under
14 this article with the department for benefits shall be subject
15 to a civil penalty of no more than \$500 per violation. All money
16 collected as a result of penalties assessed under this article
17 shall be deposited into the fund.

18 Section 2. This act shall take effect immediately.