

1 A bill to be entitled
2 An act relating to fiscal accountability for
3 nongovernmental entities; amending s 215.971, F.S.;
4 revising the required contents of agency agreements
5 that provide state financial assistance or federal
6 financial assistance to certain entities; requiring
7 certain nonstate entities that enter into agency
8 agreements funded with federal or state financial
9 assistance funds to comply with specified audit
10 requirements at specified intervals; providing an
11 exception; amending s. 215.985, F.S.; defining the
12 term "nongovernmental entity"; requiring
13 nongovernmental entities that have received specified
14 revenues from governmental entities to provide an
15 annual report to the Department of Management
16 Services; requiring the report to be verified;
17 requiring the department to annually publish the
18 report information on its website beginning on a
19 specified date; requiring the nongovernmental entity
20 to publish the report information on its website;
21 requiring nongovernmental entities to submit certain
22 attestations before receiving government funds;
23 providing applicability; creating s. 215.986, F.S.;
24 defining the terms "administrative expenses" and
25 "nongovernmental entity"; providing a limitation on

26 | the amount of state-appropriated funds a
 27 | nongovernmental entity may expend on administrative
 28 | expenses; requiring a nongovernmental entity to use
 29 | private entity funds before using state-appropriated
 30 | funds for certain purposes; providing an effective
 31 | date.

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 33 | Be It Enacted by the Legislature of the State of Florida:

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 35 | Section 1. Subsection (1) of section 215.971, Florida
 36 | Statutes, is amended, and subsection (4) is added to that
 37 | section, to read:

38 | 215.971 Agreements funded with federal or state
 39 | assistance.—

40 | (1) (a) An agency agreement that provides state financial
 41 | assistance to a recipient or subrecipient, as those terms are
 42 | defined in s. 215.97, or that provides federal financial
 43 | assistance to a subrecipient, as defined by applicable United
 44 | States Office of Management and Budget circulars, must include
 45 | all of the following:

46 | 1. ~~(a)~~ A provision specifying a scope of work that clearly
 47 | establishes the tasks that the recipient or subrecipient is
 48 | required to perform.

49 | 2. ~~(b)~~ A provision dividing the agreement into quantifiable
 50 | units of deliverables that must be received and accepted in

51 writing by the agency before payment. Each deliverable must be
52 directly related to the scope of work and specify the required
53 minimum level of service to be performed and the criteria for
54 evaluating the successful completion of each deliverable.

55 3.~~(e)~~ A provision specifying the financial consequences
56 that apply if the recipient or subrecipient fails to perform the
57 minimum level of service required by the agreement. The
58 provision can be excluded from the agreement only if financial
59 consequences are prohibited by the federal agency awarding the
60 grant. Funds refunded to a state agency from a recipient or
61 subrecipient for failure to perform as required under the
62 agreement may be expended only in direct support of the program
63 from which the agreement originated.

64 4.~~(d)~~ A provision specifying that a recipient or
65 subrecipient of federal or state financial assistance may expend
66 funds only for allowable costs resulting from obligations
67 incurred during the specified agreement period.

68 5.~~(e)~~ A provision specifying that any balance of
69 unobligated funds which has been advanced or paid must be
70 refunded to the state agency.

71 6.~~(f)~~ A provision specifying that any funds paid in excess
72 of the amount to which the recipient or subrecipient is entitled
73 under the terms and conditions of the agreement must be refunded
74 to the state agency.

75 7.~~(g)~~ Any additional information required pursuant to s.

76 215.97.

77 (b) In addition to the requirements contained in paragraph
78 (a), an agency agreement that provides state financial
79 assistance to a recipient or subrecipient that is a nonprofit
80 organization or a for-profit organization, as those terms are
81 defined in s. 215.97(2), or that provides federal financial
82 assistance to a subrecipient that is a nonprofit organization or
83 a for-profit organization, must include all of the following:

84 1. A provision specifying that funds will only be expended
85 in accordance with their stated purpose and for the benefit of
86 the public.

