

1 ENGROSSED SENATE
2 BILL NO. 210

By: Thompson, Shaw, Hicks,
Floyd, Matthews and
Stanislawski of the Senate

3
4 and

5 Fetgatter of the House
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7 An Act relating to the "Pay for Success Act";
8 declaring legislative intent; providing definitions;
9 providing for pay-for-success contracts; making
10 certain allowances for agencies; stating requirements
11 for contracts; directing annual report be provided;
12 directing payments be made; creating "Pay-For-Success
13 Innovation Fund"; providing for noncodification;
14 providing for codification; and providing an
15 effective date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. NEW LAW A new section of law not to be
18 codified in the Oklahoma Statutes reads as follows:

19 Sections 2 through 5 of this act shall be known and may be cited
20 as the "Pay for Success Act".

21 SECTION 2. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 5000 of Title 62, unless there
23 is created a duplication in numbering, reads as follows:

24 It is the intent of the Legislature, through enactment of the
Pay for Success Act, to:

1 1. Authorize innovation opportunities in the form of pay-for-
2 success contracts and authorize success payments to be made from
3 appropriated or other agency funds;

4 2. Address outcomes that span the mission and purpose of
5 multiple agencies;

6 3. Provide a fund that may be used by agencies for success
7 payments; and

8 4. Nothing in this act shall prohibit the use of pay-for-
9 success contracts by municipalities, counties or other local
10 jurisdictions.

11 SECTION 3. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 5001 of Title 62, unless there
13 is created a duplication in numbering, reads as follows:

14 As used in this act, the term:

15 1. "Pay-for-success contract" or "contract" means a written
16 agreement executed in order to create a public-private partnership
17 contingent upon a specified service or program meeting specified
18 performance targets and outcome measures; and

19 2. "Success payment" means a single payment or schedule of
20 payments that is identified in a pay-for-success contract to be paid
21 when specified performance targets and outcome measures are met.

22 SECTION 4. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 5002 of Title 62, unless there
24 is created a duplication in numbering, reads as follows:

1 A. An agency or agencies may enter into a pay-for-success
2 contract with a private entity or entities to receive upfront
3 capital to fund a service or program. The agency or agencies may
4 not enter into a pay-for-success contract until each state agency
5 head entering into the contract determines with reasonable certainty
6 that the contract will result in a public benefit to the state.

7 B. Each pay-for-success contract shall:

8 1. Require a private entity to underwrite or secure upfront
9 capital from private funding sources, including foundations,
10 financial institutions, businesses or individuals;

11 2. Identify the specific service or program to be funded under
12 the contract;

13 3. Identify performance targets and outcome measures against
14 which the service or program's success can be measured to determine
15 whether the service or program has achieved quantifiable public
16 benefits or monetary savings;

17 4. Require and specify an independent third-party evaluator to
18 review and issue reports annually at specific times during the
19 contract term specifying the degree to which the service or program
20 has met the identified performance targets and outcome measures
21 specified in the contract;

22 5. Identify the calculation or algorithm to be used by the
23 agency or agencies in determining the amount and timing of
24 reimbursable success payments to the private entity;

1 6. Contain a statement that the independent third-party
2 evaluator will annually provide a report to the agency or agencies
3 that includes data deemed relevant by the agency or agencies; and

4 7. State that the amount of funds to be reimbursed to the
5 private entity is contingent upon the degree to which the service or
6 program has met the performance targets and outcome measures as
7 evaluated by the independent third-party evaluator.

8 C. By April 1 annually, the agency or agencies shall provide a
9 report to the chairs of the legislative appropriations committees
10 that contains the evaluation from the independent third-party
11 evaluator.

12 D. Payments to private entities for the delivery of performance
13 targets and outcome measures as authorized in this section shall be
14 made only in accordance with the terms of the pay-for-success
15 contract. Payments may be made utilizing the Pay-for-Success
16 Innovation Fund provided for in Section 5 of this act or utilizing
17 other appropriated agency funds in accordance with Oklahoma law.

18 SECTION 5. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 5003 of Title 62, unless there
20 is created a duplication in numbering, reads as follows:

21 A. There is hereby created in the State Treasury a revolving
22 fund for the Office of Management and Enterprise Services to be
23 designated the "Pay-for-Success Innovation Fund". The fund shall be
24 a continuing fund, not subject to fiscal year limitations, and shall

1 consist of all monies designated by state agencies to the Pay-for-
2 Success Innovation Fund and monies which may otherwise be available
3 to the Office of Management and Enterprise Services for use as
4 provided for in this section.

5 B. All monies appropriated to the fund shall be budgeted and
6 expended by the Office of Management and Enterprise Services for the
7 purpose of funding contracts outlined in Section 4 of this act.
8 Pursuant to contract, the Office of Management and Enterprise
9 Services shall provide payment to private entities for the delivery
10 of performance targets and outcome measures at the direction of the
11 agency engaged in the contract and only in accordance with the terms
12 of the pay-for-success contract.

13 C. To the extent that any money credited to this fund for a
14 particular pay-for-success contract remains unpaid at the time the
15 particular contract expires or is terminated, as soon after the
16 contract expiration as is practicable, the Office of Management and
17 Enterprise Services shall return the unpaid amount to the agency to
18 which the money was originally appropriated.

19 D. The Office of Management and Enterprise Services may adopt
20 rules as necessary to administer this section or pay-for-success
21 contracts entered into under this section, including joint rules
22 adopted with other agencies.

23 SECTION 6. This act shall become effective November 1, 2019.
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1 Passed the Senate the 11th day of March, 2019.

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Presiding Officer of the Senate

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5 Passed the House of Representatives the ____ day of _____,

6 2019.

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Presiding Officer of the House
of Representatives

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