SENATE BILL 7

January 26, 2018 - Introduced by COMMITTEE ON SENATE ORGANIZATION, Senators Kapenga, Darling, Stroebel and Wanggaard, cosponsored by Representatives Vos, Felzkowski, Sanfelippo, Tushler, Petersen, Duchow, Petryk, Kuglitsch, Tittel, Horlacher, Knodl, Brandtjen, Murphy, Wichgers, Bernier, Krug, Kleefisch, Rohrkaste, Katsma, Kremer and Swearingen, by request of Governor Scott Walker. Referred to Committee on Public Benefits, Licensing and State-Federal Relations.

AN ACT to create 16.298, 20.505 (1) (rm), 25.17 (1) (kq) and 25.76 of the statutes; relating to: pay for success contracting, establishment of pay for success trust 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:

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

1. 16.298 Pay for success contracting. (1) Definitions. In this section:
   (a) “Eligible services” means social, employment, or correctional services, as determined by the department.
   (b) “Fund” means the pay for success trust fund.
   (c) “Pay for success contract” means a contract authorized under sub. (2) (a).
   (d) “Service provider” means a private organization, whether operated for profit or not for profit, that provides eligible services to individuals.

(2) Contract execution. (a) The department may contract, including jointly with another state agency or a local governmental unit, with a service provider for the payment of moneys to the service provider for the provision of eligible services to individuals.

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

1. That a majority of the total contract payment is conditioned on the service provider achieving performance measures, as 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 specified under subd. 1. 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.

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

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

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

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

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

(4) Fund administration. (a) For each pay for success contract, subject to approval of the contract by the joint committee on finance under sub. (2) (c) 2., the
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secretary shall transfer to the fund from the general fund an amount sufficient to
administer the contract and make all payments that may become due under sub. (2)
(b) 3. over the effective period of the contract.

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

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

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

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

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

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

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

SECTION 2. 20.505 (1) (rm) of the statutes is created to read:
20.505 (1) (rm) Pay for success contracting. From the pay for success trust fund, all moneys transferred under s. 16.298 (4) for the purpose of administering and making payments for pay for success contracts under s. 16.298.

**SECTION 3.** 25.17 (1) (kq) of the statutes is created to read:

25.17 (1) (kq) Pay for success trust fund (s. 25.76);

**SECTION 4.** 25.76 of the statutes is created to read:

25.76 Pay for success trust fund. There is established a separate nonlapsible trust fund designated as the pay for success trust fund consisting of transfers made by the department of administration under s. 16.298 (4) (a).

**SECTION 5.** Nonstatutory provisions.

(1) AGENCY STUDIES AND REPORTS. The departments of health services, corrections, children and families, and workforce development shall each conduct a study of the programs it administers to determine whether and how pay for success contracting under section 16.298 of the statutes could be utilized as an alternative to current funding models for the provision of services under the programs. Each of those departments shall submit to the joint committee on finance and the appropriate standing committees of the legislature under section 13.172 (3) of the statutes a report that details its findings from the study.