

By: Frank

H.B. No. 3905

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a program for assisting certain recipients in achieving self-sufficiency.

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

SECTION 1. Title 2, Human Resources Code, Subtitle C, is amended by adding Chapter 37 to read as follows:

CHAPTER 37. TEXAS FAMILY ASSISTANCE PROGRAM

Sec. 37.001. PURPOSES. The purpose of the Texas Family Assistance Program is to assist families from low-income households to achieve self-sufficiency.

Sec. 37.002. DEFINITIONS. In this subchapter:

(1) "Account" means a Texas Family Assistance Program electronic account established under the program.

(2) "Family service organization" means an organization performing the powers and duties of a certified family service organization under Section 37.014.

(3) "Family" means individuals residing in the same household, with at least one parent or guardian and one child under the age of twenty-one years.

(4) "Family service provider" means an entity that provides approved services according to Section 37.015.

(5) "Program" means the Texas Family Assistance Program established under this subchapter.

(6) "Program participant" means a family enrolled in

1 the program.

2 (7) "Grant" means the amount of money granted to the
3 program participant under this subchapter.

4 (8) "State premium tax liability" has the meaning
5 assigned by Section 231.001(6), Insurance Code.

6 (9) "Self-sufficiency" means being employed in a
7 position that pays a sufficient wage, having financial savings in
8 an amount that is equal to at least \$1,000 per member of a family's
9 household, and maintaining a debt-to-income ratio that does not
10 exceed 43 percent.

11 Sec. 37.003. ESTABLISHMENT OF PROGRAM. (a) The
12 comptroller shall establish a Texas Family Assistance Program to
13 provide funding for approved expenses of families who are admitted
14 into the program under Section 37.006(a).

15 Sec. 37.004. TEXAS FAMILY ASSISTANCE PROGRAM FUND. (a) The
16 Texas Family Assistance Program fund shall be established and
17 administered by the comptroller.

18 (b) The fund is composed of:

19 (1) general revenue transferred to the fund;
20 (2) money appropriated to the fund;
21 (3) gifts, grants, and donations received under
22 Section 37.005;

23 (4) contributions to the Texas Family Assistance
24 Program fund for which an entity receives from the Comptroller
25 preliminary approval or final award of a credit against the state
26 premium tax liability under Chapter 231, Insurance Code; and

27 (5) any other money available for purposes of the

1 program.

2 (c) A payment under the program may not be financed using
3 federal funds.

4 (d) The comptroller shall present to the legislature an
5 estimate of the amount of money required for the purposes of this
6 section. The legislature shall appropriate amounts sufficient to
7 implement the Texas Family Assistance Program fund.

8 Sec. 37.005. GIFTS, GRANTS, AND DONATIONS. The comptroller
9 may solicit and accept gifts, grants, and donations from any public
10 or private source for any expenses related to the administration of
11 the program, including the initial implementation of the program.

12 Sec. 37.006. ELIGIBLE FAMILY. (a) To be eligible to
13 participate in the program a family must be a part of a household
14 with a total annual income that is at or below 200 percent of the
15 federal poverty level.

16 (b) A family who is admitted into the program may
17 participate in the program until:

18 (1) the youngest child's twenty-first birthday;

19 (2) the family is declared ineligible for the program
20 by the comptroller under Section 37.018; or

21 (3) the family reaches self-sufficiency.

22 Sec. 37.007. APPROVED EXPENSES. (a) The Health and Human
23 Services Commission shall establish rules regarding the approved
24 expenses, administration, procedures and implementation of the
25 Texas Family Assistance Program.

26 Sec. 37.008. AMOUNT OF ASSISTANCE AVAILABLE; FINANCING.

27 (a) The annual funding for each family who is admitted into the

1 program shall not exceed \$10,000 per person.

2 (b) In partnership with the commission, the comptroller
3 shall calculate the annual assistance amount under Subsection (a).

4 (c) Any funds remaining in a program participant's account
5 at the end of a fiscal year are carried forward to the next fiscal
6 year unless another provision of this subchapter mandates the
7 closure of the account.

