

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; specifying
7 that certain nonstate entities that enter into agency
8 agreements funded with federal or state financial
9 assistance funds must 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 a
15 report to the Department of Management Services;
16 requiring the report to be verified; requiring the
17 department to post the report information received on
18 its website; requiring the nongovernmental entity to
19 post the report information on its website; requiring
20 certain entities to verify submission of the report
21 before receiving government funds; creating s.
22 215.986, F.S.; providing definitions; providing a
23 limitation on the amount of state-appropriated funds a
24 nongovernmental entity may expend on administrative
25 expenses; requiring a nongovernmental entity to use

26 private entity funds before using state-appropriated
 27 funds for certain purposes; providing an effective
 28 date.

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

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 32 Section 1. Subsection (1) of section 215.971, Florida
 33 Statutes, is amended, and subsection (4) is added to that
 34 section, to read:

35 215.971 Agreements funded with federal or state
 36 assistance.—

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

43 1.(a) A provision specifying a scope of work that clearly
 44 establishes the tasks that the recipient or subrecipient is
 45 required to perform.

46 2.(b) A provision dividing the agreement into quantifiable
 47 units of deliverables that must be received and accepted in
 48 writing by the agency before payment. Each deliverable must be
 49 directly related to the scope of work and specify the required
 50 minimum level of service to be performed and the criteria for

51 evaluating the successful completion of each deliverable.

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

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

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

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

72 7.~~(g)~~ Any additional information required pursuant to s.
73 215.97.

74 (b) In addition to the requirements contained in paragraph
75 (a), an agency agreement that provides state financial

76 assistance to a recipient or subrecipient that is a nonprofit
77 organization or a for-profit organization, as those terms are
78 defined in s. 215.97(2), or that provides federal financial
79 assistance to a subrecipient that is a nonprofit organization or
80 a for-profit organization, must include all of the following:

81 1. A provision specifying that funds will only be expended
82 in accordance with their stated purpose and for the benefit of
83 the public.

84 2. A provision prohibiting the funds from being loaned to
85 another entity for any purpose or donated as charitable or
86 political contributions.

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

91 4. A provision prohibiting the funds from being used to
92 retain a lobbyist to represent the nonprofit organization or
93 for-profit organization before the legislative or executive
94 branch. However, a full-time employee of a nonprofit
95 organization may register as a lobbyist and represent the
96 organization before the legislative or executive branch. Except
97 as a full-time employee of a nonprofit organization, a person
98 may not accept public funds from a nonprofit organization or a
99 for-profit organization for lobbying.

100 (4) (a) A nonprofit organization or a for-profit

101 organization that enters into an agency agreement funded with
102 federal or state financial assistance and derives 50 percent or
103 more of its revenue from federal or state funds must comply with
104 the audit requirements of this subsection. The results of each
105 audit must be submitted to the agency with which the
106 organization has an agreement. For purposes of this subsection,
107 federal or state financial assistance does not include the
108 receipt of state or federal Medicaid funds.

109 (b) The nonprofit organization or the for-profit
110 organization shall have the following independent audits
111 conducted, as applicable:

112 1. For a nonprofit organization or a for-profit
113 organization that receives federal or state financial assistance
114 equal to or greater than \$150,000 each fiscal year for 3
115 consecutive fiscal years, the organization must have a financial
116 audit, as defined in s. 11.45(1), completed by no later than 6
117 months after the end of the entity's third fiscal year. Such
118 audit must be conducted by an independent auditor in accordance
119 with auditing standards stated in the rules of the Auditor
120 General. An audit under this subparagraph is not required more
121 frequently than once every 3 fiscal years. The audit
122 requirements of this subparagraph do not apply to a nonprofit
123 organization or a for-profit organization during any year in
124 which the organization is required to conduct a state single
125 audit pursuant to s. 215.97.

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

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

150 (c) This subsection does not apply to a citizen support

151 organization or a direct-support organization created or
152 authorized pursuant to law and created, approved, or
153 administered by a state agency.

154 Section 2. Paragraph (d) of subsection (2) of section
155 215.985, Florida Statutes, is redesignated as paragraph (e), a
156 new paragraph (d) is added to that subsection, and subsection
157 (6) of that section is amended, to read:

158 215.985 Transparency in government spending.—

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

160 (d) "Nongovernmental entity" means a nonprofit
161 corporation.

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

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

170 a. 1. Name and salary or hourly rate of pay.

171 b. 2. Position number, class code, and class title.

172 c. 3. Employing agency and budget entity.

173 2. (b) The information must be searchable by state agency,
174 state university, Florida College System institution, and the
175 State Board of Administration, and by employee name, salary

176 range, or class code and must be downloadable in a format that
177 allows offline analysis.

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

191 2. Beginning February 1, 2022, and each February 1
192 thereafter, the Department of Management Services shall include
193 the information reported in subparagraph 1. on the website
194 established under paragraph (a).

195 3. A nongovernmental entity required to submit a report
196 under subparagraph 1. must post the reported information on its
197 website if the entity maintains a website.

198 4. Before receiving funds from a governmental entity, a
199 nongovernmental entity that:

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

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

210 5. A governmental entity may not expend or transfer funds
 211 to a nongovernmental entity until the nongovernmental entity has
 212 complied with the requirements of this paragraph.

213 Section 3. Section 215.986, Florida Statutes, is created
 214 to read:

215 215.986 Restrictions on administrative expenses for
 216 certain nongovernmental entities.—

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

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

221 1. General administration and general expenses including
 222 accounting, support services, and personnel, including all
 223 compensation earned by or awarded to such personnel, whether
 224 paid or accrued, regardless of contingency, unless the

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

235 2. Equipment and capital improvements, depreciation on
236 buildings, interest on debt associated with such buildings, and
237 operations and maintenance expenses.

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

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

249 Section 4. This act shall take effect July 1, 2021.