

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:

24  
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, 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, 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 which is identified in a pay-for-success contract to be  
46 paid to a private entity when specified performance targets and  
47 outcome 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 that are eligible for funding  
104 under a pay-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, 2021, 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, 2021.