8 (d) On the date on which a program participant is no longer
9 eligible to participate in the program under Section 37.006(b), the
10 program participant's account shall be closed and any remaining
11 funds shall be returned to the state for deposit in the Texas Family
12 Assistance Program fund.

13 Sec. 37.009. ADMINISTRATION OF THE PROGRAM. (a) The
14 comptroller shall certify at least one and no more than three family
15 service organizations to administer the program.

16 (b) The comptroller shall allocate to the program
17 participant's account the annual amount of a grant awarded to a
18 program participant in equal quarterly amounts on or before the 1st
19 day of August, November, February, and May.

20 (c) Each quarter, the comptroller may deduct an amount from
21 the Texas Family Assistance Program Fund to cover the comptroller's
22 cost of administering the program. The annual amount deducted may
23 not exceed three percent of the fund for the fiscal year.

24 (d) Each quarter, the comptroller shall disburse to the
25 family service organization an amount from the Texas Family
26 Assistance Program fund to cover the organization's cost of
27 administering the program. The annual amount disbursed between all

1 of the family service organizations may not exceed five percent of
2 the fund for the fiscal year.

3 (e) The comptroller or family service organization(s) shall
4 publish on their website an application for family service
5 providers to apply and be verified to participate in the program.
6 If a family service provider satisfies the requirements under
7 Section 37.015, the comptroller or family service organization
8 shall verify the applicant and share the verified family service
9 provider's information with the family service organization in
10 accordance with Section 37.015(d).

11 Sec. 37.010. ENROLLMENT IN PROGRAM. (a) An eligible family
12 may apply to a family service organization to enroll in the program.

13 (b) Family service organizations shall create an enrollment
14 form for the program and make the enrollment form readily available
15 to interested families through various sources, including the
16 organization's website. An enrollment form for the program may be
17 submitted to a family service organization electronically.

18 (c) Family service organizations shall post on the
19 organization's website and provide to each family who submits an
20 enrollment form a publication that describes the operation of the
21 program, including:

22 (1) expenses allowed under the program under Section
23 37.007;

24 (2) expense reporting requirements established by the
25 family service organization;

26 (3) a description of the responsibilities of program
27 participants, including those under Section 37.011; and

1 (4) the duties of family service organizations under
2 this subchapter.

3 (d) Family service organizations shall provide annually to
4 each program participant the information required under Subsection
5 (c). Information may be provided electronically.

6 Sec. 37.011. PARTICIPATION IN PROGRAM. (a) A program
7 participant must agree to:

8 (1) direct program funds only for allowed expenses;

9 (2) notify their family service organization within 30
10 days if they are no longer eligible for the program.

11 (b) The program participant shall provide their family
12 service organization any information needed to determine program
13 eligibility.

14 (c) No member of the program participant's immediate family
15 or household may be hired to serve as their family service provider
16 under this program.

17 Sec. 37.012. CERTIFICATION OF FAMILY SERVICE ORGANIZATION.

18 (a) An organization may apply to the comptroller for certification
19 to be a family service organization for the program during an
20 application period provided by the comptroller.

21 (b) To be eligible for certification, the organization
22 must:

23 (A) have the ability to award grants to program
24 participants and pay verified family service providers;

25 (B) be exempt from federal tax under Section
26 501(a) of the Internal Revenue Code of 1986 by being recognized as
27 an exempt organization in Section 501(c)(3) of that code;

1 (C) be in good standing with the state; and

2 (D) be able to administer the program, including:

3 (i) accept, process, and track applications
4 for grants; and

5 (ii) award grants to families.

6 Sec. 37.013. ALLOCATION OF MONEY DESIGNATED FOR GRANTS.

7 (a) Of the amount required to be allocated as provided by Section
8 37.008, the family service organization shall use:

9 (1) at least 95 percent to award grants to families who
10 are admitted into the program; and

11 (2) not more than five percent for fees for the
12 management of the program.

13 Sec. 37.014. FAMILY SERVICE ORGANIZATION POWERS AND DUTIES.

14 (a) A family service organization shall create and publish on their
15 website an application form for families interested in enrolling in
16 the program. The form may be filled out and submitted
17 electronically.

