

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Parker, Burkett, Guerra

H.B. No. 3014

A BILL TO BE ENTITLED

AN ACT

relating to the administration of "pay for success" contracts for state agencies.

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

SECTION 1. Subchapter G, Chapter 403, Government Code, is amended by adding Section 403.110 to read as follows:

Sec. 403.110. SUCCESS CONTRACT PAYMENTS TRUST FUND. (a)

The success contract payments trust fund is established as a trust fund outside the state treasury with the comptroller as trustee.

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

(c) 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. The comptroller shall 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. The balance of the trust fund may not exceed \$50 million at any time. The comptroller may 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.

1       (d) Notwithstanding any other law, a state agency and the  
2 comptroller jointly may enter into a success contract with any  
3 person the terms of which must include:

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

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

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

16       (e) The comptroller and a state agency may not finally  
17 execute a proposed success contract under this section unless:

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

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

1       (f) The comptroller shall make the contract payments for the  
2 success contracts only from the trust fund and only in accordance  
3 with the terms of the success contracts. The comptroller shall  
4 deposit to the credit of the trust fund any money the comptroller  
5 recovers from a contractor for overpayment or for a penalty or other  
6 amount recoverable under the terms of a success contract and shall  
7 hold the money in the trust fund in the same manner as the money held  
8 for payments for the success contract. To the extent that any money  
9 credited to the trust fund for a particular success contract  
10 remains unpaid at the time the particular contract expires or is  
11 terminated, as soon after the contract expiration as is  
12 practicable, the comptroller shall return the unpaid amount to the  
13 state treasury fund or account from which the money was  
14 appropriated.

15       (g) The comptroller shall provide to each legislature not  
16 later than the first day of the regular legislative session a report  
17 that:

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

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

25       (h) The comptroller may adopt rules as necessary to  
26 administer this section or success contracts entered into under  
27 this section, including joint rules adopted with other agencies

1 that may be party to success contracts under this section.

2 SECTION 2. This Act takes effect September 1, 2015.

ADOPTED

MAY 22 2015

*Atty. Gen.*  
Secretary of the Senate

By: \_\_\_\_\_ .B. No. \_\_\_\_\_

Substitute the following for \_\_\_\_\_ .B. No. \_\_\_\_\_:

By: *[Signature]* C.S. A.B. No. 3014

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10 (b) The trust fund is established to provide a fund from  
11 which the comptroller as trustee may make success contract payments  
12 due in accordance with the contract terms without the necessity of  
13 an appropriation for the contract payment.

14 (c) The trust fund consists of money appropriated for  
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16 earnings attributable to the trust fund. The comptroller shall hold  
17 money credited to the trust fund for use only for payments due in  
18 accordance with success contract terms and expenses incurred in  
19 administering the trust fund or in administering the success  
20 contracts for which the trust fund is established. The balance of  
21 the trust fund may not exceed \$50 million at any time. The  
22 comptroller may establish in the trust fund one or more accounts to  
23 administer money for a particular success contract for which money  
24 has been credited to the trust fund.

1           (d) Notwithstanding any other law, a state agency and the  
2 comptroller jointly may enter into a success contract with any  
3 person the terms of which must include:

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

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

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

16           (e) The comptroller and a state agency may not finally  
17 execute a proposed success contract under this section unless:

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

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

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2 success contracts only from the trust fund and only in accordance  
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11 terminated, as soon after the contract expiration as is  
12 practicable, the comptroller shall return the unpaid amount to the  
13 state treasury fund or account from which the money was  
14 appropriated.

15           (g) Each state agency shall provide to each legislature not  
16 later than the first day of the regular legislative session a report  
17 that:

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

23                   (2) provides details about proposed success contracts  
24 that the state agency has not executed at the time of the report.

25           (h) The comptroller may adopt rules as necessary to  
26 administer this section or success contracts entered into under  
27 this section, including joint rules adopted with other agencies

1 that may be party to success contracts under this section.

2 SECTION 2. This Act takes effect September 1, 2015.



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 23, 2015**

**TO:** Honorable Joe Straus, Speaker of the House, House of Representatives

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB3014** by Parker (Relating to the administration of "pay for success" contracts for state agencies.), **As Passed 2nd House**

The number of contracts that would be created under the procurement authority created by the bill is unknown, and fiscal implications of the bill therefore cannot be determined at this time.

The bill would amend the Government Code to create a new procurement authority. State agencies and the Comptroller of Public Accounts (CPA) would be permitted to jointly enter contracts with any person on contracts where the majority of the contract payment is conditioned on meeting specified performance measures, subject to certain restrictions and requirements described in the bill.

The bill would also establish a trust fund outside of the Treasury with the CPA for payments on the types of contracts authorized by the bill. The trust fund would consist of any money appropriated to the trust fund and any interest and earnings attributable to the fund but could not exceed \$50 million at any time.

The bill would require state agencies to publish an annual report on proposed and executed contracts related to the fund, including performance details of executed contracts.

CPA estimates that there would be a cost to implement the provisions of the bill. However, the number of contracts the agency would manage cannot be estimated, and therefore, the cost cannot be determined at this time. Management of the trust fund created under the bill could be absorbed within existing agency resources.

The bill would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either within or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in the bill would be subject to funds consolidation review by the current Legislature.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** UP, SD, KMc, CL, JI



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 15, 2015**

**TO:** Honorable Kevin Eltife, Chair, Senate Committee on Business & Commerce

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB3014** by Parker (Relating to the administration of "pay for success" contracts for state agencies.), **Committee Report 2nd House, Substituted**

The number of contracts that would be created under the procurement authority created by the bill is unknown, and fiscal implications of the bill therefore cannot be determined at this time.

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**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** UP, KMc, CL, JI

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**May 5, 2015**

**TO:** Honorable Kevin Eltife, Chair, Senate Committee on Business & Commerce

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB3014** by Parker (Relating to the administration of "pay for success" contracts for state agencies.), **As Engrossed**

The number of contracts that would be created under the procurement authority created by the bill is unknown, and fiscal implications of the bill therefore cannot be determined at this time.

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**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** UP, CL, JI, KMc

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**April 10, 2015**

**TO:** Honorable Tan Parker, Chair, House Committee on Investments & Financial Services

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB3014** by Parker (Relating to the administration of "pay for success" contracts for state agencies.), **Committee Report 1st House, Substituted**

The number of contracts that would be created under the procurement authority created by the bill is unknown, and fiscal implications of the bill therefore cannot be determined at this time.

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**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** UP, CL, JI, KMc

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**April 1, 2015**

**TO:** Honorable Tan Parker, Chair, House Committee on Investments & Financial Services

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB3014** by Parker (Relating to the administration of "pay for success" contracts for state agencies.), **As Introduced**

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