87 2. A provision prohibiting the funds from being loaned to
88 another entity for any purpose or donated as charitable or
89 political contributions.

90 3. A provision prohibiting the funds from being used for
91 bonuses, exit bonuses, incentive payments, or severance payments
92 to employees of a nonprofit organization or a for-profit
93 organization, except as provided in s. 215.986.

94 4. A provision prohibiting the funds from being used to
95 retain a lobbyist to represent the nonprofit organization or
96 for-profit organization before the legislative or executive
97 branch. However, a full-time employee of a nonprofit
98 organization may register as a lobbyist and represent the
99 organization before the legislative or executive branch. Except
100 as a full-time employee of a nonprofit organization, a person

101 may not accept public funds from a nonprofit organization or a
102 for-profit organization for lobbying.

103 (4) (a) A nonprofit organization or a for-profit
104 organization that enters into an agency agreement funded with
105 federal or state financial assistance and derives 50 percent or
106 more of its revenue from federal or state funds must comply with
107 the audit requirements of this subsection. The results of each
108 audit must be submitted to the agency with which the
109 organization has an agreement. For purposes of this subsection,
110 federal or state financial assistance does not include the
111 receipt of federal or state Medicaid funds.

112 (b) The nonprofit organization or the for-profit
113 organization shall have the following independent audits
114 conducted, as applicable:

115 1. For a nonprofit organization or a for-profit
116 organization that receives federal or state financial assistance
117 equal to or greater than \$150,000 each fiscal year for 3
118 consecutive fiscal years, the organization must have a financial
119 audit, as defined in s. 11.45(1), completed by no later than 6
120 months after the end of the entity's third fiscal year. The
121 financial audit must be conducted by an independent auditor in
122 accordance with auditing standards stated in the rules of the
123 Auditor General. An audit under this subparagraph is not
124 required more frequently than once every 3 fiscal years. The
125 audit requirements of this subparagraph do not apply to a

126 nonprofit organization or a for-profit organization during any
127 year in which the organization is required to conduct a state
128 single audit pursuant to s. 215.97.

129 2. For a nonprofit organization or a for-profit
130 organization that receives federal or state financial assistance
131 equal to or greater than \$300,000 each fiscal year for 5
132 consecutive fiscal years, the organization must have an
133 operational audit, as defined in s. 11.45(1), completed no later
134 than 6 months after the end of the entity's fifth fiscal year.
135 The operational audit must be conducted by an independent
136 auditor in accordance with auditing standards stated in the
137 rules of the Auditor General. An audit under this subparagraph
138 is not required more frequently than once every 5 fiscal years.

139 3. For a nonprofit organization or a for-profit
140 organization that receives federal or state financial assistance
141 equal to or greater than \$500,000 each fiscal year for 7
142 consecutive fiscal years, the organization must have a
143 performance audit, as defined in s. 11.45(1), completed no later
144 than 6 months after the end of the entity's seventh fiscal year.
145 The independent entity must have at least 5 years of experience
146 conducting performance audits, must conduct audits according to
147 applicable auditing or evaluation standards of appropriate
148 authoritative bodies, must follow applicable industry best
149 practices, and may not have any affiliation or financial
150 involvement in the reviewed organization. An audit under this

151 subparagraph is not required more frequently than once every 7
 152 fiscal years.

153 (c) This subsection does not apply to a citizen support
 154 organization or a direct-support organization created or
 155 authorized pursuant to law and created, approved, or
 156 administered by a state agency.

157 Section 2. Paragraph (d) of subsection (2) of section
 158 215.985, Florida Statutes, is redesignated as paragraph (e), a
 159 new paragraph (d) is added to that subsection, and subsection
 160 (6) of that section is amended, to read:

161 215.985 Transparency in government spending.—

162 (2) As used in this section, the term:

163 (d) "Nongovernmental entity" means a nonprofit
 164 corporation.

165 (6)(a) The Department of Management Services shall
 166 establish and maintain a website that provides current
 167 information relating to each employee or officer of a state
 168 agency, a state university, a Florida College System
 169 institution, or the State Board of Administration, regardless of
 170 the appropriation category from which the person is paid.

