

By Senator Wise

5-245-05

1                                   A bill to be entitled  
2           An act relating to performance contracting;  
3           providing a short title; providing a  
4           definition; authorizing state agencies to enter  
5           into performance contracts; establishing  
6           requirements for performance contracts;  
7           providing duties of the Department of  
8           Management Services regarding such contracts;  
9           requiring the monitoring of vendor performance;  
10          exempting certain contracts from performance  
11          contracts; providing an effective date.

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13 Be It Enacted by the Legislature of the State of Florida:

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15           Section 1. This act may be cited as the "Performance  
16 Contract Management act."

17           Section 2. As used in this act, the term "performance  
18 contract" means a contract that focuses on the outputs,  
19 quality, or outcomes of service and that ties at least a  
20 portion of the contractor's payment to attaining established  
21 performance standards.

22           Section 3. (1) Subject to the submission of a  
23 business case and approval of the Executive Office of the  
24 Governor and the Legislative Budget Commission, a state agency  
25 may enter into a performance contract for a contracted  
26 service.

27           (2) To ensure the consistent, effective application of  
28 the use of performance contracts, each contract must contain:

29           (a) Performance measures and standards developed by  
30 the agency specifically for that contract. The measures shall  
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1 be used by the agency to evaluate the services provided to the  
2 agency and the outcomes resulting from those services;

3 (b) An accountability section that requires the  
4 contractor to report regularly on its achievement of  
5 performance measures and standards specified in the contract  
6 and that allows the agency to withhold payment until  
7 successful completion of all or part of the contract and the  
8 achievement of established performance standards;

9 (c) Monitoring requirements that specify how the  
10 agency will evaluate the contractor's performance, including  
11 progress reports, site visits, inspections, and reviews of  
12 performance data. The agency must use one or more monitoring  
13 systems to ensure that the results, objectives, and  
14 obligations of the contract are met. Monitoring by the agency  
15 shall focus on the achievement of desired results or  
16 objectives and not on the methods used by the contractor to  
17 achieve them;

18 (d) Methods and mechanisms to resolve any situation in  
19 which the agency's monitoring assessment determines  
20 noncompliance, including termination of the contract; and

21 (e) Provisions that provide access to all contractor  
22 records needed for a properly authorized audit, examination,  
23 or investigation.

24 (3) Before an agency may enter into a performance  
25 contract, the agency inspector general must certify that the  
26 proposed performance measures and standards, data sources, and  
27 data collection methods provide a valid basis for assessing  
28 the contractor's performance.

29 (4) The agency shall annually certify whether the  
30 contractor is complying with the contract terms. If the agency  
31 determines that the contractor has not complied with the

1 contract terms, including performance standards and measurable  
2 outcomes, the contract may be terminated.

3 (5) The Department of Management Services shall:

4 (a) Assist agencies in developing performance  
5 contracts, including providing training courses;

6 (b) Develop policies and procedures to manage  
7 performance contracts; and

8 (c) Prepare agency guidelines for performance  
9 contracting, including model terms and conditions that include  
10 performance measures and standards, and accountability and  
11 monitoring provisions.

12 (6) Audits and examinations conducted under chapters  
13 11 and 17, Florida Statutes, shall focus on assessing the  
14 extent to which desired performance is achieved.

15 (7) This act does not apply to contracts funded by  
16 appropriations classified as grants and aids or as special  
17 categories.

18 Section 4. This act shall take effect July 1, 2005.

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21 SENATE SUMMARY

22 Authorizes state agencies to use performance contracts to  
23 evaluate services provided to state agencies. Provides  
24 guidelines and requirements for such contracts. Provides  
25 duties of the Department of Management Services regarding  
26 the use of such contracts.  
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