
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1053 Session of
2015

INTRODUCED BY STEPHENS, WHEATLEY, MULLERY, J. HARRIS, KILLION,
MACKENZIE, DAVIDSON, MURT AND KORTZ, APRIL 27, 2015

REFERRED TO COMMITTEE ON FINANCE, APRIL 27, 2015

AN ACT

1 Establishing the Pay for Success Pilot Program and the Pay for
2 Success Trust Fund; and providing for duties of the Office of
3 the Budget and the Independent Fiscal Office.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 CHAPTER 1

7 PRELIMINARY PROVISIONS

8 Section 101. Short title.

9 This act shall be known and may be cited as the Pay for
10 Success Authorization and Performance Accountability Act.

11 Section 102. Definitions.

12 The following words and phrases when used in this act shall
13 have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Eligible organization." An organization that:

16 (1) provides early childhood education programs to
17 children three and four years of age;

18 (2) has earned a Keystone STAR 3 or Keystone STAR 4

1 designation; and

2 (3) has applied for participation in the pilot program
3 and is qualified to receive funds under a pay for success
4 contract.

5 "Fund." The Pay for Success Trust Fund established in
6 section 501.

7 "Independent evaluator." An individual or organization that
8 evaluates whether the predefined outcomes of a pay for success
9 contract have been achieved.

10 "Intermediary." An organization capable of entering into a
11 pay for success contract with the Commonwealth that sets forth
12 outcome-based performance standards, contracting with eligible
13 organizations to deliver social services achieving these
14 standards, raising capital to finance the delivery of social
15 services via a social impact funding instrument and
16 administering the social impact funding instrument by providing
17 ongoing investor relations and project management. The term
18 includes an affiliate of an intermediary.

19 "Office." The Office of the Budget.

20 "Pay for success contract." An outcome-based performance
21 agreement entered into by the Commonwealth with an intermediary
22 to achieve specifically defined, measurable outcomes for a given
23 population over a certain period of time for which the
24 Commonwealth pays only to the extent that the defined outcomes
25 are achieved, as determined by an independent evaluator.

26 "Pilot program." The Pay for Success Pilot Program
27 established in section 301.

28 "Social impact funding instrument." An investment product
29 established by an intermediary to raise private investment
30 capital for social programs.

1 CHAPTER 3

2 PAY FOR SUCCESS PILOT PROGRAM

3 Section 301. Program established.

4 (a) Establishment.--The Pay for Success Pilot Program is
5 established to expand access to high-quality early childhood
6 education services by encouraging private investment in early
7 childhood education. The pilot program is designed to reduce:

8 (1) Federal, State and municipal expenditures related to
9 early childhood education services.

10 (2) Expenditures related to basic and special education
11 services in kindergarten through twelfth grade.

12 (b) Duration.--The pilot program shall expire seven years
13 from the date of its implementation.

14 Section 302. Program description.

15 The pilot program shall be comprised of three pilot projects.
16 One pilot project shall be implemented within each of the
17 following, as determined by the office:

18 (1) A county of the first or second class.

19 (2) A county of the second class A or third class.

20 (3) A county of the fourth through eighth class.

21 Section 303. Pay for success contracts.

22 Notwithstanding any other provision of law, the office may
23 enter into pay for success contracts for early childhood
24 education services. Each contract shall include the following:

25 (1) The stated objective that early childhood education
26 services will be provided to children for the following
27 purposes:

28 (i) To achieve an improvement in readiness for
29 entering kindergarten.

30 (ii) To reduce the number of children requiring

1 special education services and grade retention by fourth
2 grade.

3 (2) A requirement that payment from the Commonwealth be
4 conditioned on the achievement of specific outcomes, based on
5 defined performance targets.

6 (3) An objective process by which an independent
7 evaluator will determine whether the performance targets have
8 been achieved.

9 (4) A detailed description of the intermediary's
10 services under the contract.

11 (5) A calculation of the amount and timing of payments
12 that will be earned by the intermediary during each year of
13 the contract if performance targets are achieved as
14 determined by an independent evaluator.

15 (6) A requirement that the intermediary create a social
16 impact funding instrument to obtain the funds required for
17 the pilot program.

18 (7) A requirement that the total amount of repayments
19 and interest shall not surpass 50% of the actual total
20 savings to the Commonwealth, as determined by the Independent
21 Fiscal Office.

22 (8) A requirement that the intermediary provide to the
23 office an annual status report on all contracts. The report
24 shall include the following information:

25 (i) The number of persons who were eligible for the
26 pilot program funded through pay for success contracts.

27 (ii) The number of persons who applied for the pilot
28 program.

29 (iii) If a person was not selected for the pilot
30 program, the reason for rejection.

1 (iv) The number of persons served by the pilot
2 program.

3 (v) The type of services provided.

4 (vi) The outcomes observed.

5 (vii) The costs avoided.

