

By: Johnson of Dallas, Button, Buckley, Rose,  
Morrison, et al.

H.B. No. 3771

Substitute the following for H.B. No. 3771:

By: Button

C.S.H.B. No. 3771

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the employer child-care contribution partnership program administered by the Texas Workforce Commission; authorizing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 4, Labor Code, is amended by adding Chapter 319 to read as follows:

CHAPTER 319. EMPLOYER CHILD-CARE CONTRIBUTION PARTNERSHIP PROGRAM

Sec. 319.001. DEFINITION. In this chapter, "program" means the employer child-care contribution partnership program established under this chapter.

Sec. 319.002. ESTABLISHMENT. The commission shall establish and administer the employer child-care contribution partnership program to support families in this state in accessing high-quality child care by incentivizing eligible employers to contribute to eligible employee child-care costs and providing a state match for funds contributed by eligible employers.

Sec. 319.003. ADMINISTRATION. (a) The commission shall:

(1) adopt rules and establish procedures necessary to administer the program, including:

(A) a standardized agreement for use by employers, employees, and child-care providers to apply for and enroll in the program;

(B) eligibility and income verification

- 1 procedures for employees;  
2                   (C) eligibility criteria for child-care  
3 providers, including quality standards;  
4                   (D) procedures for notifying each party to the  
5 agreement of:  
6                   (i) the results of an eligibility  
7 determination; and  
8                   (ii) the party's enrollment in the program  
9 as soon as practicable after receiving and processing the agreement  
10 and determining each party's eligibility;  
11                   (E) procedures for determining the amount of the  
12 state match in accordance with Section 319.009(b) and notifying the  
13 employee and the child-care provider regarding the amount;  
14                   (F) procedures for prioritizing and approving  
15 agreements, including maintaining a waitlist;  
16                   (G) procedures for notifying the commission and  
17 the parties to the agreement regarding termination of the agreement  
18 by any party;  
19                   (H) procedures for notifying the commission and  
20 the parties to the agreement regarding nonpayment by any party;  
21                   (I) procedures for recouping state match money or  
22 a portion of state match money if there is an overpayment to a  
23 participating child-care provider;  
24                   (J) criteria for disqualifying participants from  
25 the program;  
26                   (K) procedures for hearing appeals from program  
27 participants;

1                   (L) procedures for issuing and logging payments  
2 to a participating child-care provider; and

3                   (M) criteria and procedures for modifying or  
4 terminating an agreement, including:

5                           (i) if the relationship between the  
6 employee and employer is severed;

7                           (ii) if an employer fails to make a  
8 contribution in accordance with the terms of the agreement; and

9                           (iii) if a child-care provider ceases  
10 participation or otherwise becomes ineligible to participate in the  
11 program;

12                   (2) ensure confidentiality protocols to safeguard the  
13 personal information of participating employers, employees, and  
14 child-care providers, including ensuring that an employee's  
15 personal information is not disclosed without the employee's  
16 written consent;

17                   (3) maintain records regarding the balance of the  
18 program fund for each fiscal year and all payments made from the  
19 fund;

20                   (4) develop informational material regarding the  
21 program's objectives, benefits, and eligibility requirements and  
22 distribute the material to employers, employees, and child-care  
23 providers; and

24                   (5) maintain a waitlist if the money in the program  
25 fund is insufficient to approve all agreements received and provide  
26 a state match in accordance with Section 319.009(b).

27                   (b) The commission may:

1           (1) delegate an administrative duty under the program  
2 to a division of the commission;

3           (2) coordinate and share information with other state  
4 agencies; and

5           (3) procure grants or contracts, in accordance with  
6 other law, with third parties to administer the program or parts of  
7 the program.

8           (c) The commission shall implement the program and issue a  
9 state match under Section 319.009(b) in a state fiscal year only if  
10 the legislature specifically appropriates money to the commission  
11 for that fiscal year for that purpose. The commission may implement  
12 the program and issue a state match using other money available to  
13 the commission for that purpose.

