

By: Johnson of Dallas

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 subchapter, "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) In administering the program, the commission shall:

(1) create a standardized agreement described by Section 319.007 and process agreements to ensure that the employer, employee, and child-care provider each enter into the agreement before enrolling in the program;

(2) establish eligibility verification procedures for

1 employers, employees, and child-care providers as a prerequisite  
2 for the commission to issue a state match under the program;

3 (3) collect and verify household income information  
4 from eligible employees and determine the amount of the state match  
5 for which the employee is eligible in accordance with Section  
6 319.009;

7 (4) develop procedures for notifying each party to the  
8 agreement of the party's enrollment in the program as soon as  
9 practicable after receiving and processing the contract and  
10 determining each party's eligibility;

11 (5) establish confidentiality protocols for the  
12 commission to safeguard the personal information of participating  
13 employees, employers, and child-care providers;

14 (6) establish requirements for an employer or a  
15 child-care provider to report the nonpayment of a contribution  
16 toward eligible child-care services;

17 (7) establish procedures for issuing and logging a  
18 state match paid to a participating child-care provider;

19 (8) maintain records regarding the balance of the  
20 program fund for each fiscal year and all payments made from the  
21 fund;

22 (9) establish criteria for disqualifying participants  
23 from the program;

24 (10) establish procedures for hearing appeals from  
25 program participants;

26 (11) establish procedures for recouping state match  
27 money or a portion of state match money if there is an overpayment

1 to a participating child-care provider;

2 (12) secure third-party vendors to assist in  
3 administering the program in accordance with federal and state law;

4 (13) develop informational material regarding the  
5 program's objectives, benefits, and eligibility requirements and  
6 distribute the material to employers, employees, and child-care  
7 providers; and

8 (14) maintain a waitlist if the money in the program  
9 fund is insufficient to approve all agreements received and provide  
10 a state match in accordance with Section 319.009(b).

11 (b) The commission may:

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

14 (2) coordinate and share information with other state  
15 agencies; and

16 (3) contract with third parties to administer the  
17 program or parts of the program.

18 (c) The commission may not disclose an employee's personal  
19 information without the employee's written consent.

20 Sec. 319.004. EMPLOYER DUTIES. (a) An employer who  
21 provides child-care assistance to an employee as a benefit of  
22 employment may participate in the program by entering into an  
23 agreement described by Section 319.007 with an eligible employee  
24 and child-care provider. The employer shall:

25 (1) enter into a standardized agreement under Section  
26 319.007 with an eligible employee and child-care provider;

27 (2) submit the agreement to the commission for

1 verification of eligibility and approval;

2 (3) submit any additional information the commission  
3 considers necessary; and

4 (4) on verification and approval of the agreement by  
5 the commission, make contributions to the employee's eligible  
6 child-care costs in accordance with the agreement directly to the  
7 child-care provider or through a third-party vendor.

8 (b) The comptroller may require employers seeking economic  
9 development incentives to participate in the program.

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

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

17 (c) If the amount of an employee's employer contribution and  
18 state match provided under the employee's agreement are  
19 insufficient to pay all of the employee's child-care costs, the  
20 employee may combine those amounts with the employer contribution  
21 and state match money provided under an agreement made under the  
22 program by a member of the employee's household or family to pay the  
23 total costs, provided that combining the amounts does not result in  
24 overpayment to the provider.

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

27 (1) participate in the Texas Rising Star program; and

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

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

7           (1) the name, physical location, size, and industry of  
8 the employer;

9           (2) the name and phone number of the employer's point  
10 of contact;

11           (3) the name and physical location of the child-care  
12 provider;

13           (4) the name and phone number of the child-care  
14 provider's point of contact;

15           (5) the name and home address of the employee;

16           (6) the total amount of the child-care contribution to  
17 be paid by the employer to the provider, either directly or through  
18 a third-party vendor;

19           (7) the total amount of the state match to be paid to  
20 the provider, either directly or through a third-party vendor;

21           (8) the duration of the contract, which may not extend  
22 beyond the end of the fiscal year in any given year;

23           (9) the frequency of the contribution to be made  
24 directly to the child-care provider in accordance with the  
25 provider's established billing cycle; and

26           (10) demographic information about the employee.

27           Sec. 319.008. PROGRAM FUND. (a) The commission shall

1 establish and administer the program fund as a dedicated account in  
2 the general revenue fund.

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

4 (1) any money appropriated by the legislature for the  
5 fund for purposes of this chapter;

6 (2) interest earned on the investment of money in the  
7 fund;

8 (3) funds resulting from civil penalties collected  
9 under Section 319.012; and

10 (4) gifts, grants, and donations received for the  
11 fund.

12 (c) Money in the fund may be appropriated only to the Texas  
13 Workforce Commission for purposes authorized by this subchapter.

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

16 (e) In each fiscal year, 25 percent of the total fund shall  
17 be distributed under agreements with employers with fewer than 50  
18 full-time employees.

19 (f) During the fiscal year ending September 1, 2024, five  
20 percent of the total fund shall be distributed to the commission to  
21 administer the program. In each subsequent fiscal year, three  
22 percent of the total fund shall be distributed to the commission for  
23 that purpose.

