



State of Wisconsin
2017 - 2018 LEGISLATURE

January 2018 Special Session

LRB-5282/1

MPG:ahe

SENATE BILL 7

January 26, 2018 - Introduced by COMMITTEE ON SENATE ORGANIZATION, Senators KAPENGA, DARLING, STROEBEL and WANGGAARD, cosponsored by Representatives VOS, FELZKOWSKI, SANFELIPPO, TUSLER, PETERSEN, DUCHOW, PETRYK, KUGLITSCH, TITTL, HORLACHER, KNODL, BRANDTJEN, MURPHY, WICHGERS, BERNIER, KRUG, KLEEFISCH, ROHRKASTE, KATSMAN, KREMER and SWEARINGEN, by request of Governor Scott Walker. Referred to Committee on Public Benefits, Licensing and State-Federal Relations.

- 1 **AN ACT to create** 16.298, 20.505 (1) (rm), 25.17 (1) (kq) and 25.76 of the statutes;
2 **relating to:** pay for success contracting, establishment of pay for success trust
3 fund, and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill authorizes the Department of Administration to contract with a private service provider for payments to provide social, employment, or correctional services to individuals. The bill also creates a nonlapsible trust fund to be known as the "pay for success trust fund," from which payments under such a contract are to be made. The balance of the fund may not exceed \$20,000,000 at any time.

DOA may not execute a contract under the bill unless DOA determines that the contract is expected to result in significant performance improvements or significant budgetary savings for the state or a local governmental unit if the contract objectives are achieved. Additionally, each contract under the bill is subject to approval by the Joint Committee on Finance and must include all of the following:

1. A requirement that a majority of the total contract payment must be conditioned on the service provider achieving certain performance measures specified in the contract toward the outcome of the contract objectives.

2. A defined objective procedure by which an independent evaluator is required to determine whether the performance measures have been achieved.

3. A schedule of the amounts and timing of payments to be earned by the service provider during each year or other specified period of the contract.

The bill also requires the Departments of Health Services, Corrections, Children and Families, and Workforce Development to submit, after study, reports

to the legislature concerning the programs those departments administer and advise whether and how the kind of contracting provided for under the bill could be utilized as an alternative to current funding models for those agencies' provision of program services.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 16.298 of the statutes is created to read:

2 **16.298 Pay for success contracting. (1) DEFINITIONS.** In this section:

3 (a) "Eligible services" means social, employment, or correctional services, as
4 determined by the department.

5 (b) "Fund" means the pay for success trust fund.

6 (c) "Pay for success contract" means a contract authorized under sub. (2) (a).

7 (d) "Service provider" means a private organization, whether operated for
8 profit or not for profit, that provides eligible services to individuals.

9 **(2) CONTRACT EXECUTION.** (a) The department may contract, including jointly
10 with another state agency or a local governmental unit, with a service provider for
11 the payment of moneys to the service provider for the provision of eligible services
12 to individuals.

13 (b) Each pay for success contract shall provide all of the following:

14 1. That a majority of the total contract payment is conditioned on the service
15 provider achieving performance measures, as specified in the contract, toward the
16 outcome of the contract objectives.

17 2. A defined objective procedure by which an independent evaluator is required
18 to determine whether the performance measures specified under subd. 1. have been
19 achieved.

1 3. A schedule of the amounts and timing of payments to be earned by the service
2 provider during each year or other specified period of the contract.

3 (c) For each pay for success contract, the department may not execute the
4 contract unless all of the following occur first:

5 1. The department determines that the contract is expected to result in
6 significant performance improvements or significant budgetary savings for the state
7 or, if appropriate, a local governmental unit, if the contract objectives specified in the
8 proposed contract are achieved.

9 2. The department notifies the joint committee on finance in writing of the
10 proposed contract. The notification shall describe in detail the department's
11 proposal for the contract. If the cochairpersons of the committee do not notify the
12 department within 14 working days after the date of the department's notification
13 that the committee has scheduled a meeting for the purpose of reviewing the
14 proposed contract, the department may execute the contract as proposed in its
15 notification subject to subds. 1. and 3. If, within 14 working days after the date of
16 the department's notification, the cochairpersons of the committee notify the
17 department that the committee has scheduled a meeting for the purpose of reviewing
18 the proposed contract, the department may execute the contract only with the
19 approval of the committee.

20 3. The department makes the deposit under sub. (4) (a).

21 **(3) CONTRACT PAYMENTS.** For each pay for success contract, from the
22 appropriation under s. 20.505 (1) (rm), the department shall make payments under
23 sub. (2) (b) 3. subject to the contract terms.

24 **(4) FUND ADMINISTRATION.** (a) For each pay for success contract, subject to
25 approval of the contract by the joint committee on finance under sub. (2) (c) 2., the

1 secretary shall transfer to the fund from the general fund an amount sufficient to
2 administer the contract and make all payments that may become due under sub. (2)
3 (b) 3. over the effective period of the contract.

4 (b) For each pay for success contract, the secretary shall transfer to the general
5 fund from the fund all of the following:

6 1. If the contract is terminated or otherwise expires, an amount equal to the
7 amount transferred in the fund under par. (a) but not expended under the contract.

8 2. All amounts the department recovers from a service provider for
9 overpayment or for another amount recovered by the department under the terms
10 of a pay for success contract.

11 (c) The balance of the fund may not exceed \$20,000,000 at any time.

12 **(5) REPORTS.** (a) Upon completion of each pay for success contract, the
13 department shall submit a report to the appropriate standing committees of the
14 legislature under s. 13.172 (3) that describes in detail the performance measures
15 specified for the contract under sub. (2) (b) 1. and the extent to which those
16 performance measures were achieved.

17 (b) Upon completion of each pay for success contract under which another state
18 agency jointly contracts with the department under sub. (2) (a), the other state
19 agency shall submit to the appropriate standing committees of the legislature under
20 s. 13.172 (3) a report that describes in detail the outcomes of the contract.

21 **(6) PURCHASING EXEMPTION.** A contract is subject to ss. 16.753 and 16.765, but
22 is otherwise exempt from subch. IV.

23 **SECTION 2.** 20.505 (1) (rm) of the statutes is created to read:

