

By Representatives Sanderson, Merchant, Feeney, Bainter, Wise, Jones, Littlefield, Mackenzie, Hafner, Stafford, Tobin, Maygarden, Harrington, Arnall, Bitner, Fuller, Flanagan, Goode, K. Pruitt, Tamargo, Albright, Logan, Safley, (Additional Sponsors on Last Printed Page)

1 A bill to be entitled  
2 An act relating to public employee retirement  
3 systems; creating the Public Employees Portable  
4 Retirement Option Act; providing legislative  
5 purpose; providing definitions; providing for  
6 administration of the plan; providing for  
7 contributions; providing for eligibility;  
8 providing for readmission; providing for  
9 management; providing reporting requirements;  
10 providing legislative intent; providing an  
11 effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15 Section 1. Short title; legislative purpose;  
16 definitions; creation of public employees' portable retirement  
17 option; administration; eligibility; readmission; management;  
18 reporting requirements.--

19 (1) SHORT TITLE.--This section may be cited as the  
20 "Public Employees Portable Retirement Option Act."

21 (2) PURPOSE.--

22 (a) This section shall require alternative retirement  
23 plans for certain state and local public agency employees. The  
24 purpose of this section is to require state and local public  
25 agencies to provide a defined contribution alternative basic  
26 pension plan that is fully portable, immediately vested, and  
27 fully funded on a current basis from employer contributions.

28 (b) In no event may the state or any local public  
29 agency fail to continue to offer membership in any retirement  
30 system in existence at the time of the enactment of this  
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1 section, to current employees, new employees, or retirees as a  
2 result of implementing this alternative retirement plan.

3 (c) The alternative retirement plan authorized by this  
4 section shall be established and administered in accordance  
5 with the requirements for section 401(a) qualified retirement  
6 plans under the Internal Revenue Code of 1986, as amended.

7 (3) DEFINITIONS.--As used in this section, unless the  
8 context clearly requires a different meaning:

9 (a) "Accrued service benefit" means the amount,  
10 determined by the actuary of the existing retirement system,  
11 which represents the present value of an employee's accrued  
12 retirement benefit earned through the date on which a payment  
13 is made to a portable retirement plan by an existing  
14 retirement system for the benefit of an individual account. In  
15 order to determine the present value of the accrued benefit,  
16 the discount rate for investment earnings and the assumptions  
17 for current final average compensation shall be approved by  
18 the employer. At the employer's written election, the accrued  
19 services benefit shall also include an employee's pro rata  
20 share of any actuarially determined excess of plan assets  
21 compared to accrued liabilities in the existing retirement  
22 system on the reporting date prior to implementation of the  
23 portable retirement plan.

24 (b) "Administrator" means an employee of an employer  
25 who has been designated by the employer as administrator of  
26 the plan, or a representative body or other authority  
27 designated by the employer.

28 (c) "Compensation" means the remuneration paid by the  
29 employer in payment for the employee's services during normal  
30 working hours, but does not include the monetary value of any  
31 other advantages furnished to the employee.

1       (d) "Employee" means any person employed by an  
2 employer.

3       (e) "Employer" means the state or local public agency,  
4 including, but not limited to, any school district.

5       (f) "Employer contribution" means an amount deposited  
6 into the participant's individual account on a periodic basis  
7 coinciding with the employee's regular pay period by an  
8 employer from its own funds.

9       (g) "Existing employee" means any person employed by  
10 an employer upon the date of implementation of the PRP.

11       (h) "Existing retirement system" means any state or  
12 local public retirement system in existence upon the  
13 employer's implementation of the PRP.

14       (i) "Individual Account" or "account" means an account  
15 in a portable retirement plan established for each participant  
16 to record the deposit of employer contributions and earnings  
17 thereon on behalf of the participant.

18       (j) "Participant" means an employee who elects the  
19 PRP.

20       (k) "Fund" means the Public Employees' Portable  
21 Retirement Plan Fund which may be created under this act and  
22 funded by the state for the payment of administrative costs of  
23 the PRP.

24       (l) "Portable retirement plan," "PRP," means the  
25 alternative retirement plan created by this section.

26       (m) "Retirement" means an employee's withdrawal from  
27 the active employment of an employer and completion of all  
28 conditions precedent to retirement.

29       (4) CREATION.--Each employer is hereby required to  
30 implement a portable retirement plan providing the opportunity  
31 for retirement savings for its respective employees. The PRP

1 may be tailored to each employer's individual needs and shall  
2 provide for orderly administration.

3 (5) ADMINISTRATION.--The State Board of Administration  
4 and employers are hereby authorized to exercise all powers  
5 necessary to effectuate the provisions of this section. The  
6 State Board of Administration may delegate to service  
7 providers the day-to-day operations of the plan.

8 Administrative costs and payments shall be made from the fund,  
9 if created by law, otherwise from the participants in the PRP.

