

By Senator Bennett

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1                   A bill to be entitled  
2           An act relating to procurement of contractual services  
3           by a state agency; creating s. 287.0575, F.S.;  
4           providing definitions; providing requirements with  
5           respect to the provision of outsourced human services  
6           related to mental health, substance abuse, child  
7           welfare, or juvenile justice; providing requirements  
8           with respect to contracts for such services; requiring  
9           state agencies to identify specified costs to human  
10          services providers; requiring a fiscal impact  
11          statement; providing that failure by a governmental  
12          entity to negotiate a contract amendment or remedy a  
13          material adverse impact of a new governmental mandate  
14          constitutes an agency action or purposes of the  
15          Administrative Procedure Act; providing for annual  
16          reports by state agencies; amending s. 216.136, F.S.;  
17          requiring the Social Services Estimating Conference to  
18          convene quarterly for the purpose of developing  
19          information related to mental health, substance abuse,  
20          child welfare, and juvenile justice services needs;  
21          providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25           Section 1. Section 287.0575, Florida Statutes, is created  
26 to read:

27           287.0575 Outsourced human services related to mental  
28 health, substance abuse, child welfare, or juvenile justice.-

29           (1) For the purposes of this section:

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30 (a) "Material adverse financial impact" means:

31 1. An increase in reasonable costs to a contractor in  
32 performing a contract for the outsourcing of human services  
33 related to mental health, substance abuse, child welfare, or  
34 juvenile justice that is the lesser of:

35 a. Five per cent of the maximum obligation amount or unit  
36 price of the contract; or

37 b. Ten thousand dollars in the aggregate as a result of all  
38 new governmental mandates taking effect during any calendar year  
39 of the contract term; or

40 2. An action that affects the core purpose and primary  
41 intent of a contract for the outsourcing of such services.

42 (b) "New governmental mandate" means a statutory  
43 requirement, administrative rule, regulation, assessment,  
44 executive order, judicial order, or other governmental  
45 requirement, or an agency policy, that was not in effect when a  
46 contract for the outsourcing of human services related to mental  
47 health, substance abuse, child welfare, or juvenile justice was  
48 originally entered into and that directly imposes an obligation  
49 on the contractor to take, or to refrain from taking, any action  
50 in order to fulfill its contractual obligation.

51 (2) To create a more stable business environment for  
52 providing outsourced human services related to mental health,  
53 substance abuse, child welfare, or juvenile justice and to  
54 ensure accountability, eliminate duplication, and improve  
55 efficiency with respect to the provision of such services:

56 (a) Each state agency shall annually submit to the  
57 Legislature a list of mandated requirements, forms, and other  
58 monitoring requirements that are satisfied through accreditation

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59 by appropriate national accreditation organizations.

60 (b) Each state agency that provides funding for outsourced  
61 human services contracts under this section:

62 1. Shall coordinate with other state agencies that provide  
63 funding and designate an agency that will act as the lead agency  
64 in ensuring that monitoring activities are coordinated.

65 2. May delegate monitoring activities to another agency  
66 that is monitoring outsourced services for a particular  
67 population.

68 3. Shall develop a common monitoring protocol to be used  
69 when services to a particular population are being funded by two  
70 or more agencies. The protocol, at a minimum, must:

71 a. Delineate all program, fiscal, and administrative  
72 contract monitoring activities, including all required reporting  
73 mechanisms, to provide required program, fiscal, and  
74 administrative data.

75 b. Provide for a master list of core required documents for  
76 contract monitoring purposes and provide for the collection of  
77 such documents from each service provider.

78 (3) Contracts to outsource human services related to mental  
79 health, substance abuse, child welfare, and juvenile justice  
80 shall:

81 (a) Provide that, in the event that a material change to  
82 the scope of the contract is imposed upon a service provider and  
83 compliance with such change will have a material adverse  
84 financial impact on the service provider, the contracting agency  
85 shall negotiate a contract amendment with the service provider  
86 to increase the maximum obligation amount or unit price of the  
87 contract to offset the material adverse financial impact of the

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88 change, provided the service provider furnishes evidence to the  
89 contracting agency of such material adverse financial impact  
90 along with a request to renegotiate the contract based on the  
91 proposed change.

92 (b) Ensure that payment will be made on all items not under  
93 dispute and that in no event will payment be withheld on  
94 undisputed issues pending the resolution of disputed issues.

95 (c) Provide that any dispersed funds that remain unexpended  
96 during the contract term be considered as authorized revenue for  
97 the purposes of cash flow, program expansion and development,  
98 and administrative costs.

99 (d) Include language authorizing, subject to appropriation,  
100 an annual cost-of-living adjustment that reflects increases in  
101 the consumer price index or, at a minimum, is comparable to any  
102 annual salary increase for state employees. In the absence of a  
103 cost-of-living adjustment for state employees, the contract must  
104 include language that adjusts human services contracts by  
105 reducing the number of services or units contracted for or that  
106 requires documentation substantiating the reasons a reduction is  
107 not possible. This documentation shall be considered by the  
108 Social Service Estimating Conference and reported pursuant to s.  
109 216.136.

110 (4) State agencies shall provide an analysis of every new  
111 form, procedure, or mandate required of a provider of human  
112 services related to mental health, substance abuse, child  
113 welfare, or juvenile justice under a contract for the  
114 outsourcing of such human services that were not in effect when  
115 the contract was originally entered into. The analysis shall  
116 identify the cost to the provider of any such new requirements

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117 and must be transmitted to the provider before any new form,  
118 procedure, or mandate may be used or implemented. The analysis  
119 shall also include a fiscal impact statement from the provider  
120 with respect to each new form, procedure, or mandate required or  
121 imposed.

122 (5) Any contractor aggrieved by the refusal or failure of a  
123 governmental unit to negotiate a contract amendment to remedy a  
124 material adverse impact of a new governmental mandate pursuant  
125 to this section constitutes an agency action for the purposes of  
126 the Administrative Procedure Act.

127 (6) By December 30 annually, each agency that contracts for  
128 the provision of human services shall prepare a comprehensive  
129 list of all contract requirements, mandated reports, outcome  
130 measures, and other requirements of a provider. The list shall  
131 be submitted to the Governor, the President of the Senate, and  
132 the Speaker of the House of Representatives.

133 Section 2. Paragraph (c) is added to subsection (6) of  
134 section 216.136, Florida Statutes, to read:

135 216.136 Consensus estimating conferences; duties and  
136 principals.-

137 (6) SOCIAL SERVICES ESTIMATING CONFERENCE.-

138 (c) The Social Services Estimating Conference shall be  
139 convened quarterly for the purpose of developing information  
140 that is related to mental health, substance abuse, child  
141 welfare, or juvenile justice services needs, including, but not  
142 limited to, enrollment, caseload, utilization, expenditures, and  
143 documentation required under s. 287.0575(3)(d), and that  
144 reflects population growth and economic trends.

145 Section 3. This act shall take effect upon becoming a law.