By:  Johnson of Dallas, Button, Buckley, Rose, H.B. No. 3771

     Morrison, et al.

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 procedures for employees;

(C)  eligibility criteria for child-care providers, including quality standards;

(D)  procedures for notifying each party to the agreement of:

(i)  the results of an eligibility determination; and

(ii)  the party's enrollment in the program as soon as practicable after receiving and processing the agreement and determining each party's eligibility;

(E)  procedures for determining the amount of the state match in accordance with Section 319.009(b) and notifying the employee and the child-care provider regarding the amount;

(F)  procedures for prioritizing and approving agreements, including maintaining a waitlist;

(G)  procedures for notifying the commission and the parties to the agreement regarding termination of the agreement by any party;

(H)  procedures for notifying the commission and the parties to the agreement regarding nonpayment by any party;

(I)  procedures for recouping state match money or a portion of state match money if there is an overpayment to a participating child-care provider;

(J)  criteria for disqualifying participants from the program;

(K)  procedures for hearing appeals from program participants;

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

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

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

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

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

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

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

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

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

(a-1)  The commission shall convene a work group to assist the commission in developing the rules under Subsection (a). The work group must include:

(1)  child-care providers;

(2)  community stakeholders;

(3)  employers; and

(4)  at least one parent of a child who receives care from a child-care provider.

(a-2)  Subsection (a-1) and this subsection expire September 1, 2025.

(b)  The commission may:

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

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

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

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

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

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

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

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

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

(5)  on verification and approval of the agreement by the commission, make contributions to the employee's eligible child-care costs in accordance with commission guidelines.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8)  the duration of the agreement;

(9)  the frequency of the contribution to be made directly to the child-care provider; and

(10)  demographic information about the employee.

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

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

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

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

(3)  funds resulting from civil penalties collected under Section 319.011; and

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

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

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

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

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

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

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

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

Sec. 319.009.  STATE MATCH. (a) On verifying the eligibility of an employer, employee, and child-care provider and the agreement between the parties, the commission shall issue a state match in accordance with this section from the program fund to a child-care provider in accordance with the terms of the agreement. The commission may distribute the state match money directly or through a third-party vendor, as applicable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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