18 (b) As long as funds are available, a family service
19 organization shall admit into the program families who applied to
20 the program if the family service organization finds the family to
21 be eligible under Section 37.006.

22 (c) Family service organizations shall award a grant to each
23 program participant in the amount as applicable by Section 37.008.

24 (d) Family service organizations shall give first priority
25 for program participation to eligible families who received a grant
26 during the previous year.

27 (e) Except as provided in subsection (d), family service

1 organizations shall give priority for program participation to
2 eligible families who demonstrate the greatest financial need.

3 (f) The family service organizations shall post all
4 entities which the organization has been notified under Section
5 37.015 that are eligible to receive program funds. No family
6 service provider shall be preferred over any other family service
7 provider.

8 Sec. 37.015. FAMILY SERVICE PROVIDER REQUIREMENTS. (a)
9 All family service providers must apply to and be verified by the
10 comptroller to be eligible to receive funds under the program. In
11 partnership with the Health and Human Services Commission, the
12 Comptroller shall establish rules regarding the family service
13 provider requirements and verification. If the family service
14 provider meets the requirements, the comptroller may not refuse to
15 verify that family service provider.

16 (b) any family service providers that provide services or
17 materials that qualify as an approved expense under Section 37.007
18 shall present any necessary supporting documents concerning their
19 qualification to serve program participants.

20 (c) The comptroller shall maintain, post on the
21 comptroller's website, and provide to the family service
22 organizations a list of all family service providers which have
23 sought to participate in the program and which the comptroller has
24 verified or found to be eligible under Section 37.015 to receive
25 program funds

26 (d) A family service provider may not charge a family
27 participating in the program an amount greater than the standard

1 amount charged for that service by the provider.

2 (e) A family service provider receiving program funds may
3 not in any manner rebate, refund, credit to, or share with a program
4 participant, or any person on behalf of a program participant, any
5 program funds paid or owed by the program participant to the family
6 service provider.

7 Sec. 37.016. SERVICE PROVIDERS AUTONOMY. (a) A family
8 service provider that receives program funds is not an agent of the
9 state or federal government.

10 (b) The program does not expand the regulatory authority of
11 the state to impose any additional regulation on an family service
12 provider except those reasonably necessary to maintain the program
13 as provided by this subchapter.

14 (c) Family service providers may not be required to modify
15 their creed, practices, or operations to receive funds distributed
16 under the program.

17 (d) In any proceeding challenging a rule adopted by a state
18 commission or officer under this subchapter, the commission or
19 officer has the burden of proof to establish that the rule:

20 (1) is necessary to implement or maintain the program
21 as provided by this subchapter; and

22 (2) does not impose an undue burden on a program
23 participant or a family service provider that receives or seeks to
24 receive funds distributed under the program.

25 Sec. 37.017. RANDOM AUDITING. (a) The comptroller may
26 contract with a private entity to randomly audit family service
27 organizations as necessary to ensure compliance with the

1 requirements of the program.

2 (b) In auditing, the comptroller or private entity may
3 require that a program participant or family service organization
4 provide further information and documentation regarding any
5 payment from the Texas Family Assistance Program fund.

6 (c) The private entity shall report to the comptroller any
7 violation of this subchapter or other relevant law found by the
8 entity during an audit conducted under this section.

9 (d) A finding that program funds were used for an expense
10 not allowed under Section 37.007 does not affect the validity of any
11 payment made for an expense that is allowed under Section 37.007.

12 Sec. 37.018. SUSPENSION OF ACCOUNT. (a) If the comptroller
13 determines a program participant has failed to comply with
14 applicable law or a requirement of the program the comptroller or
15 the family service organization shall suspend the account of a
16 program participant.

17 (b) On suspension of an account under Subsection (a), the
18 comptroller or family service organization shall notify the program
19 participant in writing that the account has been suspended and that
20 no further payments shall be made from the account. The
21 notification must specify the grounds for the suspension and state
22 that the program participant has 10 business days to respond and
23 take any corrective action required by the comptroller or family
24 service organization.

