

By Senator Smith

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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; requiring state agencies
8 to identify specified costs to human services
9 providers; requiring a fiscal impact statement;
10 providing requirements with respect to contracts for
11 such services; providing that failure by a
12 governmental entity to negotiate a contract amendment
13 or remedy a material adverse impact of a new
14 governmental mandate constitutes an agency action for
15 purposes of ch. 120, F.S.; providing for annual
16 reports by state agencies to be submitted to the
17 Governor and Legislature; amending s. 216.136, F.S.;
18 requiring the Social Services Estimating Conference to
19 convene quarterly for the purpose of developing
20 information related to mental health, substance abuse,
21 child welfare, and juvenile justice services needs;
22 providing an effective date.

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

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

28 287.0575 Outsourced human services.—

29 (1) As used in this section, the term:

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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, an 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:

62 1. Shall coordinate with other state agencies that provide
63 funding and designate an agency to act as the lead agency in
64 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. At a minimum, the protocol must:

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

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

78 (3) State agencies shall provide an analysis of every new
79 form, procedure, or mandate required of a provider of human
80 services related to mental health, substance abuse, child
81 welfare, or juvenile justice under a contract for the
82 outsourcing of such human services that were not in effect when
83 the contract was originally entered into. The analysis must
84 identify the cost to the provider of any new requirements and
85 must be transmitted to the provider before any new form,
86 procedure, or mandate may be used or implemented. The analysis
87 must also include a fiscal impact statement from the provider

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88 with respect to each new form, procedure, or mandate required or
89 imposed.

90 (4) Contracts to outsource human services related to mental
91 health, substance abuse, child welfare, and juvenile justice
92 must:

93 (a) Provide that if a material change to the scope of the
94 contract is imposed upon a service provider and compliance with
95 such change will have a material adverse financial impact on the
96 service provider, the contracting agency shall negotiate a
97 contract amendment with the service provider to increase the
98 maximum obligation amount or unit price of the contract to
99 offset the material adverse financial impact of the change if
100 the service provider furnishes evidence to the contracting
101 agency of such material adverse financial impact along with a
102 request to renegotiate the contract based on the proposed
103 change.

104 (b) Ensure that payment will be made on all items not under
105 dispute and that payment will not be withheld on undisputed
106 issues pending the resolution of disputed issues.

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

111 (d) Subject to appropriation, include provisions
112 authorizing an annual cost-of-living adjustment that reflects
113 increases in the consumer price index or, at a minimum, is
114 comparable to any annual salary increase for state employees. In
115 the absence of a cost-of-living adjustment for state employees,
116 the contract must include provisions that adjust human services

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117 contracts by reducing the number of services or units contracted
118 for or that requires documentation substantiating the reasons a
119 reduction is not possible. This documentation shall be
120 considered by the Social Service Estimating Conference and
121 reported pursuant to s. 216.136.

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 financial impact of a new governmental mandate
125 pursuant to this section constitutes an agency action for the
126 purposes of chapter 120.

127 (6) Annually by December 30, each agency that contracts for
128 the provision of human services related to mental health,
129 substance abuse, child welfare, or juvenile justice shall
130 prepare a comprehensive list of all contract requirements,
131 mandated reports, outcome measures, and other requirements of a
132 provider. The list shall be submitted to the Governor, the
133 President of the Senate, and the Speaker of the House of
134 Representatives.

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

137 216.136 Consensus estimating conferences; duties and
138 principals.—

139 (6) SOCIAL SERVICES ESTIMATING CONFERENCE.—

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

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146 reflects population growth and economic trends.

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