10 (6) CONTRIBUTION.--Employer contributions may equal  
11 the normal cost portion of the applicable existing retirement  
12 system's contribution rate applicable to the employee plus the  
13 equivalent of the health insurance subsidy contribution amount  
14 if the employee is otherwise authorized to receive such. In no  
15 event shall employer contributions fall below levels necessary  
16 for the PRP to qualify as a "public retirement system" under  
17 Internal Revenue Code s. 3121(b)(7)(F). Each participant shall  
18 vest immediately in all employer contributions. The employer  
19 shall continue to pay any existing contributions specified to  
20 offset unfunded accrued liabilities of the existing retirement  
21 system for a designated amortized period.

22 (7) ELIGIBILITY FOR THE PLAN.--

23 (a) Notwithstanding existing retirement systems,  
24 including, but not limited to, those established under ss.  
25 121.011, 122.01, 122.05, 123.01, 238.01, and 240.3195, any  
26 employee, except employees electing to participate in the  
27 optional retirement program established under s. 121.35 or the  
28 Senior Management Service Optional Annuity Program established  
29 under s. 121.055, may voluntarily elect membership in the PRP.  
30 Employees electing to participate in the PRP may not  
31 participate in any applicable existing retirement system, but

1 may participate in any and all applicable supplemental plans  
2 including those offered under the Internal Revenue Code ss.  
3 403(b) and 457.

4 (b) Employees electing to participate in the PRP must  
5 provide written notice to the employer. Each employer must  
6 designate an election period not less than 90 days from  
7 implementation for existing employees or 90 days from the  
8 first day of employment for new employees. Employees failing  
9 to make an election during the applicable time period will  
10 automatically participate in the applicable existing  
11 retirement system. For existing employees electing to  
12 participate in the PRP, the administrator of the PRP shall  
13 notify the existing retirement system of the employee's  
14 election and the employee's service record and compensation  
15 history within 45 days of that election, and the existing  
16 retirement system, within 45 days, shall transfer to the  
17 administrator a payment equal to the actuarial present value  
18 of the employee's accrued service benefit on the date of  
19 transfer. The amount so transferred shall be credited to the  
20 employee's individual account.

21 (8) READMISSION TO THE PLAN.--

22 (a) Any employee whose employment terminates and is  
23 later reemployed by an employer shall be eligible for  
24 membership in either the existing retirement system or the  
25 portable retirement option subject to the conditions provided  
26 for in subsection (6).

27 (b) An employee whose employment with a former  
28 employer or an existing employer is suspended as a result of  
29 an approved leave of absence, approved maternity or paternity  
30 break in service, or any other approved break in service  
31 authorized by an employer, is eligible for readmission to the

1 plan in which he or she was a member at the time the break in  
2 service began.

3 (c) In all cases where a question exists as to the  
4 readmission to membership in a plan, the employer shall decide  
5 the question.

6 (9) MANAGEMENT OF THE PLAN.--

7 (a) The State Board of Administration shall act as  
8 manager of the plan. The manager shall identify plan providers  
9 for the plan. Plan providers shall include the plan providers  
10 included in the optional retirement plan pursuant to s.  
11 121.35. The manager shall select additional providers, one of  
12 which must be a mutual fund. No more than a total of three  
13 additional providers shall be selected. In addition to the  
14 required mutual fund, the manager may consider a group annuity  
15 contract, individual retirement annuities, interests in  
16 trusts, additional mutual funds or other financial instruments  
17 as necessary or appropriate for the plan to provide retirement  
18 and related benefits comparable to those provided in the  
19 existing retirement systems. The manager shall consider all of  
20 the following in selecting additional plan providers:

21 1. The experience of the plan provider in 10 other  
22 states providing retirement annuities or trusteed mutual fund  
23 arrangements as defined contribution primary pension plans for  
24 public employees.

25 2. The financial stability of the plan provider as  
26 evidenced by national rating services.

27 3. The intrastate and interstate portability of the  
28 product offered by the plan provider, including flexibility in  
29 offering early withdrawal options.

30 4. Product compliance with the Internal Revenue Code.  
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1           5. The ratio of assigned plan provider employees to  
2 participants.

3           6. The ability of the plan provider to coordinate and  
4 apply employer contribution data with the employer.

5           7. The capability of the plan provider to effectively  
6 meet the goals of the plan.

7           8. The educational services of the plan provider  
8 including personal counseling, group seminars, and retirement  
9 related financial planning services.

10           (b) Selection of additional plan providers shall be  
11 conducted through a competitive selection process.

12           (c) The manager shall periodically review each plan  
13 provider to ensure compliance with the criteria established  
14 herein. Pursuant to review, plan provider contracts which are  
15 not in compliance may be terminated. Subject to any applicable  
16 requirement in the agreement, the manager may provide for the  
17 transfer of a participant's individual account to another  
18 approved plan provider selected by the participant.

19           (d) If requested by the employer, an existing  
20 retirement system shall provide an actuarially determined  
21 optional disability benefit option and employer contribution  
22 rate for employees who elect to participate in the PRP.

23           (10) REPORTING REQUIREMENTS.--The employer,  
24 administrator, or service provider shall prepare, or cause to  
25 be prepared, at least quarterly, a statement for each  
26 participant's individual account. The statement shall include  
27 the current market value of the account, including  
28 self-directed investment options, an itemization of changes in  
29 the account, and other information as may be required by the  
30 administrator or the employer. The service provider shall  
31 provide summary reports to the employer annually. The





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