

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 386 Session of 2011

INTRODUCED BY BOYD, O'NEILL, AUMENT, CALTAGIRONE, CUTLER, GEIST, GOODMAN, HARHAI, HARKINS, HICKERNELL, KAUFFMAN, KAVULICH, LONGIETTI, MARSHALL, MIRABITO, MURT, PEIFER, PETRARCA, QUINN, RAPP, REICHLEY, ROAE, SCAVELLO, J. TAYLOR, VULAKOVICH, WATSON, GRELL AND HESS, FEBRUARY 1, 2011

REFERRED TO COMMITTEE ON HUMAN SERVICES, FEBRUARY 1, 2011

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
16 mental retardation are evolving from a system comprised of

1 large public and private residential facilities to a system
2 of community supports and services so that individuals may
3 remain in their homes and communities.

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

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

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

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

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

1 based services.

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

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

6 Section 1. Short title.

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

9 Section 2. Definitions.

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

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

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

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

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

26 "Provider." A nonprofit entity that:

27 (1) Provides community-based services to individuals
28 with mental retardation, including, but not limited to,
29 community residential options and nonresidential services,
30 such as supported employment, training and recreation,

mobility training, employment training and opportunities and adult day care.

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

Section 3. Mental retardation services tax credit program.

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

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

(c) Provider application.--

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

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

(d) Notification.--The department shall notify the provider that the provider meets the requirements under this act for that fiscal year no later than 60 days after the provider has submitted the application required under this section.

(e) Publication.--The department shall annually publish a

1 list of each provider qualified under this section in the
2 Pennsylvania Bulletin. The list shall also be posted and updated
3 as necessary on the publicly accessible Internet website of the
4 department.

5 Section 4. Availability of tax credits.

6 (a) Application.--A business firm may apply to the
7 department for a tax credit under section 5. A business firm
8 shall receive a tax credit under this act if the provider that
9 receives the contribution from the business firm appears on the
10 list under section 3(e).

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

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

18 Section 5. Grant of tax credits.

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

27 (b) Limitation.--The tax credit shall not exceed 50% of the
28 total amount contributed by a business firm to a provider during
29 the taxable year of the business firm. The tax credit shall not
30 exceed \$100,000 annually per business firm.

(c) Additional amount.--

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

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

Section 6. Amount of tax credits.

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

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

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

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

Section 7. Report to General Assembly.

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

Section 8. Effective date.

This act shall take effect in 60 days.