6 (9) A funding provision, which requires that the office
7 request an appropriation to the fund each fiscal year that
8 the contract is in effect, in an amount determined by the
9 Independent Fiscal Office based upon an assessment of an
10 independent evaluator. The appropriation requested must be
11 equal to the amount due from the Commonwealth for services
12 provided under the contract during a given fiscal year, if
13 performance targets are achieved in accordance with the terms
14 of the contract.

15 (10) A process for the Commonwealth to review payments
16 made by the intermediary through reporting requirements
17 pursuant to the contract.

18 (11) A determination by the Independent Fiscal Office
19 that the contract will result in significant performance
20 improvements and budgetary savings to the Commonwealth across
21 all impacted areas and agencies if the performance targets
22 are achieved.

23 Section 304. Intermediary activities.

24 Intermediary activities associated with a pay for success
25 contract may include, but are not limited to:

26 (1) Negotiating and structuring a pay for success
27 contract among government entities, intermediaries and
28 private sector entities.

29 (2) Raising sufficient capital to fund all costs related
30 to a pay for success contract.

1 (3) Deploying capital and providing guidance to eligible
2 organizations working toward achieving the defined outcomes
3 of a pay for success contract.

4 (4) Assisting an independent evaluator with the
5 evaluation process by which the outcomes of a pay for success
6 contract are determined.

7 (5) Repaying the providers of capital in the event the
8 defined outcomes are achieved and verified.

9 (6) Providing the Independent Fiscal Office with any
10 information, data and documentation requested to fulfill its
11 obligations under this act.

12 Section 305. Duties of Independent Fiscal Office.

13 The Independent Fiscal Office shall determine the amount
14 necessary to pay the principal and interest on all obligations
15 for repayment under the pay for success contracts entered into
16 by the Commonwealth.

17 CHAPTER 5

18 FUNDING

19 Section 501. Pay for Success Trust Fund.

20 (a) Establishment of fund.--The Pay for Success Trust Fund
21 is established as a special fund in the State Treasury. All
22 money deposited in the fund and the interest it accrues are
23 appropriated on a continuing basis to the office and shall be
24 used solely for the purposes of the pilot program.

25 (b) Fund sources.--The fund shall consist of money
26 appropriated by the General Assembly and money deposited from
27 sources under section 502.

28 (c) Budget request.--Each fiscal year, the office shall
29 submit a budget request in an amount equal to the amount due for
30 payment for services provided during a given fiscal year under

1 the pay for success contracts entered into by the office. The
2 budget request shall only include payments to be made under pay
3 for success contracts when the performance targets are achieved
4 in accordance with the terms of the contracts. The Independent
5 Fiscal Office shall determine, based upon an assessment of an
6 independent evaluator, whether performance targets are
7 successfully achieved. The independent evaluator may not be
8 associated, as that term is used in 65 Pa.C.S. Ch. 11 (relating
9 to ethics standards and financial disclosure), with any investor
10 or intermediary, or any principal thereof, or with the office.

11 (d) Use of money.--Money in the fund shall be used to make
12 payments in accordance with the terms and conditions of the pay
13 for success contracts.

14 (e) Separate account.--The State Treasurer shall establish a
15 separate account within the fund for each pay for success
16 contract entered into by the Commonwealth.

17 Section 502. Grants and other funding.

18 The office and an intermediary may apply for, and accept for
19 deposit into the fund, gifts, donations and grants from
20 interested public or private sources for the establishment and
21 administration of the pilot program and the capitalization of
22 the fund.

23 Section 503. Limitation.

24 The pilot program's outstanding obligations for pay for
25 success contracts shall not exceed, in the aggregate,
26 \$50,000,000.

27 CHAPTER 7

28 ADMINISTRATION

29 Section 701. Report.

30 (a) Report required.--By February 1 of each year, the office

1 shall provide a status report on the pilot program to the
2 following:

3 (1) The Governor.

4 (2) The chairman and minority chairman of the
5 Appropriations Committee of the Senate.

6 (3) The chairman and minority chairman of the
7 Appropriations Committee of the House of Representatives.

8 (b) Contents.--The report shall include the following
9 information:

10 (1) The information provided to the office by
11 intermediaries under section 303(8).

12 (2) The balance of the fund.

13 (3) Expenditures from the fund for each pay for success
14 contract.

15 (4) The total anticipated repayment obligation for all
16 outstanding pay for success contracts, as determined by the
17 Independent Fiscal Office based upon an assessment of current
18 performance outcomes by an independent evaluator.

19 (5) An assessment of the feasibility of expanding the
20 pilot program Statewide and expanding the scope of pay for
21 success contracts beyond early childhood education programs.

22 (c) Public information.--The report shall be subject to the
23 act of February 14, 2008 (P.L.6, No.3), known as the Right-to-
24 Know Law.

25 Section 702. Regulations.

26 The office shall promulgate any regulations necessary to
27 effectuate the purposes of this act.

28 CHAPTER 21

29 MISCELLANEOUS PROVISIONS

30 Section 2101. Effective date.

1 This act shall take effect in 60 days.