

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 1062

Session of  
2005

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INTRODUCED BY BOYD, SCAVELLO, DeWEESE, CAPPELLI, CALTAGIRONE,  
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YUDICHAK, MARCH 21, 2005

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AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,  
AS AMENDED, MAY 11, 2005

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## AN ACT

1 Providing for a tax credit program to support community-based  
2 mental retardation services in this Commonwealth.

3 The General Assembly finds and declares as follows:

4 (1) In July 1999, the Supreme Court issued the Olmstead  
5 v. L.C. decision that clearly challenges Federal, state and  
6 local governments to develop more opportunities for  
7 individuals with disabilities through more accessible systems  
8 of cost-effective community-based services.

9 (2) The Olmstead decision interpreted Title II of the  
10 Americans with Disabilities Act of 1990 (Public Law 101-336,  
11 104 Stat. 327) and its implementing regulation, requiring  
12 states to administer their services, programs and activities  
13 in the most integrated setting appropriate to the needs of  
14 qualified individuals with disabilities.

15 (3) In Pennsylvania, services for individuals with

1 mental retardation are evolving from a system comprised of  
2 large public and private residential facilities to a system  
3 of community supports and services so that individuals may  
4 remain in their homes and communities.

5 (4) Community services include a variety of residential  
6 and day support services which are either administered or  
7 operated by county mental health and mental retardation  
8 offices, contracted private residential intermediate care  
9 facilities for persons with mental retardation (ICF/MR) and  
10 contracted private providers of community-based services.

11 (5) In 1999, the Office of Mental Retardation of the  
12 Department of Public Welfare released a report with a long-  
13 term plan to address the waiting list for mental retardation  
14 services in Pennsylvania.

15 (6) The waiting list is comprised of three categories:  
16 the emergency category, for individuals who need services  
17 immediately; the critical list, for individuals who will need  
18 services within one year; and the planning category, for  
19 individuals who will need services in five years.

20 (7) In 1999, a total of 14,083 persons were on the  
21 waiting list for services. As of December 2004, the Office of  
22 Mental Retardation reported that there are 20,652 individuals  
23 on the waiting list for mental retardation services. Of that  
24 group, 2,180 individuals are in the emergency category; 8,000  
25 individuals are in the critical category and 10,000  
26 individuals are in the planning category.

27 (8) Since 2001, decreasing revenues and rising Medicaid  
28 costs have impacted state budgets across the United States  
29 with the results that Federal and State funding has been  
30 insufficient to meet the needs of the growing number of

1 individuals with mental retardation waiting for community-  
2 based services.

3 (9) It is critical to access other sources of revenue to  
4 address the waiting list for services.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Mental  
9 Retardation Services Tax Credit Act.

10 Section 2. Definitions.

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

14 "Business firm." An entity authorized to do business in this  
15 Commonwealth and subject to taxes imposed under Article III, IV, <—  
16 VI, VII, ~~VII~~A VIII, IX or XV of the act of March 4, 1971 <—  
17 (P.L.6, No.2), known as the Tax Reform Code of 1971.

18 "Contribution." A donation of cash, personal property or  
19 services, the value of which is the net cost of the donation to  
20 the donor or the pro rata hourly wage, including benefits, of  
21 the individual performing the service.

22 "Department." The Department of Community and Economic  
23 Development of the Commonwealth.

24 "Individual." An individual who is eligible for community-  
25 based services funded through the Office of Mental Retardation  
26 of the Department of Public Welfare.

27 "Provider." A nonprofit entity that:

28 (1) Provides community-based services to individuals  
29 with mental retardation, including, but not limited to,  
30 community residential options and nonresidential services,

1 such as supported employment, training and recreation,  
2 mobility training, employment training and opportunities and  
3 adult day care.

4 (2) Is exempt from Federal taxation under section  
5 501(c)(3) of the Internal Revenue Code of 1986 (Public Law  
6 99-514, 26 U.S.C. § 1 et seq.).