25 (c) On the expiration of the 10-day period under Subsection
26 (b), the comptroller or family service organization shall:

27 (1) order permanent closure of the suspended account

1 and declare the program participant ineligible for the program;

2 (2) order temporary reinstatement of the account,
3 conditioned on the performance of a specified action by the program
4 participant; or

5 (3) order full reinstatement of the account.

6 (d) The comptroller or family service organization may
7 recover funds distributed under the program that were used for
8 expenses not allowed under Section 37.007 from the program
9 participant or the family service provider that received the funds
10 if the program participant's account is suspended or closed under
11 this section.

12 Sec. 37.019. REFERRAL TO THE ATTORNEY GENERAL. (a) If the
13 comptroller or family service organization obtains evidence of
14 fraudulent use of an account, the comptroller or family service
15 organization may refer the case to the attorney general for
16 investigation.

17 (b) With the consent of the appropriate local county or
18 district attorney, the attorney general has concurrent
19 jurisdiction with the consenting local prosecutor to prosecute an
20 offense referred to the attorney general under Subsection (a).

21 Sec. 37.020. TAX CREDIT ADMINISTRATION DUTIES. (a) The
22 comptroller shall give each donor who provides notice under Section
23 231.051(c), Insurance Code, a receipt for money contributed to the
24 organization that includes the name of the organization, the name
25 of the donor, the amount of the contribution, the information
26 required by Section 231.051(c), and any other information required
27 by the comptroller.

1 (i) The comptroller shall disburse within two academic
2 years of receipt contributions to the Texas Family Assistance
3 Program fund for which an entity receives from the comptroller
4 preliminary approval or final award of a credit against the state
5 premium tax liability under Chapter 231, Insurance Code.

6 Sec. 37.021. RULES; PROCEDURES. (a) The comptroller shall
7 adopt rules and procedures only as necessary to implement,
8 administer, and enforce this chapter.

9 (b) A rule adopted under Subsection (a) is binding on an
10 organization that applies for certification as an family service
11 organization, an entity that applies for a credit, and a state or
12 local governmental entity, including a political subdivision, as
13 necessary to implement, administer, and enforce this chapter.

14 SECTION 2. Subtitle B, Title 3, Insurance Code, is amended
15 by adding Chapter 231 to read as follows:

16 CHAPTER 231. CREDIT AGAINST PREMIUM TAXES FOR CONTRIBUTIONS TO
17 TEXAS FAMILY ASSISTANCE PROGRAM FUND
18 SUBCHAPTER A. GENERAL PROVISIONS

19 Sec. 231.001. DEFINITIONS. In this chapter:

20 (1) "Family service organization" has the meaning
21 assigned by Sec. 37.002(2), Human Resources Code.

22 (2) "Family service provider" has the meaning assigned
23 by Sec. 37.002(4), Human Resources Code.

24 (3) "Program" has the meaning assigned by Sec.
25 37.002(5), Human Resources Code.

26 (4) "Program participant" has the meaning assigned by
27 Sec. 37.002(6), Human Resources Code.

1 (5) "Grant" has the meaning assigned by Sec.
2 37.002(7), Human Resources Code.

3 (6) "State premium tax liability" means any liability
4 incurred by an entity under Chapters 221 through 226.

5 Sec. 231.002. RULES; PROCEDURES. (a) The comptroller shall
6 adopt rules and procedures only as necessary to implement,
7 administer, and enforce this chapter.

8 (b) A rule adopted under Subsection (a) is binding on an
9 organization that applies for certification as a family service
10 organization under Sec. 37.012, Human Resources Code, an entity
11 that applies for a credit, and a state or local governmental entity,
12 including a political subdivision, as necessary to implement,
13 administer, and enforce this chapter.

14 SUBCHAPTER B. CREDIT

15 Sec. 231.051. CREDIT FOR CONTRIBUTIONS. (a) An entity may
16 apply for a credit under this chapter only for money contributed to
17 the comptroller and designated for the Texas Family Assistance
18 Program fund for use by program participants.

19 (b) An entity may not apply for a credit under this chapter
20 for a contribution made to the comptroller if:

21 (1) the entity requires that the contribution benefit
22 a particular program participant or family service provider; or

23 (2) the contribution is designated to provide a grant
24 for an entity employee or for a spouse or dependent of an entity
25 employee.

