

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

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

1 providing for Department of Human Services.

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

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

7 Section 1729-E. Department of Human Services.

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

10 * * *

11 (8) The following shall apply:

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

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

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

19 (II) To rural health clinics.

20 (III) To State health centers.

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

26 (B) The department may not enter into a contract
27 with or make a grant to any entity that performs
28 abortions that are not federally qualified abortions
29 or maintains or operates a facility where such
30 abortions are performed, except as required by

1 Federal law when the services are provided under
2 Medicaid and by a qualified provider approved by the
3 Centers for Medicaid and Medicare Services.

4 (ii) Nothing in this paragraph shall be construed to
5 apply to the receipt or administration of public funds
6 under Title XIX of the Social Security Act (49 Stat. 620,
7 42 U.S.C. § 1396 et seq.).

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

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

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

26 (vi) The General Assembly, through one or more
27 members duly appointed by resolution of their respective
28 chamber, may intervene as a matter of right in any case
29 in which the constitutionality of this paragraph is
30 challenged.

1 (vii) Any encumbrance of public funds in derogation
2 of the provisions of subparagraph (i) shall be null and
3 void as of the effective date of this paragraph, and the
4 funds so encumbered shall be reallocated to eligible
5 entities.

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

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

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

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

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

30 "Public funds." State funds from whatever source,

1 including, without limitation, State general revenue
2 funds, State special account and limited purpose grants
3 or loans and Federal funds provided under Title X of the
4 Public Health Service Act (42 U.S.C. § 201 et seq.) and
5 Titles IV, V and XX of the Social Security Act (42 U.S.C.
6 § 301 et seq.).

7 "Rural health clinic." The term as defined in
8 section 1861(aa)(2) of the Social Security Act (42 U.S.C.
9 § 1395x(aa)(2)).

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

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

20 Section 2. This act shall take effect immediately.