STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

SENATE BILL 210

By: Thompson and Shaw

AS INTRODUCED

An Act relating to the "Pay for Success Act"; declaring legislative intent; providing definitions; providing for pay-for-success contracts; making certain allowances for agencies; stating requirements for contracts; directing annual report be provided; directing payments be made; creating "Pay-For-Success Innovation Fund"; providing for noncodification; providing for codification; and providing an effective date.

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

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

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

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

It is the intent of the Legislature, through enactment of the Pay for Success Act, to:
1. Authorize innovation opportunities in the form of pay-for-success contracts and authorize success payments to be made from appropriated or other agency funds;

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

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

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

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

As used in this act, the term:

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

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

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5002 of Title 62, unless there is created a duplication in numbering, reads as follows:
A. An agency or agencies may enter into a pay-for-success contract with a private entity or entities to receive upfront capital to fund a service or program. The agency or agencies may not enter into a pay-for-success contract until each state agency head entering into the contract determines with reasonable certainty that the contract will result in a public benefit to the state.

B. Each pay-for-success contract shall:
   1. Require a private entity to underwrite or secure upfront capital from private funding sources, including foundations, financial institutions, businesses or individuals;
   2. Identify the specific service or program to be funded under the contract;
   3. Identify performance targets and outcome measures against which the service or program's success can be measured to determine whether the service or program has achieved quantifiable public benefits or monetary savings;
   4. Require and specify an independent third-party evaluator to review and issue reports annually at specific times during the contract term specifying the degree to which the service or program has met the identified performance targets and outcome measures specified in the contract;
   5. Identify the calculation or algorithm to be used by the agency or agencies in determining the amount and timing of reimbursable success payments to the private entity;
6. Contain a statement that the independent third-party evaluator will annually provide a report to the agency or agencies that includes data deemed relevant by the agency or agencies; and

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

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

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

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

A. There is hereby created in the State Treasury a revolving fund for the Office of Management and Enterprise Services to be designated the "Pay-for-Success Innovation Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall
consist of all monies designated by state agencies to the Pay-for-
Success Innovation Fund and monies which may otherwise be available
to the Office of Management and Enterprise Services for use as
provided for in this section.

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

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

D. The Office of Management and Enterprise Services may adopt
rules as necessary to administer this section or pay-for-success
contracts entered into under this section, including joint rules
adopted with other agencies.
SECTION 6. This act shall become effective November 1, 2019.