THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL
No. 152  Session of 2021

INTRODUCED BY J. WARD AND PHILLIPS-HILL, FEBRUARY 1, 2021
REFERRED TO HEALTH AND HUMAN SERVICES, FEBRUARY 1, 2021

AN ACT

Amending the act of April 9, 1929 (P.L.343, No.176), entitled "An act relating to the finances of the State government; providing for cancer control, prevention and research, for ambulatory surgical center data collection, for the Joint Underwriting Association, for entertainment business financial management firms, for private dam financial assurance and for reinstatement of item vetoes; providing for the settlement, assessment, collection, and lien of taxes, bonus, and all other accounts due the Commonwealth, the collection and recovery of fees and other money or property due or belonging to the Commonwealth, or any agency thereof, including escheated property and the proceeds of its sale, the custody and disbursement or other disposition of funds and securities belonging to or in the possession of the Commonwealth, and the settlement of claims against the Commonwealth, the resettlement of accounts and appeals to the courts, refunds of moneys erroneously paid to the Commonwealth, auditing the accounts of the Commonwealth and all agencies thereof, of all public officers collecting moneys payable to the Commonwealth, or any agency thereof, and all receipts of appropriations from the Commonwealth, authorizing the Commonwealth to issue tax anticipation notes to defray current expenses, implementing the provisions of section 7(a) of Article VIII of the Constitution of Pennsylvania authorizing and restricting the incurring of certain debt and imposing penalties; affecting every department, board, commission, and officer of the State government, every political subdivision of the State, and certain officers of such subdivisions, every person, association, and corporation required to pay, assess, or collect taxes, or to make returns or reports under the laws imposing taxes for State purposes, or to pay license fees or other moneys to the Commonwealth, or any agency thereof, every State depository and every debtor or creditor of the Commonwealth," in general budget implementation, further
providing for Department of Human Services.

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

Section 1. Section 1729-E of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, is amended by adding a paragraph to read:

Section 1729-E. Department of Human Services.

The following shall apply to appropriations for the Department of Human Services:

* * *

(8) The following shall apply:

(i) Subject to any applicable requirements of Federal statutes, rules, regulations or guidelines:

(A) Any expenditures or grants of public funds for family planning services by the department shall be made in the following order of priority:

(I) To nonpublic hospitals and federally qualified health centers.

(II) To rural health clinics.

(III) To State health centers.

(IV) To nonpublic health providers that have as their primary purpose the provision of the primary health care services enumerated under section 254b(a)(1) of the Public Health Service Act (58 Stat. 682, 42 U.S.C. § 254b(a)(1)).

(B) The department may not enter into a contract with or make a grant to any entity that performs abortions that are not federally qualified abortions or maintains or operates a facility where such abortions are performed, except as required by 20210SB0152PN0132 - 2 -
Federal law when the services are provided under Medicaid and by a qualified provider approved by the Centers for Medicaid and Medicare Services.

(ii) Nothing in this paragraph shall be construed to apply to the receipt or administration of public funds under Title XIX of the Social Security Act (49 Stat. 620, 42 U.S.C. § 1396 et seq.).

(iii) The Attorney General may bring an action in law or equity to enforce the provisions of this paragraph and relief shall be available in appropriate circumstances, including, but not limited to, recoupment and declaratory and injunctive relief, including, but not limited to, suspension or debarment.

(iv) Any entity eligible for the receipt of public funds shall possess standing to bring any action that the Attorney General has authority to bring under the provisions of subparagraph (i), provided that, if an expenditure or grant of public funds made in violation of this paragraph results in the reduction of public funds and a court awards monetary relief, the amount recovered shall be deposited into one or more accounts maintained by the Commonwealth for public funds.

(v) In an action brought under this paragraph, a prevailing plaintiff shall be entitled to an award of reasonable attorney fees and costs.

(vi) The General Assembly, through one or more members duly appointed by resolution of their respective chamber, may intervene as a matter of right in any case in which the constitutionality of this paragraph is challenged.
(vii) Any encumbrance of public funds in derogation of the provisions of subparagraph (i) shall be null and void as of the effective date of this paragraph, and the funds so encumbered shall be reallocated to eligible entities.

(viii) The following words and phrases when used in this paragraph shall have the meanings given to them in this subparagraph unless the context clearly indicates otherwise:

"Abortion." The use of any means to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will cause, with reasonable likelihood, the death of the unborn child. The term does not include birth control devices or oral contraceptives used to inhibit or prevent ovulation, conception or the implantation of a fertilized ovum in the uterus, or the use of any means to increase the probability of a live birth, to preserve the life or health of the child after a live birth, to terminate an ectopic pregnancy or to remove a dead fetus.

"Federally qualified abortion." An abortion qualified for Federal matching funds under the Medicaid program.

"Federally qualified health center." An entity as defined under section 1905(1)(2)(B) of the Social Security Act (42 U.S.C. § 1396d(1)(2)(B)) that is eligible to receive Federal funds.

"Hospital." A primary or tertiary care facility licensed under State law.

"Public funds." State funds from whatever source,
including, without limitation, State general revenue funds, State special account and limited purpose grants or loans and Federal funds provided under Title X of the Public Health Service Act (42 U.S.C. § 201 et seq.) and Titles IV, V and XX of the Social Security Act (42 U.S.C. § 301 et seq.).

"Rural health clinic." The term as defined in section 1861(aa)(2) of the Social Security Act (42 U.S.C. § 1395x(aa)(2)).

(ix) It is the intent of the General Assembly that every provision of this paragraph shall operate with equal force and shall be severable one from the other, and that, in the event that any provision of this paragraph is held invalid or unenforceable by a court of competent jurisdiction, the provision shall be accordingly deemed severable and the remaining provisions deemed fully enforceable.

(x) This paragraph shall apply to fiscal years beginning after June 30, 2021.

Section 2. This act shall take effect immediately.