

By: Parker

S.B. No. 2164

A BILL TO BE ENTITLED

AN ACT

1
2 relating to employer incentive payments for child care for
3 employees, including creating an employer child-care contribution
4 partnership program and a franchise tax credit for taxable entities
5 that make certain employer child-care contributions; authorizing a
6 civil penalty.

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

8 ARTICLE 1. EMPLOYER CHILD-CARE CONTRIBUTION PARTNERSHIP PROGRAM

9 SECTION 1.01. Subtitle B, Title 4, Labor Code, is amended by
10 adding Chapter 318 to read as follows:

11 CHAPTER 318. EMPLOYER CHILD-CARE CONTRIBUTION PARTNERSHIP PROGRAM

12 Sec. 318.001. DEFINITION. In this chapter, "program" means
13 the employer child-care contribution partnership program
14 established under this chapter.

15 Sec. 318.002. ESTABLISHMENT. The commission shall
16 establish and administer the employer child-care contribution
17 partnership program to support families in this state in accessing
18 high-quality child care by incentivizing eligible employers to
19 contribute to eligible employee child-care costs and providing a
20 state match for funds contributed by eligible employers.

21 Sec. 318.003. ADMINISTRATION. (a) The commission shall:

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

24 (A) standardized agreements for use by

1 employers, employees, and child-care providers to apply for and
2 enroll in the program;

3 (B) eligibility and income verification
4 procedures for employees;

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

7 (D) procedures for notifying each relevant party
8 of:

9 (i) the results of an eligibility
10 determination; and

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

14 (E) procedures for determining the amount of the
15 state match in accordance with Section 318.009(b) and notifying the
16 employee and the child-care provider regarding the amount;

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

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

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

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

27 (J) criteria for disqualifying participants from

1 the program;

2 (K) procedures for hearing appeals from program
3 participants;

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

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

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

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

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

15 (2) select an administration assistance organization
16 described by Subsection (c);

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

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

25 (5) develop and distribute to employers, employees,
26 and child-care providers informational material regarding:

27 (A) the program's objectives, benefits, and

1 eligibility requirements; and

2 (B) any other child-care assistance programs or
3 benefits that may be available to an employee; and

4 (6) maintain a waitlist if the money in the program
5 fund is insufficient to approve all agreements received and provide
6 a state match in accordance with Section 318.009(b).

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

10 (1) child-care providers;

11 (2) community stakeholders, including stakeholders
12 with knowledge of or expertise in child care;

13 (3) employers or members of associations representing
14 employers; and

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

17 (a-2) Subsection (a-1) and this subsection expire September
18 1, 2027.

19 (b) The commission may:

20 (1) delegate an administrative duty under the program
21 to a division of the commission or the administration assistance
22 organization described by Subsection (c);

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

25 (3) procure grants or contracts, in accordance with
26 other law, with third parties to administer the program or parts of
27 the program, including an administration assistance organization

1 described by Subsection (c).

2 (c) To be eligible for selection as an administration
3 assistance organization, an organization must:

4 (1) be exempt from federal taxation under Section
5 501(a) of the Internal Revenue Code of 1986 by being listed as an
6 exempt organization in Section 501(c)(3) of that code;

7 (2) be in good standing with the state; and

8 (3) be able to administer elements of the program as
9 determined by the comptroller, including the ability to process
10 employer contribution payments made under Section 318.004.

11 (d) The commission shall implement the program and issue a
12 state match under Section 318.009(b) in a state fiscal year only if
13 the legislature specifically appropriates money to the commission
14 for that fiscal year for that purpose. The commission may implement
15 the program and issue a state match using other money available to
16 the commission for that purpose.

17 Sec. 318.004. EMPLOYER DUTIES. An employer who provides
18 child-care assistance to an employee as a benefit of employment may
19 participate in the program by entering into an agreement described
20 by Section 318.007. The employer shall:

21 (1) provide at least \$1,200 per year to or on behalf of
22 an eligible employee for each child the employee has enrolled with a
23 provider eligible under Section 318.006 for the employee's
24 child-care costs as the employer contribution;

25 (2) enter into a standardized agreement under Section
26 318.007;

27 (3) submit the agreement to the commission for

1 verification of eligibility and approval;

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

4 (5) 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 commission guidelines.

7 Sec. 318.005. EMPLOYEE DUTIES. (a) An employee shall
8 complete an agreement described by Section 318.007 and provide any
9 additional information the commission considers necessary.

10 (b) An employee shall immediately notify the commission if a
11 child for whom the employee receives a benefit under this chapter
12 receives subsidized child care under the commission's subsidized
13 child-care program.

14 (c) 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 Sec. 318.006. PROVIDER ELIGIBILITY. (a) To be eligible to
18 receive money under the program, a child-care provider must:

19 (1) be a child-care facility or family home licensed
20 under Chapter 42, Human Resources Code, including a facility
21 operated by the employer;

22 (2) be a high-quality program as determined by the
23 commission; and

24 (3) comply with an agreement and provide information
25 the commission considers necessary.