26 (c) The comptroller shall indicate on the receipt required
27 under Sec. 37.020, Human Resources Code, that the entity made the

1 notification under this subsection.

2 Sec. 231.052. CREDIT. An entity may apply for a credit
3 against the entity's state premium tax liability in the amount and
4 under the conditions and limitations provided by this chapter. The
5 comptroller shall award credits as provided by Section 231.055.

6 Sec. 231.053. AMOUNTS; LIMITATION ON TOTAL CREDITS. (a)
7 Subject to Subsections (b) and (c), the amount of an entity's credit
8 is equal to the lesser of the amount of the qualifying contributions
9 made to the comptroller for the program or 50 percent of the
10 entity's state premium tax liability.

11 (b) Subject to Subsection (c), the total amount of tax
12 credits that may be awarded under this chapter for a state fiscal
13 year may not exceed \$10 million.

14 (c) In the 2022 state fiscal year and each state fiscal year
15 thereafter, the tax credit cap amount is the tax credit cap amount
16 in the prior state fiscal year. However, when the total annual tax
17 credits awarded by the comptroller under Section 231.055(c) for the
18 prior state fiscal year is equal to or greater than 90 percent of
19 the tax credit cap amount applicable to that state fiscal year, the
20 tax credit cap amount shall increase by 25 percent. The comptroller
21 shall provide notice on the comptroller's website when the tax
22 credit cap amount is increased pursuant to this subparagraph.

23 (d) The comptroller by rule shall prescribe procedures by
24 which the comptroller may allocate credits under this chapter. The
25 procedures must provide that credits are first allocated to
26 entities that were granted preliminary approval for a credit under
27 Section 231.054 in the amount that was preliminarily approved. The

1 procedures must provide that any remaining credits are allocated on
2 a first-come, first-served basis, based on the date the
3 contribution was initially made.

4 (e) The comptroller may require an entity to notify the
5 comptroller of the amount the entity intends or expects to apply for
6 under this chapter before the beginning of a state fiscal year or at
7 any other time required by the comptroller.

8 Sec. 231.054. PRELIMINARY APPROVAL FOR CREDIT. (a) Before
9 making a contribution to the comptroller, an entity may apply to the
10 comptroller for preliminary approval of a credit under this chapter
11 for the contribution.

12 (b) An entity must apply for preliminary approval of a
13 credit on a form provided by the comptroller that includes the
14 amount the entity expects to contribute and any other information
15 required by the comptroller.

16 (c) The comptroller shall grant preliminary approval for
17 credits under this chapter on a first-come, first-served basis,
18 based on the date the application for preliminary approval is
19 received by the comptroller.

20 (d) The comptroller shall grant preliminary approval for a
21 credit under this chapter if the total amount of credits
22 preliminarily approved under this chapter does not exceed the
23 amount provided by Section 231.053(b).

24 (e) A credit for which the comptroller grants preliminary
25 approval remains subject to the limitation under Section 231.053(a)
26 and any other limitations prescribed by this chapter.

27 Sec. 231.055. APPLICATION FOR CREDIT. (a) An entity must

1 apply for a credit under this chapter on or with the tax return for
2 the taxable year and submit with the application each receipt
3 issued under Sec. 37.020 Human Resources Code, that includes the
4 information required by Section 231.051(c).

5 (b) The comptroller shall adopt a form for the application
6 for the credit. An entity must use this form in applying for the
7 credit.

8 (c) The comptroller may award a credit to an entity that
9 applies for the credit under Subsection (a) if the entity is
10 eligible for the credit and the credit is available under Section
11 231.053(b). The comptroller has broad discretion in determining
12 whether to grant or deny an application for a credit.

13 (d) The comptroller shall notify an entity in writing of the
14 comptroller's decision to grant or deny the application under
15 Subsection (a). If the comptroller denies an entity's application,
16 the comptroller shall include in the notice of denial the reasons
17 for the comptroller's decision.

18 (e) If the comptroller denies an entity's application under
19 Subsection (a), the entity may request in writing a reconsideration
20 of the application not later than the 10th day after the date of the
21 notice under Subsection (d). If the entity does not request a
22 reconsideration of the application on or before that date, the
23 comptroller's decision is final.

