

By Senator Williams

4-835-98

See HB

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

A bill to be entitled  
An act relating to public employee retirement systems; creating the Public Employees Portable Retirement Option Act; providing legislative purpose; providing definitions; providing for administration of the plan; providing for eligibility; providing for readmission; providing for management; providing reporting requirements; providing an effective date.

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

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

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

(2) PURPOSE.--

(a) This section shall be liberally construed to authorize alternative retirement plans for state and local public agency employees. The purpose of this section is to authorize state and local public agencies to provide portable retirement options that are fully funded on a current basis from employee or employer contributions, or both.

(b) In no event may the state or any local public agency fail to continue to offer membership in any retirement system in existence at the time of the enactment of this section, to current employees, new employees, or retirees.

(c) Portable retirement options as authorized by this section shall be established and administered in accordance

1 with the requirements for qualified retirement or eligible  
2 deferred compensation plans respectively under the Internal  
3 Revenue Code of 1986, as amended.

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

6 (a) "Retirement" means a member's withdrawal from the  
7 active employment of an employer and completion of all  
8 conditions precedent to retirement.

9 (b) "Portable retirement option or plan" means the  
10 portable retirement option authorized by this section as those  
11 plans may be established by the state or individual local  
12 public agencies.

13 (c) "Existing retirement system" means any state or  
14 local public retirement system.

15 (d) "Existing employer" means any public employer or a  
16 member of the existing retirement system.

17 (e) "Member" or "employee" means any person employed  
18 by the state or any local public agency that elects to be  
19 included in the plan.

20 (f) "Employer" means the state or local public agency,  
21 including, but not limited to, any school district, that  
22 employs a member.

23 (g) "Compensation" means the remuneration paid by the  
24 employer in payment for the employee's services during normal  
25 working hours, but does not include the monetary value of any  
26 other advantages furnished to the employee.

27 (h) "Member contribution" means an amount deducted  
28 from the employee's regular pay, and deposited into the  
29 member's individual account within a defined contribution  
30 plan.

31

1           (i) "Employer contribution" means an amount deposited  
2 into the member's individual account on a periodic basis  
3 coinciding with the employee's regular pay period by an  
4 employer from its own funds.

5           (j) "Individual account" or "account" means an account  
6 in a portable retirement option established for each member to  
7 record the deposit of member and employer contributions and  
8 earnings thereon on behalf of the member.

9           (k) "Fund" means the Public Employees' Portable  
10 Retirement Option Fund.

11           (l) "Administrator" means an employee of an employer  
12 who has been designated by the employer as plan administrator  
13 of the plan, or the service provider hired by the employer to  
14 provide plan administration services to the plan.

15           (m) "Accrued service benefit" means the amount,  
16 determined by the actuary of the existing retirement system,  
17 that represents the present value of an employee's accrued  
18 retirement benefit earned through the date on which a payment  
19 is made to a portable retirement option by an existing  
20 retirement system for the benefit of an individual account. In  
21 order to determine the present value of the accrued benefit,  
22 the discount rate for investment earnings and the assumptions  
23 for current final average compensation shall be approved by  
24 the employer. At the employer's written election, the accrued  
25 services benefit shall also include an employee's pro rata  
26 share of any actuarially determined excess of plan assets  
27 compared to accrued liabilities in the existing retirement  
28 system on the reporting date prior to the employer's election  
29 to make a portable retirement option available to a specific  
30 group of employees.

31

1           (4) CREATION.--Each state and local public agency is  
2 hereby authorized to create a framework for the creation of  
3 retirement plans for their respective employees that are  
4 tailored to each employer's individual needs and that provide  
5 the opportunity for retirement savings and for the orderly  
6 administration of the plans.