26 (b) The commission may waive or modify the eligibility
27 requirements under this section.

1 Sec. 318.007. PROGRAM AGREEMENTS. (a) The commission
2 shall create a standardized agreement for use by employers and
3 employees participating in the program, to be completed and agreed
4 to by each party.

5 (b) The commission may create a standardized agreement for
6 use by child-care providers participating in the program.

7 Sec. 318.008. PROGRAM FUND. (a) The program fund is a
8 dedicated account in the general revenue fund administered by the
9 commission.

10 (b) The program fund consists of:

11 (1) money appropriated by the legislature for deposit
12 to the credit of the fund for the purposes of this chapter;

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

15 (3) the proceeds of civil penalties collected under
16 Section 318.011; and

17 (4) gifts, grants, and donations received by the
18 commission for the purposes of this chapter.

19 (c) Money in the fund may be appropriated only to the
20 commission for purposes authorized by this chapter.

21 (d) In each state fiscal year and to the greatest extent
22 practicable, at least 25 percent of the total amount appropriated
23 from the fund for that year must be distributed under agreements
24 with employers with fewer than 50 full-time employees. For an
25 employer that operates multiple locations or has common ownership
26 or affiliates, each location is considered a separate employer for
27 the purposes of calculating the number of full-time employees under

1 this subsection.

2 (d-1) If in a state fiscal year there is money available
3 from the allocation of money described by Subsection (d) after
4 distributing money in the manner described by that subsection, the
5 commission may distribute the money under agreements with any other
6 eligible employers.

7 (e) During the state fiscal year ending August 31, 2026, not
8 more than 10 percent of the total amount deposited to the credit of
9 the fund in that fiscal year must be appropriated to the commission
10 to establish the program. In each subsequent state fiscal year,
11 money in the fund may be appropriated to the commission to
12 administer the program as follows:

13 (1) if the total amount of money available for
14 appropriation from the fund in that state fiscal year is more than
15 \$50 million, not more than five percent of that amount may be used
16 to administer the program;

17 (2) if the total annual amount of money available for
18 appropriation from the fund in that state fiscal year is more than
19 \$10 million but not more than \$50 million, not more than 10 percent
20 of that amount may be used to administer the program; and

21 (3) if the total annual amount of money available for
22 appropriation from the fund in that state fiscal year is not more
23 than \$10 million, not more than 15 percent of that amount may be
24 used to administer the program.

25 Sec. 318.009. STATE MATCH. (a) On verifying the
26 eligibility of an employer, employee, and child-care provider and
27 receiving any required agreements, the commission shall issue a

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

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

9 (c) Subject to Subsections (b) and (e), the commission shall
10 provide a state match equal to:

11 (1) 100 percent of the contribution made by the
12 employee's employer if the employee has a median household income
13 that is less than or equal to 100 percent of the median state
14 household income;

15 (2) 75 percent of the contribution made by the
16 employee's employer if the employee has a median household income
17 that is greater than 100 percent and less than or equal to 200
18 percent of the median state household income; or

19 (3) 50 percent of the contribution made by the
20 employee's employer if the employee has a median household income
21 that is greater than 200 percent and less than or equal to 300
22 percent of the median state household income.

23 (d) A state match and an employer contribution issued under
24 the program and administered by the commission may not be
25 considered compensation for an employee's service.

26 (e) The amount of the state match issued under Subsection
27 (c) may not exceed \$3,600 per child for each employee.

1 (f) The total amount of the state match issued under the
2 program may not exceed \$25 million in a state fiscal biennium.

3 Sec. 318.010. REPORTS. (a) The commission shall publish
4 and submit to the legislature a report detailing the efficacy of the
5 program not later than December 15 of each even-numbered year. The
6 report must include the following information about the program:

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

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

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

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

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

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

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

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

1 (b) Not later than January 1, 2026, the commission shall
2 publish and submit to the legislature a report detailing the
3 commission's plan for implementing the program. This subsection
4 expires September 1, 2026.

5 Sec. 318.011. FALSE INFORMATION; CIVIL PENALTY. A person
6 who intentionally provides false information to the commission for
7 purposes of receiving the benefits of the program shall be subject
8 to a civil penalty of not more than \$500 per violation. All money
9 collected as a result of penalties assessed under this section
10 shall be paid into the state treasury and credited to the program
11 fund.

12 ARTICLE 2. FRANCHISE TAX CREDIT FOR CHILD-CARE CONTRIBUTION

13 SECTION 2.01. Chapter 171, Tax Code, is amended by adding
14 Subchapter N-1 to read as follows:

15 SUBCHAPTER N-1. TAX CREDIT FOR CHILD-CARE CONTRIBUTION

16 Sec. 171.721. DEFINITION. In this subchapter, "child-care
17 contribution" means the dollar amount of a contribution made by a
18 taxable entity to an employee of the entity for use by the employee
19 to secure child care at a child-care facility or family home
20 licensed under Chapter 42, Human Resources Code, including a
21 licensed child-care facility operated by the entity. The term does
22 not include wages paid by the taxable entity to the employee or a
23 payment to the employee that is considered compensation for the
24 employee's service.