24 Sec. 319.009. STATE MATCH. (a) On verifying the  
25 eligibility of an employer, employee, and child-care provider and  
26 the agreement between the parties, the commission shall issue a  
27 state match in accordance with this section from the program fund to

1 a child-care provider in accordance with the terms of the  
2 agreement. The commission may distribute the state match money  
3 directly or through a third-party vendor, as applicable.

4 (b) The commission shall consider agreements in the order  
5 received and may approve an agreement and issue a state match only  
6 if there is sufficient money in the program fund to pay the costs  
7 under the agreement.

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

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

15 (1) 90 percent of the employer's contribution for an  
16 employee whose household income is not more than 120 percent of the  
17 median household income;

18 (2) 80 percent of the employer's contribution for an  
19 employee whose household income is greater than 120 percent but not  
20 more than 140 percent of the median household income;

21 (3) 70 percent of the employer's contribution for an  
22 employee whose household income is greater than 140 percent but not  
23 more than 160 percent of the median household income;

24 (4) 60 percent of the employer's contribution for an  
25 employee whose household income is greater than 160 percent but not  
26 more than 180 percent of the median household income; and

27 (5) 50 percent of the employer's contribution for an

1 employee whose household income is more than 180 percent of the  
2 median household income.

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

6 Sec. 319.010. MODIFICATION AND TERMINATION OF AGREEMENTS.

7 (a) An employer or employee may terminate an agreement under the  
8 program at any time and for any reason. The terminating party shall  
9 notify all the parties to the agreement and specify the desired  
10 termination date. All parties to the agreement shall be  
11 financially obligated, according to the provisions of the contract,  
12 up to the termination date.

13 (b) If the relationship between the employee and employer is  
14 severed, the employer shall notify the child-care provider and the  
15 commission not later than the third business day after the date of  
16 the separation and the contract is terminated on the calendar date  
17 provided by the employer in the notification. If an employer fails  
18 to provide notice regarding the separation and the commission  
19 issues a state match to the provider on behalf of that employer's  
20 employee, the employer shall reimburse the commission for the  
21 amount of the state match.

22 (c) If an employer fails to make a contribution for the  
23 employee's eligible child-care costs in accordance with the terms  
24 of the agreement, the child-care provider shall notify the  
25 commission not later than the fifth business day after the date the  
26 provider does not receive a payment. On receiving notice from a  
27 provider regarding nonpayment, the commission shall temporarily



1 cease providing a state match and shall notify the employer that the  
2 agreement will be terminated unless the employer remedies the  
3 nonpayment not later than the fifth business day after receiving  
4 notification from the commission. If the provider fails to notify  
5 the commission of the nonpayment and receives a state match from the  
6 commission on behalf of that employer's employee, the provider  
7 shall reimburse the commission for the amount of the state match.

8 (d) If an employee fails to pay the child-care provider for  
9 costs not covered by the employer contribution and the state match  
10 in accordance with the terms of the agreement, the child-care  
11 provider may give the employee reasonable time to remedy the  
12 nonpayment. A child-care provider may notify the commission and  
13 terminate the contract on the date that the notification was  
14 issued. If the child-care provider voluntarily excuses the  
15 employee's nonpayment or the child-care provider does not notify  
16 the commission within two calendar months from the date of the  
17 employee's nonpayment and continues to provide services, the  
18 agreement shall be automatically modified to reflect the reduction  
19 in value.

20 (e) If a child-care provider ceases participation or  
21 otherwise becomes ineligible to participate in the program, the  
22 provider shall notify all parties to the agreement immediately.

23 Sec. 319.011. REPORTS. (a) The commission shall publish  
24 and submit to the legislature a report detailing the efficacy of the  
25 program not later than July 15 and December 15 of each year. The  
26 report must include the following information about the program:

27 (1) the amount appropriated to the program fund during

1 the preceding state fiscal year;

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

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

6 (4) information regarding the size, geographical  
7 location, and industry type of employers who participated in the  
8 program;

9 (5) number, license type, Texas Rising Star quality  
10 rating level, and geographical distribution of participating  
11 child-care providers;

12 (6) average cost for services charged by child-care  
13 providers participating in the program and information regarding  
14 the amount by which those costs have increased or decreased during  
15 the most recent reporting period compared with previous reporting  
16 periods;

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

19 (8) demographic information regarding employees  
20 participating in the program.

21 (b) Not later than September 1, 2024, the commission shall  
22 publish and submit to the legislature a report detailing the  
23 commission's plan for implementing the program. This subsection  
24 expires September 1, 2025.

25 Sec. 319.012. FALSE INFORMATION; CIVIL PENALTY. A person  
26 who intentionally provides false information to the commission for  
27 purposes of receiving the benefits of the program shall be subject

1 to a civil penalty of not more than \$500 per violation. All money  
2 collected as a result of penalties assessed under this section  
3 shall be paid into the state treasury and credited to the employee  
4 child-care assistance program fund.

5 SECTION 2. Not later than September 1, 2024, the Texas  
6 Workforce Commission shall adopt any rules necessary to administer  
7 the employer child-care contribution partnership program  
8 established under Chapter 319, Labor Code, as added by this Act.

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