14           Sec. 319.004. EMPLOYER DUTIES. An employer who provides  
15 child-care assistance to an employee as a benefit of employment may  
16 participate in the program by entering into an agreement described  
17 by Section 319.007 with an eligible employee and child-care  
18 provider. The employer shall:

19           (1) provide at least 20 percent of the cost of the  
20 employee's child care as the employer contribution;

21           (2) enter into a standardized agreement under Section  
22 319.007 with an eligible employee and child-care provider;

23           (3) submit the agreement to the commission for  
24 verification of eligibility and approval;

25           (4) submit any additional information the commission  
26 considers necessary; and

27           (5) on verification and approval of the agreement by

1 the commission, make contributions to the employee's eligible  
2 child-care costs in accordance with commission guidelines.

3 Sec. 319.005. EMPLOYEE DUTIES. (a) An employee shall  
4 complete an agreement described by Section 319.007 with the  
5 employee's employer and a child-care provider and provide any  
6 additional information the commission considers necessary.

7 (b) The employee shall pay the child-care provider the cost  
8 of child-care services not covered by the employer's contribution  
9 and the state match.

10 (c) If the amount of an employee's employer contribution and  
11 state match provided under the employee's agreement are  
12 insufficient to pay all of the employee's child-care costs, the  
13 employee may combine those amounts with the employer contribution  
14 and state match money provided under an agreement made under the  
15 program by a member of the employee's household or family to pay the  
16 total costs, provided that combining the amounts does not result in  
17 overpayment to the provider.

18 Sec. 319.006. PROVIDER ELIGIBILITY. To be eligible to  
19 receive money under the program, a child-care provider must:

20 (1) be a high-quality program as determined by the  
21 commission; and

22 (2) enter into an agreement described by Section  
23 319.007.

24 Sec. 319.007. PROGRAM AGREEMENTS. The commission shall  
25 create a standardized agreement for use by employers, employees,  
26 and providers participating in the program, to be completed and  
27 agreed to by each party. The agreement must include:

- 1           (1) the name, physical location, size, and industry of  
2 the employer;
- 3           (2) the name and phone number of the employer's point  
4 of contact;
- 5           (3) the name and physical location of the child-care  
6 provider;
- 7           (4) the name and phone number of the child-care  
8 provider's point of contact;
- 9           (5) the name and home address of the employee;
- 10           (6) the total amount of the child-care contribution to  
11 be paid by the employer to the provider, either directly or through  
12 a third-party vendor;
- 13           (7) the total amount of the state match to be paid to  
14 the provider, either directly or through a third-party vendor;
- 15           (8) the duration of the agreement;
- 16           (9) the frequency of the contribution to be made  
17 directly to the child-care provider; and
- 18           (10) demographic information about the employee.

19           Sec. 319.008. PROGRAM FUND. (a) The commission shall  
20 establish and administer the program fund as a dedicated account in  
21 the general revenue fund.

22           (b) The following amounts shall be deposited in the fund:

- 23           (1) any money appropriated by the legislature for the  
24 fund for purposes of this chapter;
- 25           (2) interest earned on the investment of money in the  
26 fund;
- 27           (3) funds resulting from civil penalties collected

1 under Section 319.011; and

2 (4) gifts, grants, and donations received for the  
3 fund.

4 (c) Money in the fund may be appropriated only to the Texas  
5 Workforce Commission for purposes authorized by this chapter.

6 (d) Any money remaining in the program fund at the end of a  
7 fiscal year is carried forward to the next fiscal year.

8 (e) In each fiscal year and to the greatest extent  
9 practicable, 25 percent of the total fund shall be distributed  
10 under agreements with employers with fewer than 50 full-time  
11 employees.

