

**FISCAL CODE - MONEY IN ACCOUNT, OPIOID ABUSE CHILD IMPACT TASK  
FORCE AND FOR ARPA HEALTH CARE WORKFORCE SUPPORTS**

**Act of Jan. 26, 2022, P.L. 5, No. 2**

**Cl. 72**

Session of 2022

No. 2022-2

HB 253

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 emergency COVID-19 response, further providing for money in account; and providing for opioid abuse child impact task force and for ARPA health care workforce supports.

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

Section 1. Section 111-C(g) of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, added June 30, 2021 (P.L.62, No.24), is amended to read:  
Section 111-C. Money in account.

\* \* \*

(g) Transfer.--

(1) Federal money from the Coronavirus State Fiscal Recovery Fund in the account other than amounts appropriated under Part XXX of the act of June 30, 2021 (P.L.1325, No.1A),

known as the General Appropriation Act of 2021, and Article I-J, shall be transferred to the General Fund for use under [42 U.S.C. § 802(c)(1) (Public Law 117-2, 135 Stat. 223)] **section 602(c)(1) of the Social Security Act (49 Stat. 620, 42 U.S.C. § 802(c)(1))** for fiscal years beginning after June 30, 2022.

(2) A transfer under paragraph (1) shall be made by the State Treasurer on the following schedule:

(i) For the 2022-2023 fiscal year, the transfer shall be made no earlier than July 31, 2022.

(ii) For the 2023-2024 fiscal year, the transfer shall be made no earlier than July 31, 2023.

(3) The amount of the transfer under paragraph (1) made for a fiscal year may not be higher than the amount which may be used for the fiscal year under 42 U.S.C. § 802(c)(1).

(4) Any money which remains in the account after a transfer under paragraph (1) shall be transferred under paragraph (2) in the following fiscal year.

Section 2. The act is amended by adding articles to read:

#### **ARTICLE I-I**

##### **OPIOID ABUSE CHILD IMPACT TASK FORCE**

###### **Section 101-I. Declaration of policy.**

The General Assembly finds and declares as follows:

(1) This Commonwealth is one of the states which has been hardest hit by an epidemic of heroin and prescription opioid abuse and addiction that is plaguing American society.

(2) One of the more tragic consequences of this epidemic is the devastating impact it has had and continues to have on infants and children.

(3) Newborns are suffering through withdrawal from opioids because of prenatal exposure to these drugs.

(4) Fatalities and near fatalities of infants and young children have been linked to parental substance abuse.

(5) Cases of child abuse and neglect linked to parental substance abuse are increasing, as are the number of children being removed from their homes and placed in protective custody because of their parents' drug addiction.

(6) The Commonwealth has a responsibility to protect its residents, especially children.

###### **Section 102-I. Definitions.**

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

"Task force." The task force established in section 103-I.

###### **Section 103-I. Establishment.**

A task force on the opioid abuse epidemic's impact on children is established. The task force shall focus on improving the safety, well-being and permanency of substance-exposed infants and other young children affected by their parents' substance abuse disorders.

###### **Section 104-I. Responsibilities.**

The task force is responsible for:

(1) Identifying strategies and making short-term and long-term recommendations to prioritize the prevention of substance-exposed infants.

(2) Improving outcomes for pregnant and parenting women who are striving to recover from addiction.

(3) Promoting the health, safety and permanency of substance-exposed infants and other young children at risk of child abuse and neglect or placement in foster care due to parental alcohol and drug use.

(4) Ensuring that the Commonwealth is compliant with the Child Abuse Prevention and Treatment Act (Public Law 93-247, 42 U.S.C. § 5101 et seq.) related to identifying substance-exposed infants and is developing multidisciplinary plans of safe care for these infants.

Section 105-I. Members and meetings.

(a) Members.--The task force is comprised of the following members:

(1) The Secretary of Human Services or a designee who shall be an employee of the Department of Human Services. The designee shall be appointed by the Secretary of Human Services in writing, and a copy of the appointment shall be submitted to the chairperson of the task force.

(2) The Secretary of Health or a designee who shall be an employee of the Department of Health. The designee shall be appointed by the Secretary of Health in writing, and a copy of the appointment shall be submitted to the chairperson of the task force.

