

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 210

By: Thompson, Shaw, Hicks,
Floyd, Matthews and
Stanislowski of the Senate

4 and

5 Fetgatter of the House

6
7
8 An Act relating to the "Pay for Success Act";
9 declaring legislative intent; providing definitions;
10 providing for pay-for-success contracts; making
11 certain allowances for agencies; stating requirements
12 for contracts; directing annual report be provided;
13 directing payments be made; creating "Pay-For-Success
14 Innovation Fund"; providing for noncodification;
15 providing for codification; and providing an
16 effective date.

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19 AUTHORS: Remove Representative Fetgatter as principal House author
20 and substitute with Representative McCall

21 Add as coauthors Steagall, West (Kevin), Crosswhite Hader,
22 Davis, Ford, Roberts (Dustin), Pfeiffer, McDugle,
23 Patzkowsky, Moore, Boles, Sneed, Roberts (Sean), West
24 (Josh), and Cornwell

AMENDMENT NO. 1. Delete the title, enacting clause and entire bill
and replace with:

"An Act relating to election procedures; amending 12
O.S. 2011, Section 426, which relates to statements
under penalty of perjury; clarifying exceptions to
certain statement requirement; specifying certain
type of procedure for executing absentee ballot
affidavits for certain elections; providing certain
alternative procedures for absentee voting; stating
methods for voters requesting absentee ballots;

1 providing method of absentee voting procedures for
2 the absentee voting board entering nursing facilities
3 and veterans centers under certain circumstances;
4 stating criteria for person to claim physically
5 incapacitated status; providing for codification;
6 providing for noncodification; and declaring an
7 emergency.

8 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

9 SECTION 1. AMENDATORY 12 O.S. 2011, Section 426, is
10 amended to read as follows:

11 Section 426. ~~Whenever~~ A. Except as provided by subsection B of
12 this section, whenever, under any law of Oklahoma or under any rule,
13 order, or requirement made pursuant to the law of Oklahoma, any
14 matter is required or permitted to be supported, evidenced,
15 established, or proved by the sworn statement, declaration,
16 verification, certificate, oath, or affidavit, in writing of the
17 person making the same ~~(other than a deposition, or any oath of~~
18 ~~office, or an oath required to be taken before a specified official~~
19 ~~other than a notary public),~~ the matter may with like force and
20 effect be supported, evidenced, established, or proved by the
21 unsworn statement in writing of the person made and signed under
22 penalty of perjury setting forth the date and place of execution and
23 that it is made under the laws of Oklahoma. The statement under
24 penalty of perjury may be substantially in the following form:

1 "I state under penalty of perjury under the laws of Oklahoma
2 that the foregoing is true and correct.

3 _____
4 (Date and Place)

(Signature)"

5 The signed statement under penalty of perjury shall constitute a
6 legally binding assertion that the contents of the statement to
7 which it refers are true. This section shall not affect any
8 requirement for acknowledgment of an instrument affecting real
9 property.

10 B. The provisions of subsection A of this section shall not
11 apply to:

12 1. A deposition;

13 2. Any oath of office;

14 3. An oath required to be taken before a specified official
15 other than a notary public; or

16 4. Any notarial act, oath or affidavit required by Title 26 of
17 the Oklahoma Statutes.

18 SECTION 2. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 14-115.7 of Title 26, unless
20 there is created a duplication in numbering, reads as follows:

21 For any election conducted by the State Election Board or a
22 county election board, the only procedure for properly executing an
23 absentee ballot affidavit shall be that which is required in a
24 section of Title 26 of the Oklahoma Statutes that applies to that

1 type of absentee ballot affidavit, or which otherwise has been
2 specifically allowed for absentee ballot affidavits as provided by
3 Section 3 of this act.

4 SECTION 3. NEW LAW A new section of law not to be
5 codified in the Oklahoma Statutes reads as follows:

6 The following alternative procedures for absentee voting shall
7 be in place for elections to be held during calendar year 2020 and
8 shall supersede such procedures that are provided by statute.