12 (f) During the fiscal year ending August 31, 2024, not more  
13 than 10 percent of the total fund shall be distributed to the  
14 commission to establish the program. In each subsequent fiscal  
15 year, the commission may use money in the fund to administer the  
16 program as follows:

17 (1) if the total annual amount of the fund is more than  
18 \$50 million, the commission may use not more than five percent of  
19 the total fund;

20 (2) if the total annual amount of the fund is more than  
21 \$10 million but not more than \$50 million, the commission may use  
22 not more than 10 percent of the total fund; and

23 (3) if the total annual amount of the fund is not more  
24 than \$10 million, the commission may use not more than 15 percent of  
25 the total fund.

26 Sec. 319.009. STATE MATCH. (a) On verifying the  
27 eligibility of an employer, employee, and child-care provider and

1 the agreement between the parties, the commission shall issue a  
2 state match in accordance with this section from the program fund to  
3 a child-care provider in accordance with the terms of the  
4 agreement. The commission may distribute the state match money  
5 directly or through a third-party vendor, as applicable.

6 (b) The commission may approve an agreement and issue a  
7 state match only if there is sufficient money in the program fund to  
8 pay the costs under the agreement.

9 (c) The commission shall provide a state match equal to the  
10 contribution made by the employee's employer if the employee has a  
11 median household income that does not exceed the median state  
12 household income.

13 (d) If the employee's median household income exceeds the  
14 median state household income, the commission shall provide a state  
15 match as follows:

16 (1) 90 percent of the employer's contribution for an  
17 employee whose household income is not more than 120 percent of the  
18 median household income;

19 (2) 80 percent of the employer's contribution for an  
20 employee whose household income is greater than 120 percent but not  
21 more than 140 percent of the median household income;

22 (3) 70 percent of the employer's contribution for an  
23 employee whose household income is greater than 140 percent but not  
24 more than 160 percent of the median household income;

25 (4) 60 percent of the employer's contribution for an  
26 employee whose household income is greater than 160 percent but not  
27 more than 180 percent of the median household income; and



1           (5) 50 percent of the employer's contribution for an  
2 employee whose household income is more than 180 percent of the  
3 median household income.

4           (e) A state match issued under the program and administered  
5 by the commission may not be considered compensation for an  
6 employee's service.

7           Sec. 319.010. REPORTS. (a) The commission shall publish  
8 and submit to the legislature a report detailing the efficacy of the  
9 program not later than December 15 of each even-numbered year. The  
10 report must include the following information about the program:

11           (1) the amount appropriated to the program fund during  
12 the preceding state fiscal year;

13           (2) the total number of standardized agreements  
14 submitted by employers;

15           (3) the total amount of state matches paid out of the  
16 program fund, disaggregated by county;

17           (4) information regarding the size, geographical  
18 location, and industry type of employers who participated in the  
19 program;

20           (5) the number, license type, quality rating level,  
21 and geographical distribution of participating child-care  
22 providers;

23           (6) average cost for services charged by child-care  
24 providers participating in the program and information regarding  
25 the amount by which those costs have increased or decreased during  
26 the most recent reporting period compared with previous reporting  
27 periods;

1           (7) the number and total dollar value of agreements  
2 not approved by the commission; and

3           (8) demographic information regarding employees  
4 participating in the program.

5           (b) Not later than January 1, 2025, the commission shall  
6 publish and submit to the legislature a report detailing the  
7 commission's plan for implementing the program. This subsection  
8 expires September 1, 2025.

9           Sec. 319.011. FALSE INFORMATION; CIVIL PENALTY. A person  
10 who intentionally provides false information to the commission for  
11 purposes of receiving the benefits of the program shall be subject  
12 to a civil penalty of not more than \$500 per violation. All money  
13 collected as a result of penalties assessed under this section  
14 shall be paid into the state treasury and credited to the employee  
15 child-care assistance program fund.

16           SECTION 2. Not later than January 1, 2025, the Texas  
17 Workforce Commission shall adopt any rules necessary to administer  
18 the employer child-care contribution partnership program  
19 established under Chapter 319, Labor Code, as added by this Act.

20           SECTION 3. This Act takes effect September 1, 2023.