(3) The Secretary of Drug and Alcohol Programs or a designee who shall be an employee of the Department of Drug and Alcohol Programs. The designee shall be appointed by the Secretary of Drug and Alcohol Programs in writing, and a copy of the appointment shall be submitted to the chairperson of the task force.

(4) Three members appointed by the Senate, as follows:

(i) two members appointed by the President pro tempore of the Senate, one of whom shall be a layperson who is a biological parent, foster parent or adoptive parent of an infant or young child with current or previous involvement in the child welfare system as a result of a parent's substance abuse; and

(ii) one member appointed by the Minority Leader of the Senate.

(5) Three members appointed by the House of Representatives, as follows:

(i) two members appointed by the Speaker of the House of Representatives, one of whom shall be a layperson who is a biological parent, foster parent or adoptive parent of an infant or young child with current or previous involvement in the child welfare system as a result of a parent's substance abuse; and

(ii) one member appointed by the Minority Leader of the House of Representatives.

(6) Two members appointed by the Governor.

(b) Qualifications.--Except for laypersons appointed under subsection (a) (4) (i) and (5) (i), individuals appointed under subsection (a) (4), (5) or (6) must possess professional experience and expertise in:

- (1) obstetric medicine;
- (2) pediatric medicine;
- (3) behavioral health treatment;
- (4) early intervention programs;
- (5) county children and youth agency services;
- (6) child advocacy; or
- (7) neonatal intensive care unit nursing.

(c) Chairperson.--The Governor shall select the chairperson of the task force.

(d) Appointment.--The members of the task force shall be appointed within 25 days after the effective date of this section.

(e) Quorum.--The physical presence of seven members constitutes a quorum of the task force.

(f) Majority vote.--An action of the task force shall be authorized or ratified by a majority vote of its members.

(g) Meetings.--

(1) The task force shall meet as necessary but no fewer than five times during the period ending two months prior to the issuance date of the report. The first meeting shall be convened within 45 days following the effective date of this section.

(2) Additional meetings may be called by the chairperson as necessary.

(3) The chairperson shall schedule a meeting upon written request of eight members of the task force.

(4) A member not physically present may participate by teleconference or video conference.

(h) Compensation.--Members of the task force shall not receive compensation but shall be reimbursed for reasonable and necessary expenses incurred in service of the task force.

Section 106-I. Duties.

The task force has the following duties:

(1) To examine and analyze the existing practices, processes, procedures and laws relating to the diagnosis and treatment of substance-exposed infants.

(2) To review and analyze the existing practices, processes, procedures and laws relating to the safety, well-being, permanency and placement of children at risk due to their parents' substance abuse disorders.

(3) To hold public hearings for the taking of testimony and the requesting of documents.

(4) To make relevant recommendations for improving the safety, well-being and permanency of substance-exposed infants and other children adversely affected by their parents' substance abuse disorders.

(5) To issue a report in accordance with section 109-I.

Section 107-I. Hearings.

The task force shall hold public hearings as necessary to obtain the information required to conduct its review.

Section 108-I. Agency cooperation.

The Department of Human Services, the Department of Health and the Joint State Government Commission shall cooperate to provide administrative or other assistance to the task force.

Section 109-I. Reports.

(a) General rule.--The task force shall prepare and submit, two months prior to the expiration date of this article, a final report on its activities, findings and recommendations to the Governor, the Senate and the House of Representatives. The task force may file status reports and updates with the Governor, the Senate and the House of Representatives as it deems appropriate.

(b) Adoption of report.--A report under this section shall be adopted at a public meeting.

(c) Public record.--A report under this section shall be available to the public.

Section 110-I. Expiration.

This article expires 12 months after the effective date of this section.

## ARTICLE I-J

### ARPA HEALTH CARE WORKFORCE SUPPORTS

Section 101-J. Definitions.

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

"Behavioral health provider." The following:

(1) A long-term structured residence licensed under 55 Pa. Code Ch. 5320 (relating to requirements for long-term structured residence licensure).

(2) A residential treatment facility for adults licensed under Article X of the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code.

