

By: Villarreal

H.B. No. 1450

A BILL TO BE ENTITLED

AN ACT

relating to pay-for-performance contracts for certain criminal justice programs and services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 495, Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. PAY-FOR-PERFORMANCE CONTRACTS FOR CERTAIN DEPARTMENT PROGRAMS AND SERVICES

Sec. 495.051. DEFINITIONS. In this subchapter:

(1) "Advisory committee" means the advisory committee on pay-for-performance contracts established under Section 495.053.

(2) "Pilot program" means the pay-for-performance contract pilot program developed and implemented as required by Section 495.052.

Sec. 495.052. PAY-FOR-PERFORMANCE CONTRACT PILOT PROGRAM. The board shall develop and implement a pilot program to assess the feasibility, desirability, and cost-effectiveness of entering into contracts:

(1) to operate programs or provide services that are:

(A) under the supervision of the rehabilitation programs division or the reentry and integration division of the department;

(B) designed for the primary purpose of

1 rehabilitating inmates or reintegrating former inmates; and  
2 (C) selected by the board for inclusion in the  
3 pilot program; and

4 (2) under which payments may be made only if:  
5 (A) the contractor meets or exceeds specified  
6 performance requirements; and  
7 (B) the state realizes a positive return on  
8 investment.

9 Sec. 495.053. ADVISORY COMMITTEE. (a) The advisory  
10 committee on pay-for-performance contracts is established for the  
11 primary purpose of advising the board regarding the  
12 pay-for-performance contract pilot program.

13 (b) The advisory committee consists of the following  
14 members:

15 (1) the executive commissioner of the Health and Human  
16 Services Commission, or the executive commissioner's designee;

17 (2) the executive director of the Texas Workforce  
18 Commission, or the executive director's designee;

19 (3) the comptroller, or the comptroller's designee;

20 (4) a representative of a nonprofit organization that  
21 has participated in a pay-for-performance contract program or  
22 similar program, appointed by the board; and

23 (5) any other person the board determines would be of  
24 assistance in developing and implementing the pilot program,  
25 appointed by the board.

26 (c) Members of the advisory committee appointed under  
27 Subsections (b)(4) and (5) serve at the will of the board.

1 (d) The advisory committee shall:

2 (1) advise the board with respect to:

3 (A) criteria to be used for selecting the  
4 programs and services to be included in the pilot program;

5 (B) performance requirements applicable to  
6 contractors under the pilot program and desired outcomes for  
7 persons served by each selected program or service;

8 (C) criteria to be used in evaluating whether a  
9 contractor has met the performance requirements identified under  
10 Paragraph (B); and

11 (D) establishing or revising the methodology for  
12 computing the state's return on investment; and

13 (2) provide any other advice or information relating  
14 to the pilot program that the board requests.

15 (e) Members of the advisory committee are not entitled to  
16 compensation but are entitled to reimbursement for actual and  
17 necessary expenses incurred in performing their official duties as  
18 advisory committee members.

19 (f) Chapter 2110 applies to the advisory committee, except  
20 for Section 2110.008.

21 Sec. 495.054. CONTRACTS AUTHORIZED. (a) The board may  
22 enter into a contract for the operation of a program or performance  
23 of a service that the board selects to be included in the pilot  
24 program. Before the board enters into a contract under this  
25 section, after considering information provided by the proposed  
26 contractor and other information available to the board, the board  
27 must determine that it is likely that having the program operated or

1 services performed under the contract will result in a positive  
2 return on investment for the state in accordance with the  
3 methodology established under Section 495.057.

4 (b) The contract must specify:

5 (1) the program to be operated or service to be  
6 performed by the contractor;

7 (2) the period during which the contractor is to  
8 operate the program or perform the service under the contract;

9 (3) a condition that certain performance requirements  
10 must be met before any payment under the contract may be made  
11 together with a description of:

12 (A) the performance requirements; and

13 (B) the criteria the board will use to evaluate  
14 whether the contractor has met the performance requirements; and

15 (4) a condition that this state must realize a  
16 positive return on investment from the contract before any payment  
17 under the contract may be made together with a description of the  
18 methodology to be used to determine the state's return on  
19 investment.