9 A. In the event a State of Emergency declared by the Governor
10 related to the COVID-19 pandemic is in effect forty-five (45) days
11 prior to a scheduled election, or is declared within forty-five (45)
12 days of the election, then:

13 1. A voter who requests an absentee ballot pursuant to Section
14 14-105 of Title 26 of the Oklahoma Statutes may, in lieu of having
15 his or her signature notarized by a notary public as required by
16 Section 14-108 of Title 26 of the Oklahoma Statutes, sign the
17 absentee ballot affidavit and attach a photocopy of a form of
18 identification described in subsection A of Section 7-114 of Title
19 26 of the Oklahoma Statutes; or

20 2. A voter who requests an absentee ballot described pursuant
21 to Section 14-110.1 or Section 14-114 of Title 26 of the Oklahoma
22 Statutes may, in lieu of having his or her signature witnessed by
23 two witnesses, sign the absentee ballot affidavit and include a
24

1 photocopy of a form of identification described in subsection A of
2 Section 7-114 of Title 26 of the Oklahoma Statutes.

3 B. In the event an absentee voting board is prohibited from
4 entering a nursing facility or veterans center due to restrictions
5 related to the COVID-19 pandemic or another localized outbreak of a
6 communicable disease, and applications for an absentee ballot have
7 been submitted by voters confined to that facility pursuant to
8 Section 14-115 of Title 26 of the Oklahoma Statutes, then the
9 secretary of the county election board shall be authorized to allow
10 the absentee voting board to deliver the absentee ballots to a
11 designated official at the nursing facility or veterans center. The
12 designated nursing facility or veterans center official shall sign
13 an oath acknowledging the duties and responsibilities and shall be
14 authorized to carry out the duties otherwise assigned by law to the
15 absentee voting board. The Secretary of the State Election Board is
16 authorized to establish emergency procedures for this process
17 pursuant to Section 22-101 of Title 26 of the Oklahoma Statutes.

18 C. A registered voter who meets any of the following criteria
19 shall be eligible to claim a status as "physically incapacitated"
20 for the purposes of requesting an absentee ballot described in
21 Section 14-110.1 of Title 26 of the Oklahoma Statutes:

22 1. The voter has tested positive for COVID-19 and is receiving
23 medical treatment or is subject to a quarantine ordered by the
24 voter's personal physician or the county health department;

1 2. The voter has been tested for COVID-19 and is quarantined
2 or self-isolating while awaiting results of the test;

3 3. The voter has symptoms of COVID-19, as defined by the
4 Centers for Disease Control and Prevention (CDC), and has been
5 advised by the voter's personal physician or the county health
6 department to quarantine or self-isolate;

7 4. The voter is a member of a group considered at "higher risk
8 of severe illness" due to age or underlying health conditions as
9 defined by the CDC, and as such is subject to a "stay at home" or
10 "safer at home" or similar order by the Governor or by an authorized
11 municipal authority; or

12 5. The voter has received a written recommendation from the
13 voter's personal physician that due to an underlying health
14 condition the voter should not leave his or her home due to the
15 COVID-19 pandemic.

16 SECTION 4. It being immediately necessary for the preservation
17 of the public peace, health or safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval."
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1 Passed the House of Representatives the 6th day of May, 2020.

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4 Presiding Officer of the House of
Representatives

5
6 Passed the Senate the ____ day of _____, 2020.

7
8
9 Presiding Officer of the Senate

1 ENGROSSED SENATE
2 BILL NO. 210

By: Thompson, Shaw, Hicks,
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10 certain allowances for agencies; stating requirements
11 for contracts; directing annual report be provided;
12 directing payments be made; creating "Pay-For-Success
13 Innovation Fund"; providing for noncodification;
14 providing for codification; and providing an
15 effective date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 5. NEW LAW A new section of law not to be
18 codified in the Oklahoma Statutes reads as follows:

19 Sections 2 through 5 of this act shall be known and may be cited
20 as the "Pay for Success Act".

21 SECTION 6. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 5000 of Title 62, unless there
23 is created a duplication in numbering, reads as follows:

24 It is the intent of the Legislature, through enactment of the
Pay for Success Act, to:

1 1. Authorize innovation opportunities in the form of pay-for-
2 success contracts and authorize success payments to be made from
3 appropriated or other agency funds;

4 2. Address outcomes that span the mission and purpose of
5 multiple agencies;

6 3. Provide a fund that may be used by agencies for success
7 payments; and

8 4. Nothing in this act shall prohibit the use of pay-for-
9 success contracts by municipalities, counties or other local
10 jurisdictions.