(3) A residential treatment facility licensed under 55 Pa. Code Ch. 3800 (relating to child residential and day treatment facilities) that meets the Medical Assistance reimbursement requirements for the provision of mental health treatment services provided in a residential treatment facility, as determined by the Department of Human Services. The term shall include psychiatric residential treatment facilities and nonaccredited residential treatment facilities.

(4) A private psychiatric hospital licensed under 55 Pa. Code Ch. 5300 (relating to private psychiatric hospitals).

(5) An inpatient hospital psychiatric unit approved under 55 Pa. Code Ch. 5100 (relating to mental health procedures).

"Clinical care services." The diagnostic, treatment or rehabilitative services provided in an entity, including the following services:

(1) Radiology and diagnostic imaging, such as magnetic resonance imaging and positron emission tomography.

(2) Radiation therapy.

(3) Respiratory therapy.

(4) Phlebotomy.

(5) Electrocardiogram and electroencephalography.

(6) Laboratory medical services.

"Critical access hospital." A hospital that meets either of the following:

(1) Has qualified under section 1861(mm)(1) of the Social Security Act (49 Stat. 620, 42 U.S.C. § 1395x(mm)(1)) as a critical access hospital under Medicare.

(2) A rural hospital that is licensed under section 808 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act, that provides inpatient medical care and other related services for surgery, acute medical conditions or injuries and that meet all of the following:

(i) Is located in a county of the sixth, seventh or eighth class that has no more than two Medical Assistance-enrolled general acute care hospitals.

(ii) Is located in a county that has greater than 17% of its population that are eligible for Medical Assistance or has greater than 10,000 persons eligible for Medical Assistance.

(iii) Has no more than 200 licensed and staffed beds.

(iv) Does not qualify as a critical access hospital under section 1861(mm)(1) of the Social Security Act as a critical access hospital under Medicare.

"Direct patient care activities." The direct performance of any the following services to a patient by qualified staff:

(1) Assessment.

(2) Examination.

(3) Treatment.

(4) Medication administration.

(5) Rehabilitation.

(6) Direct care services.

(7) Preparation for clinical care services.

"Entity." A behavioral health provider, critical access hospital, hospital or high Medical Assistance hospital.

"High Medical Assistance hospital." As determined under the Medical Assistance dependency payment provisions of the Commonwealth's approved Title XIX State Plan, based on a hospital's approved Medical Assistance cost report for fiscal year 2018-2019.

"Hospital." As follows:

(1) The term shall include the following:

(i) A hospital licensed by the Department of Health under section 808 of the Health Care Facilities Act that provides inpatient medical care and other related services for surgery, acute medical conditions or injuries.

(ii) A hospital licensed by the Department of Health under section 808 of the Health Care Facilities Act that specializes in services exclusively to infants, children, adolescents and young adults from birth up to the age of 21.

(iii) A critical access hospital.

(2) The term shall not include a Federal veterans' affairs hospital and a State-owned psychiatric hospital.

"Qualified staff." An employee of an entity who is involved in direct patient care activities, environmental services or clinical care services. The term shall not include behavioral health executives, hospital executives, contracted staff, administrators and administrative support staff or physicians. Section 102-J. Department of Human Services.

(a) Hospital qualified staff retention and recruitment payments.--From money appropriated to the Department of Human Services under subsection (e)(1), \$100,000,000 shall be used for making payments to hospitals for making retention and recruitment payments to qualified staff, which shall be distributed as one-time payments to each hospital, determined as follows:

(1) Divide:

(i) the number of a hospital's licensed beds as of December 30, 2021, as determined in consultation with the Department of Health; by

(ii) the total licensed hospital beds as of December 30, 2021, as determined in consultation with the Department of Health.

(2) Multiply:

(i) the quotient under paragraph (1); by

(ii) \$100,000,000.

(b) Other qualified staff retention and recruitment payments.--From money appropriated to the Department of Human Services under subsection (e)(2), \$110,000,000 shall be used for making payments to behavioral health providers, critical access hospitals and high Medical Assistance hospitals for staff retention and recruitment payments to qualified staff, which shall be distributed as one-time payments to each behavioral health provider, critical access hospital and high Medical Assistance hospital, determined as follows:

(1) Divide:

(i) the unduplicated number of the licensed beds of a behavioral health provider, critical access hospital or high Medical Assistance hospital as of December 30, 2021, as determined in consultation with the Department of Health; by

(ii) the unduplicated total licensed beds of all behavioral health providers, critical access hospitals

and high Medical Assistance hospitals as of December 30, 2021, as determined in consultation with the Department of Health.