20 Sec. 495.055. ISSUANCE OF GENERAL OBLIGATION BONDS FOR  
21 PAY-FOR-PERFORMANCE CONTRACTS. (a) The Texas Public Finance  
22 Authority shall issue and sell general obligation bonds of the  
23 state, as authorized by Section 49-g, Article III, Texas  
24 Constitution, in a total amount sufficient to provide money for  
25 payments anticipated to be due under contracts entered into under  
26 this subchapter.

27 (b) The Texas Public Finance Authority shall remit to the

1 comptroller the bond proceeds for deposit to the credit of the  
2 special fund created as required by Section 49-q(b), Article III,  
3 Texas Constitution. The proceeds may be appropriated only:

4 (1) to the Texas Department of Criminal Justice to  
5 make payments under contracts entered into under this subchapter;  
6 or

7 (2) to the authority to pay the principal of or  
8 interest on the bonds.

9 Sec. 495.056. CONTRACT PAYMENTS. Using money appropriated  
10 to the Texas Department of Criminal Justice from the special fund  
11 established under Section 49-q, Article III, Texas Constitution,  
12 the board shall make payments under contracts entered into under  
13 this subchapter, provided that:

14 (1) the contractor has met the performance  
15 requirements specified in the contract;

16 (2) the state's return on investment under the  
17 contract is positive; and

18 (3) all other contract terms have been satisfied.

19 Sec. 495.057. RETURN ON INVESTMENT COMPUTATION. (a) The  
20 board, with advice from the advisory committee, shall establish a  
21 methodology for computing the state's return on investment to  
22 determine whether that return is positive for purposes of making  
23 contract payments in accordance with Section 495.056. The  
24 methodology must:

25 (1) define a positive return on investment for the  
26 state as increases in state revenue, costs avoided by the state, or  
27 a combination of increased revenue and avoided costs in a total

1 amount that equals or exceeds the state's financing and  
2 administration costs associated with a contract; and

3 (2) include considerations of the following:

4 (A) state tax revenue and any other state revenue  
5 collected during the state fiscal year after the state fiscal year  
6 during which the contract was entered into that would not have been  
7 collected if the contract had not been entered into;

8 (B) costs avoided by the state by operating the  
9 program or providing the services through the contract; and

10 (C) costs of debt service on bonds issued under  
11 this subchapter to provide money for payments due under the  
12 contract.

13 (b) The comptroller shall assist the board in collecting  
14 information useful for purposes of determining the state's return  
15 on investment under a contract.

16 Sec. 495.058. REPORT. (a) On or before December 15 of each  
17 year following the year in which the pilot program is implemented,  
18 the department shall submit to the governor and the standing  
19 committees of the legislature with primary jurisdiction over  
20 criminal justice and corrections a report regarding the operation  
21 of the pilot program. The report must:

22 (1) explain the criteria the board uses for selecting  
23 the programs and services to be included in the pilot program;

24 (2) explain the performance requirements applicable  
25 to contractors under the pilot program and desired outcomes for  
26 persons served by each selected program or service;

27 (3) explain the criteria the board uses to evaluate

1 whether a contractor has met the performance requirements described  
2 by Subdivision (2);

3 (4) identify the net benefits to the state of the pilot  
4 program;

5 (5) explain the methodology the board uses to  
6 determine the state's return on investment before pilot program  
7 contract payments are made and the period during which those  
8 payments may be made;

9 (6) include a comparison of the costs to the state of  
10 providing programs and services under contracts entered into under  
11 this subchapter and the costs to the state of directly providing  
12 those programs and services for a comparable period;

13 (7) include a summary of the amounts and terms of the  
14 bonds issued under Section 49-q, Article III, Texas Constitution;  
15 and

16 (8) include a recommendation regarding continuation  
17 or expansion of the pilot program.

18 (b) The Texas Public Finance Authority shall provide to the  
19 department information necessary for the department to provide the  
20 summary required by Subsection (a)(7).

21 SECTION 2. This Act takes effect January 1, 2014, but only  
22 if the constitutional amendment proposed by the 83rd Legislature,  
23 Regular Session, 2013, providing for the issuance of general  
24 obligation bonds to finance pay-for-performance contracts for  
25 certain programs and services for certain offenders is approved by  
26 the voters. If that amendment is not approved by the voters, this  
27 Act has no effect.