

1 A bill to be entitled
2 An act relating to pay-for-success contracts; creating
3 s. 287.05715, F.S.; providing definitions; authorizing
4 a state agency to enter into a pay-for-success
5 contract with a private entity under certain
6 conditions, subject to an appropriation and specified
7 language in the General Appropriations Act;
8 authorizing the carryforward of certain unexpended
9 appropriations; providing contract requirements;
10 authorizing cancellation of the contract under
11 specified circumstances; specifying services and
12 programs that may be eligible for funding under the
13 contract; prohibiting a private entity from viewing or
14 receiving certain information that is otherwise
15 confidential and exempt from the public records law;
16 requiring an agency to provide an annual report
17 containing certain data to the chairs of the
18 legislative appropriations committees by a specified
19 date; requiring the Department of Management Services
20 to prescribe certain procedures by a specified date;
21 providing an effective date.

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

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25 Section 1. Section 287.05715, Florida Statutes, is created

26 | to read:

27 | 287.05715 Pay-for-success contracts.-

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

29 | (a) "Pay-for-success contract" or "contract" means a
 30 | written agreement executed between an agency and a private
 31 | entity in which the agency agrees, contingent upon a specified
 32 | service or program meeting specified performance targets and
 33 | outcome measures, to reimburse the private entity for up-front
 34 | capital it will provide to fund a service or program identified
 35 | in subsection (4) that addresses a critical public problem.

36 | (b) "Private entity" means a private, not-for-profit
 37 | organization, or a subsidiary or an affiliate thereof, that is
 38 | exempt from federal income taxation pursuant to s. 501(c)(3) of
 39 | the Internal Revenue Code of 1986 and that enters into a pay-
 40 | for-success contract with an agency.

41 | (c) "Service provider" means an entity that provides
 42 | services on behalf of a private entity under a pay-for-success
 43 | contract.

44 | (d) "Success payment" means a single payment or schedule
 45 | of payments that is identified in a pay-for-success contract to
 46 | be paid to a private entity when specified performance targets
 47 | and outcome measures are met.

48 | (2) (a) Contingent upon a specific appropriation in the
 49 | General Appropriations Act that includes funding for a service
 50 | or program identified in subsection (4) and contains proviso, as

51 defined in s. 216.011, authorizing a pay-for success contract
52 and specifying the term of such contract, an agency may enter
53 into a pay-for-success contract with a private entity to receive
54 upfront capital from the entity to fund the service or program.
55 The agency may not enter into a pay-for-success contract until
56 the state agency head determines with reasonable certainty that
57 the contract will result in quantifiable public benefits and
58 monetary savings to the state or a local government by reducing
59 or avoiding costs, increasing economic productivity, or
60 improving client outcomes.

61 (b) Notwithstanding s. 216.301 and pursuant to s. 216.351,
62 the balance of any appropriation from the General Revenue Fund
63 for a pay-for-success contract which is not disbursed but which
64 is obligated pursuant to contract or committed to be expended by
65 June 30 of the fiscal year in which the funds are appropriated
66 may be carried forward for up to 3 years after the effective
67 date of the original appropriation.

68 (3) Each pay-for-success contract shall:

69 (a) Require a private entity to underwrite or secure
70 upfront capital from private funding sources, including
71 foundations, financial institutions, businesses, or individuals.

72 (b) Identify the specific service or program, as set forth
73 in subsection (4), to be funded under the contract.

74 (c) Identify performance targets and outcome measures
75 against which the service or program's success can be measured

76 | to determine whether the service or program has achieved
77 | quantifiable public benefits and monetary savings.

78 | (d) Require an independent third-party evaluator to review
79 | and issue a report in the middle and at the end of the contract
80 | term specifying the degree to which the service or program has
81 | met the identified performance targets and outcome measures.

82 | (e) Identify the calculation or algorithm to be used by
83 | the agency in determining the amount and timing of reimbursable
84 | success payments to the private entity. The amount of each
85 | success payment must correlate with the independent third-party
86 | evaluator's review under paragraph (d).

87 | (f) Contain a statement that the service provider will
88 | annually provide a report to the agency that includes data
89 | deemed relevant by the agency.

90 | (g) State that the amount of funds to be reimbursed to the
91 | private entity is contingent upon the degree to which the
92 | service or program has met the performance targets and outcome
93 | measures as evaluated by the independent third-party evaluator.

94 | (h) Require the agency to make the appropriate success
95 | payment to the private entity within 60 days after receiving a
96 | report from the independent third-party evaluator.

97 | (i) Contain a provision authorizing cancellation of the
98 | contract if the agency believes the degree to which the service
99 | or program has met the identified performance targets and
100 | outcome measures, as reported by the third-party evaluation, is

101 insufficient to warrant continuation of the service or program.

102 (4) Services or programs that are eligible for funding
103 under a pay-for-success contract are limited to:

104 (a) Early childhood care and education programs, including
105 prekindergarten and school readiness programs from birth to 5
106 years of age.

107 (b) Education, workforce preparedness, and employment
108 programs, including school-to-work programs and alternative
109 education services.

110 (c) Public safety programs, including programs that reduce
111 recidivism and address juvenile justice.

112 (d) Health and human services, including drug and alcohol
113 addiction, mental health, chronic homelessness, supportive
114 housing, and child welfare services and programs.

115 (e) Long-term, home-based, and community-based care
116 services and programs.

117 (5) The private entity may not view or receive any
118 personal client information that is otherwise confidential and
119 exempt.

120 (6) By April 1 annually, the agency shall provide a report
121 to the chairs of the legislative appropriations committees that
122 contains the data provided by each service provider under
123 paragraph (3)(f) and, if available, each evaluation from each
124 independent third-party evaluator.

125 (7) By December 1, 2018, the department shall prescribe

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126 | procedures to be used by an agency when executing a pay-for-
127 | success contract with a private entity, consistent with this
128 | section.

129 | Section 2. This act shall take effect July 1, 2018.