7 Section 3. Mental retardation services tax credit program.

8 (a) Establishment.--A mental retardation services tax credit  
9 program is hereby established to supplement, not supplant,  
10 existing Federal and State funding for community-based services  
11 for individuals with mental retardation in this Commonwealth.

12 (b) Information.--In order to qualify under this act, a  
13 provider must submit information to the department that enables  
14 the department to confirm that the provider is exempt from  
15 taxation under section 501(c)(3) of the Internal Revenue Code of  
16 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

17 (c) Provider application.--

18 (1) An application submitted to the department by the  
19 provider must describe the community-based services it  
20 provides to individuals with mental retardation on a form  
21 provided by the department.

22 (2) The department shall consult with the Department of  
23 Public Welfare as necessary to determine that the provider  
24 provides community-based services for individuals with mental  
25 retardation. The department shall review and approve or  
26 disapprove the application.

27 (d) Notification.--The department shall notify the provider  
28 that the provider meets the requirements of this act for that  
29 fiscal year not later than 60 days after the provider has  
30 submitted the application required under this section.

1 (e) Publication.--The department shall annually publish a  
2 list of each provider qualified under this section in the  
3 Pennsylvania Bulletin. The list shall also be posted and updated  
4 as necessary on the publicly accessible Internet website of the  
5 department.

6 Section 4. Availability of tax credits.

7 (a) Application.--A business firm shall apply to the  
8 department for a tax credit under section 5 (relating to grant  
9 of tax credits). A business firm shall receive a tax credit  
10 under this act if the provider that receives the contribution  
11 from the business firm appears on the list under section 3(e)  
12 (relating to mental retardation services tax credit program).

13 (b) Availability of tax credits.--Tax credits under this  
14 section shall be made available by the department on a first-  
15 come-first-served basis within the limitation established under  
16 section 6(a) (relating to amount of tax credits).

17 (c) Contributions.--A contribution by a business firm to a  
18 provider shall be made no later than 60 days following the  
19 approval of an application under subsection (a).

20 Section 5. Grant of tax credits.

21 (a) General rule.--In accordance with section (6)(a)  
22 (relating to amount of tax credits) the Department of Revenue  
23 shall grant a tax credit against a tax liability owed to the  
24 Department of Revenue by a business firm that provides proof of  
25 a contribution to a provider in the taxable year in which the  
26 contribution is made. The business firm may apply the credit  
27 against any tax due under Article III, IV, ~~V~~, VI, VII, VIII, IX <—  
28 or XV of the act of March 4, 1971 (P.L.6, No.2), known as the  
29 Tax Reform Code of 1971.

30 (b) Limitation.--The tax credit shall not exceed 50% of the

1 total amount contributed by a business firm to a provider during  
2 the taxable year of the business firm. The tax credit shall not  
3 exceed \$100,000 annually per business firm.

4 (c) Additional amount.--

5 (1) A business firm that contributes to a provider in  
6 two or more consecutive years shall qualify for a 75% tax  
7 credit for the contributions made in the second year and  
8 every consecutive year of making a contribution to a  
9 provider.

10 (2) Nothing in this section shall be construed to  
11 require a business firm to contribute to the same provider  
12 every year in order for the business firm to qualify for a  
13 tax credit under this subsection.

14 Section 6. Amount of tax credits.

15 (a) General rule.--The total aggregate amount of all tax  
16 credits approved shall not exceed \$30,000,000 in a fiscal year.

17 (b) Activities.--No tax credit shall be approved for  
18 activities that are part of a business firm's normal course of  
19 business.

20 (c) Tax liability.--A tax credit granted for any one taxable  
21 year may not exceed the tax liability of a business firm.

22 (d) Use.--A tax credit not used in the taxable year the  
23 contribution was made may not be carried forward or carried back  
24 and is not refundable or transferable.

25 Section 7. Report to General Assembly.

26 The Department of Revenue shall provide a list of all  
27 providers receiving contributions from business firms granted a  
28 tax credit under this act to the General Assembly by June 30th  
29 of each year.

30 Section 8. Effective date.

1        This act shall take effect in 60 days.