

By Senator Ausley

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

22
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

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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) which addresses a critical public problem.

36 (b) "Private entity" means a private, nonprofit
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, as amended, and that enters
40 into a pay-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 of
45 payments identified in a pay-for-success contract to be paid to
46 a private entity when specified performance targets and outcome
47 measures are met.

48 (2)(a) Contingent upon a specific appropriation in the
49 General Appropriations Act which includes funding for a service
50 or program identified in subsection (4) and contains a proviso,
51 as defined in s. 216.011(1), authorizing a pay-for-success
52 contract and specifying the term of the contract, an agency may
53 enter into a pay-for-success contract with a private entity to
54 receive up-front capital from the entity to fund the service or
55 program. The agency may not enter into a pay-for-success
56 contract until the state agency head determines with reasonable
57 certainty that the contract will result in quantifiable public
58 benefits and monetary savings to the state or a local government

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59 by reducing or avoiding costs, increasing economic productivity,
60 or 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 the contract or committed to be
65 expended by June 30 of the fiscal year in which the funds are
66 appropriated may be carried forward for up to 3 years after the
67 effective date of the original appropriation.

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

69 (a) Require a private entity to underwrite or secure up-
70 front 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's 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 met
81 the identified performance targets and outcome measures.

82 (e) Identify the calculation or algorithm to be used by the
83 agency in determining the amount and timing of success payments
84 to reimburse the private entity. The amount of each success
85 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

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88 annually provide a report to the agency which includes data
89 deemed relevant by the agency.

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

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

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

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

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

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

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

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

116 (e) Long-term, home-based, and community-based care

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117 services and programs.

118 (5) The private entity may not view or receive any personal
119 client information that is otherwise confidential and exempt
120 from public records disclosure requirements.

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

126 (7) By December 1, 2022, the department shall prescribe
127 procedures to be used by an agency when executing a pay-for-
128 success contract with a private entity, consistent with this
129 section.

130 Section 2. This act shall take effect July 1, 2022.