

BILL ANALYSIS

Senate Research Center
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H.B. 3014
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

"Pay for success" contracts involve an agreement in which an entity—often government—decides on a problem to address, and investors pay to finance the project. Investors may include private sector individuals, groups, or foundations, among others. A project's success is based on whether a societal ill, like child maltreatment, for example, is reduced, thereby reducing the need for government spending related to that issue. Investors are paid when performance targets are met and associated savings are realized. An intermediary is used to find service providers and investors, and a third-party evaluator determines that project's success.

H.B. 3014 permits the State of Texas to participate in this innovative and potentially cost-saving financing by establishing a trust fund outside the state treasury, with the comptroller of public accounts of the State of Texas (comptroller) as trustee. If the comptroller and the Legislative Budget Board jointly certify that a proposed project will save money and improve performance, and the legislature appropriates sufficient money to meet the terms of the contract, a state agency and the comptroller may jointly enter into a "pay for success" contract with another party or parties.

H.B. 3014 amends current law relating to the administration of "pay for success" contracts for state agencies.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts of the State of Texas in SECTION 1 (403.110, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter G, Chapter 403, Government Code, by adding Section 403.110, as follows:

Sec. 403.110. SUCCESS CONTRACT PAYMENTS TRUST FUND. (a) Provides that the success contract payments trust fund is established as a trust fund outside the state treasury with the comptroller of public accounts of the State of Texas (comptroller) as trustee.

(b) Provides that the trust fund is established to provide a fund from which the comptroller as trustee is authorized to make success contract payments due in accordance with the contract terms without the necessity of an appropriation for the contract payment.

(c) Provides that the trust fund consists of money appropriated for deposit to the credit of the trust fund and any interest or other earnings attributable to the trust fund. Requires the comptroller to hold money credited to the trust fund for use only for payments due in accordance with success contract terms and expenses incurred in administering the trust fund or in administering the success contracts for which the trust fund is established. Prohibits the balance of the trust fund from exceeding \$50 million at any time. Authorizes the comptroller to establish in the

trust fund one or more accounts to administer money for a particular success contract for which money has been credited to the trust fund.

(d) Authorizes a state agency and the comptroller, notwithstanding any other law, to jointly enter into a success contract with any person the terms of which are required to include:

(1) that a majority of the contract payment is conditioned on the contractor meeting or exceeding certain specified performance measures toward the outcome of the contract's objectives;

(2) a defined objective procedure by which an independent evaluator is to determine whether the specified performance measures have been met or exceeded; and

(3) a schedule of the amounts and timing of payments to be earned by the contractor during each year or other specified period of the contract that indicates the payment amounts conditioned on meeting or exceeding the specified performance measures.

(e) Prohibits the comptroller and a state agency from finally executing a proposed success contract under this section unless:

(1) the comptroller and the Legislative Budget Board certify that the proposed contract is expected to result in significant performance improvements and significant budgetary savings for the state agency or agencies party to the contract if the performance targets are achieved; and

(2) the legislature has appropriated for deposit to the credit of the trust fund, contingent on the execution of the contract, an amount of money necessary to administer the contract and make all payments that may become due under the contract over the effective period of the contract.

(f) Requires the comptroller to make the contract payments for the success contracts only from the trust fund and only in accordance with the terms of the success contracts. Requires the comptroller to deposit to the credit of the trust fund any money the comptroller recovers from a contractor for overpayment or for a penalty or other amount recoverable under the terms of a success contract and to hold the money in the trust fund in the same manner as the money held for payments for the success contract. Requires the comptroller, to the extent that any money credited to the trust fund for a particular success contract remains unpaid at the time the particular contract expires or is terminated, as soon after the contract expiration as is practicable, to return the unpaid amount to the state treasury fund or account from which the money was appropriated.

(g) Requires the comptroller to provide to each legislature not later than the first day of the regular legislative session a report that:

(1) provides details about the success in achieving the specified performance measures of each success contract entered into under this section that has not expired or been terminated or that expired or was terminated since the date of the preceding report under this subsection; and

(2) provides details about proposed success contracts that have not been executed at the time of the report.

(h) Authorizes the comptroller to adopt rules as necessary to administer this section or success contracts entered into under this section, including joint rules

adopted with other agencies that may be party to success contracts under this section.

SECTION 2. Effective date: September 1, 2015.