24 (f) An entity that requests a reconsideration under
25 Subsection (e) may submit to the comptroller not later than the 30th
26 day after the date the request for reconsideration is submitted
27 additional information and documents to support the entity's

1 request for reconsideration.

2 (g) The comptroller's reconsideration of an application
3 under this section is not a contested case under Chapter 2001,
4 Government Code. The comptroller's decision on a request for
5 reconsideration of an application is final and is not appealable.

6 (h) This section does not create a cause of action to
7 contest a decision of the comptroller to deny an application for a
8 credit under this chapter.

9 Sec. 231.056. ASSIGNMENT PROHIBITED; EXCEPTION. An entity
10 may not convey, assign, or transfer the credit allowed under this
11 chapter to another entity unless all of the assets of the entity are
12 conveyed, assigned, or transferred in the same transaction.

13 Sec. 231.057. NOTICE OF AVAILABILITY OF CREDIT. The
14 comptroller shall provide notice of the availability of the credit
15 under this chapter on the comptroller's website, in the
16 instructions for insurance premium tax report forms, and in any
17 notice sent to an entity concerning the requirement to file an
18 insurance premium tax report.

19 SECTION 3. Not later than 45 days after the effective date
20 of this Act the comptroller of public accounts and the commission
21 shall adopt rules necessary to implement the Texas Family
22 Assistance Program established under Chapter 37, Human Resources
23 Code, as added by this Act.

24 SECTION 4. (a) If some or all of the provisions of this Act
25 are ever temporarily or permanently restrained or enjoined by
26 judicial order, all other provisions of the Act shall be enforced as
27 though the restrained or enjoined provisions had not been adopted;

1 provided, however, that whenever the temporary or permanent
2 restraining order or injunction is stayed or dissolved, or
3 otherwise ceases to have effect, the provisions shall have full
4 force and effect.

5 (b) It is the intent of the legislature that every
6 provision, section, subsection, sentence, clause, phrase, or word
7 in this Act, and every application of the provisions in this Act,
8 are severable from each other. If any application of any provision
9 in this Act to any person, group of persons, or circumstances is
10 found by any court to be invalid, the remaining applications of that
11 provision to all other persons and circumstances shall be severed
12 and may not be affected. All constitutionally valid applications of
13 this Act shall be severed from any applications that a court finds
14 to be invalid, leaving the valid applications in force, because it
15 is the legislature's intent and priority that the valid
16 applications be allowed to stand alone. Even if a reviewing court
17 finds a provision of this Act to impose an undue burden in a large or
18 substantial fraction of relevant cases, the applications that do
19 not present an undue burden shall be severed from the remaining
20 provisions and shall remain in force, and shall be treated as if the
21 legislature had enacted a statute limited to the persons, group of
22 persons, or circumstances for which the statute's application does
23 not present an undue burden. The legislature further declares that
24 it would have passed this Act, and each provision, section,
25 subsection, sentence, clause, phrase, or word, and all
26 constitutional applications of this Act, irrespective of the fact
27 that any provision, section, subsection, sentence, clause, phrase,

1 or word, or applications of this Act, were to be declared
2 unconstitutional or to represent an undue burden.

3 (c) If any provision of this Act is found by any court to be
4 unconstitutionally vague, then the applications of that provision
5 that do not present constitutional vagueness problems shall be
6 severed and remain in force.

7 SECTION 5. Except as otherwise provided by this Act:

8 (1) this Act takes effect immediately if it receives a
9 vote of two-thirds of all the members elected to each house, as
10 provided by Section 39, Article III, Texas Constitution; and

11 (2) if this Act does not receive the vote necessary for
12 immediate effect, this Act takes effect September 1, 2021.

13 SECTION 6. An entity may apply for a credit under Chapter
14 231, Insurance Code, as added by this Act, only for an expenditure
15 made on or after September 1, 2020.

16 SECTION 7. Chapter 231, Insurance Code, as added by this
17 Act, applies only to a report originally due on or after September
18 1, 2020.