25 Sec. 171.722. ENTITLEMENT TO CREDIT. A taxable entity is
26 entitled to a credit in the amount and under the conditions provided
27 by this subchapter against the tax imposed under this chapter.

1 Sec. 171.723. AMOUNT OF CREDIT; LIMITATION. (a) Subject to
2 Subsections (b) and (c), the amount of the credit a taxable entity
3 may claim on a report is equal to the total amount of child-care
4 contributions paid by the entity during the period on which the
5 report is based. For purposes of computing the total amount of
6 child-care contributions paid by the taxable entity, a child-care
7 contribution in an amount that exceeds \$3,600 for a child is
8 considered to be a child-care contribution in the amount of \$3,600
9 for that child.

10 (b) The total credit claimed on a report, including the
11 amount of any carryforward under Section 171.724, may not exceed
12 the amount of franchise tax due for the report after applying all
13 other applicable credits.

14 (c) The total amount of credits that may be awarded under
15 Subsection (a) in a state fiscal year may not exceed \$25 million.

16 (d) The comptroller by rule shall prescribe procedures by
17 which the comptroller will allocate the amount of credits available
18 under Subsection (c). The procedures must provide that credits are
19 allocated to taxable entities that applied for the credit on a pro
20 rata basis.

21 Sec. 171.724. CARRYFORWARD. (a) If a taxable entity is
22 eligible for a credit that exceeds the limitation under Section
23 171.723(b), the entity may carry the unused credit forward for not
24 more than five consecutive reports.

25 (b) A carryforward is considered the remaining portion of a
26 credit that cannot be claimed on a report because of the limitation
27 under Section 171.723(b).

1 (c) Credits, including a carryforward, are considered to be
2 used in the following order:

- 3 (1) a carryforward under this section; and
4 (2) a credit for the period on which the report is
5 based.

6 Sec. 171.725. APPLICATION FOR CREDIT. (a) A taxable entity
7 must apply for a credit under this subchapter on or with the report
8 for the period for which the credit is claimed.

9 (b) A taxable entity must apply for the credit in the manner
10 prescribed by the comptroller and include with the application any
11 information requested by the comptroller to determine whether the
12 entity is eligible for the credit under this subchapter.

13 (c) The comptroller may award a credit to a taxable entity
14 that applies for the credit under Subsection (a) of this section if
15 the taxable entity is eligible for the credit and the credit is
16 available under Section 171.723(c). The comptroller has discretion
17 in determining whether to grant or deny an application for a credit.

18 (d) The comptroller shall notify a taxable entity in writing
19 of the comptroller's decision to grant or deny the application
20 submitted under Subsection (a). If the comptroller denies a
21 taxable entity's application, the comptroller shall include in the
22 notice of denial the reasons for the comptroller's decision.

23 Sec. 171.726. SALE OR ASSIGNMENT OF CREDIT. (a) A taxable
24 entity that makes a child-care contribution may sell or assign all
25 or part of the credit that may be claimed for that contribution to
26 one or more taxable entities, and any taxable entity to which all or
27 part of the credit is sold or assigned may sell or assign all or part

1 of the credit to another taxable entity. There is no limit on the
2 total number of transactions for the sale or assignment of all or
3 part of the total credit authorized under this subchapter.

4 (b) A taxable entity that sells or assigns a credit under
5 this section and the taxable entity to which the credit is sold or
6 assigned shall jointly submit written notice of the sale or
7 assignment to the comptroller not later than the 30th day after the
8 date of the sale or assignment. The notice must include:

9 (1) the date on which the credit was originally
10 established;

11 (2) the date of the sale or assignment;

12 (3) the amount of the credit sold or assigned and the
13 remaining period during which it may be used;

14 (4) the names, addresses, and federal tax
15 identification numbers of the taxable entity that sold or assigned
16 the credit or part of the credit and the taxable entity to which the
17 credit or part of the credit was sold or assigned; and

18 (5) the amount of the credit owned by the selling or
19 assigning taxable entity before the sale or assignment, and the
20 amount the selling or assigning taxable entity retained, if any,
21 after the sale or assignment.

22 (c) The sale or assignment of a credit in accordance with
23 this section does not extend the period for which a credit may be
24 carried forward.

25 (d) After a taxable entity claims a credit for a child-care
26 contribution under this subchapter, another entity may not use the
27 same expenditure as the basis for another credit.

1 Sec. 171.727. RULES. The comptroller shall adopt rules
2 necessary to implement and administer this subchapter.

3 ARTICLE 3. TRANSITION AND EFFECTIVE DATE

4 SECTION 3.01. Subchapter N-1, Chapter 171, Tax Code, as
5 added by this Act, applies only to a report originally due on or
6 after January 1, 2026.

7 SECTION 3.02. (a) Except as provided by Subsection (b) of
8 this section, this Act takes effect September 1, 2025.

9 (b) Subchapter N-1, Chapter 171, Tax Code, as added by this
10 Act, takes effect January 1, 2026.