(2) Multiply:

- (i) the quotient under paragraph (1); by
- (ii) \$110,000,000.

(c) Conditions.--The following apply to receipt of payments received under this section:

(1) A payment received from the Department of Human Services under this section may not supplant existing staff wages and may not otherwise be reimbursed by Federal or State funding.

(1.1) A qualified staff member may only receive one payment for retention or recruitment under this section.

(2) An entity receiving a payment from the Department of Human Services under this section must be in operation as of December 30, 2021, and must maintain operations until at least December 31, 2022.

(3) An entity receiving a payment from the Department of Human Services under this section shall spend the funds by the following deadlines:

(i) Staff retention payments under subsections (a) and (b) shall be made within 90 days of receipt of payment.

(ii) Staff recruitment payments under subsections (a) and (b) shall be made within 180 days of receipt of payment.

(4) An entity receiving a payment from the Department of Human Services under this section shall submit a report, in a form and manner as prescribed by the Department of Human Services, as follows:

(i) An entity receiving a payment from the department under subsections (a) and (b) shall submit a report to the department by:

(A) September 30, 2022, regarding staff retention payments.

(B) December 31, 2022, regarding staff recruitment payments.

(ii) A report under this paragraph shall include the following information:

(A) The number of staff payments or bonuses, including any additional retention and recruitment incentives, regardless of funding source.

(B) The ratio of permanent staff to contracted agency/temporary staff as of December 30, 2021, versus that ratio as of the submission date of the report.

(C) The amount of a staff payment or bonus per employee, including the total number of each type of payment or bonus.

(D) The types or classification of employees that received a bonus or payment.

(E) The criteria used for determining a staff payment or bonus, including whether and how staff were engaged in the determination.

(F) The plan for recruitment and retention through December 31, 2023.

(G) The number of the employees who received a bonus or payment, including the number of employees who received a bonus or payment and are still employed at the facility on the submission date of the report.

(H) Any other criteria required by Federal or State law or guidance.

(5) The Department of Human Services may recover a payment from an entity that receives payment from the department under this section if the entity does not comply with the provisions of this section or with Federal or State law or guidance. An entity that receives a payment from the department under this section shall provide documents, records and other information related to a payment made under this section in the time, manner and format requested by either the Department of Human Services or by any other Commonwealth or Federal agency that is authorized to audit the payments.

(d) Report.--Within 90 days of the reporting deadlines under subsection (c), the Department of Human Services, in consultation with the Department of Health, shall issue a report to the chairperson and minority chairperson of the Appropriations Committee of the Senate and the chairperson and minority chairperson of the Appropriations Committee of the House of Representatives regarding the aggregate employee bonus and payment information received under subsection (c). The report shall be posted to the Department of Human Services' publicly accessible Internet website. The publicly available report may not include any proprietary recruitment and retention plan information.

(e) Appropriation.--The following Federal amounts are appropriated on a continuing basis from the COVID-19 Response Restricted Account to the Department of Human Services:

(1) The sum of \$100,000,000 is appropriated to the Department of Human Services for COVID Relief - Hospital Workforce Assistance in accordance with this section.

(2) The sum of \$110,000,000 is appropriated to the Department of Human Services for COVID Relief - Healthcare Workforce Assistance in accordance with this section.

Section 103-J. Pennsylvania Higher Education Assistance Agency.

(a) Student Loan Relief for Nurses Program.--Notwithstanding any other provision of law, from money appropriated to the Pennsylvania Higher Education Assistance Agency under subsection (b), \$15,000,000 shall be used to fund the Pennsylvania Student Loan Relief for Nurses Program.

(b) Federal funds.--From the COVID-19 Response Restricted Account, Federal funds are appropriated on a continuing basis in the sum of \$15,000,000 to the Pennsylvania Higher Education Assistance Agency for the Pennsylvania Student Loan Relief for Nurses Program in accordance with this section.

Section 3. This act shall take effect immediately.

APPROVED--The 26th day of January, A.D. 2022.

TOM WOLF