7           (5) ADMINISTRATION.--The employer is hereby authorized  
8 to exercise all powers necessary to effectuate the provisions  
9 of this section. The employer shall determine and charge  
10 reasonable costs of administering the system. The employer may  
11 contract with existing public retirement systems or may  
12 contract with a private pension, insurance, annuity, mutual  
13 fund, bank, savings association, or other qualified company or  
14 companies, or any combination of these entities, to administer  
15 the day-to-day operations of the plan. Administrative costs  
16 and payments shall be make from the Public Employees' Portable  
17 Retirement Option Trust Fund, if created by law, otherwise  
18 from the General Revenue Fund upon warrants drawn by the  
19 Comptroller upon demands made by the employer in accordance  
20 with this section and all applicable state laws.

21           (6) ELIGIBILITY FOR THE PLAN.--Any state or other  
22 public agency employee who is a member of any existing  
23 retirement system on the effective date specified in an  
24 agreement between the employee and the employer may, in lieu  
25 of continued or exclusive participation in an existing  
26 retirement system and upon written election, voluntarily elect  
27 membership in a portable retirement option offered by the  
28 employer. The administrator of the portable retirement option  
29 shall notify the existing retirement system of the employee's  
30 election and the employee's service record and compensation  
31 history within 45 days of that election, and the existing

1 retirement system, within 45 days, shall transfer to the plan  
2 administrator a payment equal to the actuarial present value  
3 of the employee's accrued service benefit on the date of  
4 transfer. The amount so transferred shall be credited to the  
5 employee's individual account.

6 (7) READMISSION TO THE PLAN.--

7 (a) Any employee whose employment terminates and is  
8 later reemployed by an employer shall be eligible for  
9 membership in either the existing retirement system or the  
10 portable retirement option.

11 (b) An employee whose employment with a former  
12 employer or an existing employer is suspended as a result of  
13 an approved leave of absence, approved maternity or paternity  
14 break in service, or any other approved break in service  
15 authorized by an employer, is eligible for readmission to the  
16 plan in which he or she was a member at the time the break in  
17 service began.

18 (c) In all cases where a question exists as to the  
19 readmission to membership in a plan, the employer shall decide  
20 the question.

21 (8) MANAGEMENT OF THE PLAN.--The employer, or the  
22 entity or entities with which it has contracted, in  
23 conjunction with this plan, may purchase group annuity  
24 contracts, individual retirement annuities, disability  
25 insurance investment contracts, securities, mutual funds,  
26 interest in trusts, and other financial instruments, health  
27 care benefit plans, and group insurance as necessary or  
28 appropriate for the plan to provide retirement and related  
29 benefits comparable to those provided under an existing  
30 retirement system. Selections of plan administrators,  
31 annuities, and insurance products shall be conducted through a

1 competitive selection process. If requested by a participating  
2 employer, an existing retirement system shall provide an  
3 actuarially determined optional disability benefit option and  
4 employer contribution rate for employees who elect to  
5 participate in a portable retirement option.

6 (9) REPORTING REQUIREMENTS.--The plan administrator  
7 shall prepare, or cause to be prepared, at least quarterly, a  
8 statement for each member's individual account. The statement  
9 shall include the current market value of the account,  
10 including self-directed investment options, an itemization of  
11 changes in the account, the amount vested, and other  
12 information as may be required by the plan administrator or  
13 the employer. The plan administrator or employer shall arrange  
14 for an independent audit of the plan's assets unless the audit  
15 is provided for by a third-party organization.

16 Section 2. This act shall take effect January 1 of the  
17 year following the year in which enacted.

18 \*\*\*\*\*

19 HOUSE SUMMARY

20  
21 Creates the Public Employees' Portable Retirement Option  
22 Act to authorize state and local public sector employers  
23 to provide optional portable retirement plans for state  
24 and local public sector employees. Provides that such  
25 plans are to be administered by employers or by service  
26 providers and would allow employees to participate in the  
27 optional plan in lieu of continued membership in their  
28 existing retirement system. Provides that the existing  
29 retirement system would be required to transfer the  
30 actuarial present value, as defined in the act to the  
31 plan administrator. See bill for details.