11 SECTION 7. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 5001 of Title 62, unless there
13 is created a duplication in numbering, reads as follows:

14 As used in this act, the term:

15 1. "Pay-for-success contract" or "contract" means a written
16 agreement executed in order to create a public-private partnership
17 contingent upon a specified service or program meeting specified
18 performance targets and outcome measures; and

19 2. "Success payment" means a single payment or schedule of
20 payments that is identified in a pay-for-success contract to be paid
21 when specified performance targets and outcome measures are met.

22 SECTION 8. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 5002 of Title 62, unless there
24 is created a duplication in numbering, reads as follows:

1 A. An agency or agencies may enter into a pay-for-success
2 contract with a private entity or entities to receive upfront
3 capital to fund a service or program. The agency or agencies may
4 not enter into a pay-for-success contract until each state agency
5 head entering into the contract determines with reasonable certainty
6 that the contract will result in a public benefit to the state.

7 B. Each pay-for-success contract shall:

8 1. Require a private entity to underwrite or secure upfront
9 capital from private funding sources, including foundations,
10 financial institutions, businesses or individuals;

11 2. Identify the specific service or program to be funded under
12 the contract;

13 3. Identify performance targets and outcome measures against
14 which the service or program's success can be measured to determine
15 whether the service or program has achieved quantifiable public
16 benefits or monetary savings;

17 4. Require and specify an independent third-party evaluator to
18 review and issue reports annually at specific times during the
19 contract term specifying the degree to which the service or program
20 has met the identified performance targets and outcome measures
21 specified in the contract;

22 5. Identify the calculation or algorithm to be used by the
23 agency or agencies in determining the amount and timing of
24 reimbursable success payments to the private entity;

1 6. Contain a statement that the independent third-party
2 evaluator will annually provide a report to the agency or agencies
3 that includes data deemed relevant by the agency or agencies; and

4 7. State that the amount of funds to be reimbursed to the
5 private entity is contingent upon the degree to which the service or
6 program has met the performance targets and outcome measures as
7 evaluated by the independent third-party evaluator.

8 C. By April 1 annually, the agency or agencies shall provide a
9 report to the chairs of the legislative appropriations committees
10 that contains the evaluation from the independent third-party
11 evaluator.

12 D. Payments to private entities for the delivery of performance
13 targets and outcome measures as authorized in this section shall be
14 made only in accordance with the terms of the pay-for-success
15 contract. Payments may be made utilizing the Pay-for-Success
16 Innovation Fund provided for in Section 5 of this act or utilizing
17 other appropriated agency funds in accordance with Oklahoma law.

18 SECTION 9. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 5003 of Title 62, unless there
20 is created a duplication in numbering, reads as follows:

21 A. There is hereby created in the State Treasury a revolving
22 fund for the Office of Management and Enterprise Services to be
23 designated the "Pay-for-Success Innovation Fund". The fund shall be
24 a continuing fund, not subject to fiscal year limitations, and shall

1 consist of all monies designated by state agencies to the Pay-for-
2 Success Innovation Fund and monies which may otherwise be available
3 to the Office of Management and Enterprise Services for use as
4 provided for in this section.

5 B. All monies appropriated to the fund shall be budgeted and
6 expended by the Office of Management and Enterprise Services for the
7 purpose of funding contracts outlined in Section 4 of this act.
8 Pursuant to contract, the Office of Management and Enterprise
9 Services shall provide payment to private entities for the delivery
10 of performance targets and outcome measures at the direction of the
11 agency engaged in the contract and only in accordance with the terms
12 of the pay-for-success contract.

13 C. To the extent that any money credited to this fund for a
14 particular pay-for-success contract remains unpaid at the time the
15 particular contract expires or is terminated, as soon after the
16 contract expiration as is practicable, the Office of Management and
17 Enterprise Services shall return the unpaid amount to the agency to
18 which the money was originally appropriated.

19 D. The Office of Management and Enterprise Services may adopt
20 rules as necessary to administer this section or pay-for-success
21 contracts entered into under this section, including joint rules
22 adopted with other agencies.

23 SECTION 10. This act shall become effective November 1, 2019.
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