171 ~~1.(a)~~ For each employee or officer, the information must
 172 include, at a minimum, his or her:

173 ~~a.1.~~ Name and salary or hourly rate of pay.

174 ~~b.2.~~ Position number, class code, and class title.

175 ~~c.3.~~ Employing agency and budget entity.

176 ~~2.(b)~~ The information must be searchable by state agency,
177 state university, Florida College System institution, and the
178 State Board of Administration, and by employee name, salary
179 range, or class code and must be downloadable in a format that
180 allows offline analysis.

181 (b)1. A nongovernmental entity that receives at least 50
182 percent of its revenue, calculated using the nongovernmental
183 entity's fiscal year, from governmental entities or a
184 nongovernmental entity that meets the audit threshold
185 requirements in s. 215.97 in any fiscal year, must submit to the
186 Department of Management Services by December 31 of each year a
187 report that includes the name, position, and all compensation
188 earned or awarded, whether paid or accrued, regardless of
189 contingency, to each director, board member, chief executive
190 officer, chief financial officer, chief operating officer, or
191 other person performing equivalent functions. The report must be
192 verified as provided in s. 92.525 by the chief executive officer
193 or chief financial officer of the nongovernmental entity.

194 2. Beginning February 1, 2023, and each February 1
195 thereafter, the Department of Management Services shall include
196 the information reported in subparagraph 1. on the website
197 established under paragraph (a).

198 3. A nongovernmental entity required to submit a report
199 under subparagraph 1. must publish the reported information on
200 its website if the entity maintains a website.

201 4. Before receiving funds from a governmental entity, a
 202 nongovernmental entity that:

203 a. Received funding subject to this paragraph in the
 204 previous year must submit to the governmental entity an
 205 attestation verified as provided in s. 92.525, that the
 206 nongovernmental entity has submitted the report required in
 207 subparagraph 1.; or

208 b. Did not receive funding subject to this paragraph in
 209 the previous year must submit to the governmental entity an
 210 attestation verified as provided in s. 92.525, that the
 211 nongovernmental entity did not receive funding in the previous
 212 year.

213 5. A governmental entity may not expend or transfer funds
 214 to a nongovernmental entity until the nongovernmental entity has
 215 complied with the requirements of this paragraph.

216 Section 3. Section 215.986, Florida Statutes, is created
 217 to read:

218 215.986 Restrictions on administrative expenses for
 219 certain nongovernmental entities.—

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

221 (a) "Administrative expenses" mean expenditures that are
 222 considered indirect operating costs of a nongovernmental entity,
 223 including, but not limited to:

224 1. General administration and general expenses including
 225 accounting, support services, and personnel, including all

226 compensation earned by or awarded to such personnel, whether
227 paid or accrued, regardless of contingency, unless the
228 compensation is explicitly included in the General
229 Appropriations Act or the compensation relates to the employment
230 of an employee whose services are integral to a project or
231 activity of the nongovernmental entity. However, compensation
232 earned by or awarded to a director, board member, chief
233 executive officer, chief financial officer, chief operating
234 officer, or other person performing equivalent functions,
235 whether paid or accrued, regardless of contingency, shall not be
236 considered integral to a project or activity of a nongovernment
237 entity.

238 2. Equipment and capital improvements, depreciation on
239 buildings, interest on debt associated with such buildings, and
240 operations and maintenance expenses.

241 (b) "Nongovernmental entity" means a nonprofit corporation
242 that receives at least 50 percent of its revenue, in any fiscal
243 year of the nongovernmental entity, from state-appropriated
244 funds, including state-appropriated federal funds.

245 (2) A nongovernmental entity may not expend more than 15
246 percent of state-appropriated funds, including state-
247 appropriated federal funds, on administrative expenses. A
248 nongovernmental entity that receives funds from private entities
249 must first use the funds received from the private entities to
250 pay its administrative expenses before using state-appropriated

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251 | funds, including state-appropriated federal funds.

252 | Section 4. This act shall take effect July 1, 2022.