

1 WHEREAS, the state's Workforce 2000 Study Commission
2 recommended to the 1998 Legislature that Florida "implement a
3 defined contribution retirement plan choice for the Florida
4 Retirement System employees and employers that is cost-neutral
5 in all significant aspects," and

6 WHEREAS, Florida's public school teachers, principals,
7 district administrators, and other educational staff should
8 have an option similar to that currently provided select
9 higher education employees and specific management classes in
10 the public sector, and

11 WHEREAS, this option is a defined contribution plan
12 that permits employees the ability to own, control, and direct
13 their individual retirement programs; and would greatly reduce
14 the numbers of employees who receive no retirement benefits
15 because they do not stay on the job long enough to vest, and

16 WHEREAS, such an optional retirement program would be
17 portable and permit employees greater freedom and flexibility,
18 thereby assisting employers to attract and retain a quality
19 workforce, NOW, THEREFORE,

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

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23 Section 1. Section 121.0535, Florida Statutes, is
24 created to read:

25 123.0535 Short title; legislative purpose;
26 definitions; creation of Public Education Employees Portable
27 Retirement Option; administration; eligibility; readmission;
28 employee education; management; reporting requirements.--

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

31 (2) PURPOSE.--

1 (a) This section shall require the creation of an
2 alternative retirement option for current and future public
3 education employees. The purpose of this section is to require
4 the Florida Retirement System to provide a defined
5 contribution retirement option that is fully portable,
6 immediately vested, and fully funded on a current basis from
7 employer contributions. Further, the purpose of the Public
8 Education Employees Portable Retirement Option is to increase
9 flexibility for employees to make the transition into other
10 public or private employment; provide an immediate retirement
11 benefit, increase options for addressing retirement needs,
12 personal financial planning, and career transition; provide
13 members with the opportunity to participate, contribute, and
14 manage their retirement future; and provide a fair and
15 reasonable value for employees who leave service before
16 retirement.

17 (b) In no event may the Florida Retirement System fail
18 to continue to offer membership in any retirement system open
19 at the time of the enactment of this section, to current
20 employees, new employees, or retirees as a result of
21 implementing this alternative retirement option.

22 (c) The alternative retirement option authorized by
23 this section shall be established and administered in
24 accordance with the requirements for qualified retirement
25 plans under s. 401(a) of the Internal Revenue Code of 1986, as
26 amended.

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

29 (a) "Accrued service benefit" means the amount of an
30 employee's accrued retirement benefit earned through the date
31 of election to participate in the portable retirement option.

1 (b) "Actuarial equivalent" means a benefit of equal
2 value when computed upon the basis of an interest rate and
3 mortality tables adopted by the manager.

4 (c) "Manager" means the Division of Retirement which
5 is the agency assigned administrative responsibility for the
6 implementation of the portable retirement option.

7 (d) "Beneficiary" means the joint annuitant or any
8 other person, organization, estate, or trust fund designated
9 by the participant to receive a retirement benefit which may
10 be payable upon the participant's death.

11 (e) "Compensation" means the remuneration paid an
12 employee by the employer for work performed as defined in s.
13 121.021(22).

14 (f) "Employee" means any public school employee who is
15 eligible to participate in the Florida Retirement System.

16 (g) "Employer" means any Florida public school
17 district.

18 (h) "Employer contribution" means an amount deposited
19 into the participant's employer contribution account on a
20 periodic basis coinciding with the employee's regular pay
21 period by an employer from its own funds.

22 (i) "Participant contribution" means an amount
23 contributed voluntarily to the participant contribution
24 account.

25 (j) "Disability benefit" means benefits payable in the
26 event of disability as provided in section 7(g).

27 (k) "Portable Retirement Option Commission" means the
28 select committee assigned the responsibility for overseeing
29 the implementation of the plan, approval of additional plan
30 vendors, selection of the vendor providing transfer education,
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1 disability coverage, and for the ongoing oversight of plan
2 service providers.

3 (l) "Transfer education" means a specific education
4 effort designed to assist existing members in making the
5 decision to transfer to the new portable retirement option or
6 remain in the Florida Retirement System.

7 (m) "Health benefit subsidy" means benefits provided
8 by employer contributions as provided by paragraph 6(a).

9 (n) "Existing employee" means any employee as of the
10 date of implementation of the portable retirement option.

11 (o) "Existing retirement system" means any state or
12 local public retirement system in existence upon the
13 employer's implementation of the portable retirement option,
14 including, but not limited to, those established under ss.
15 121.011, 122.01, 122.05, 238.01, and 240.3195.

16 (p) "Individual account" or "account" means an account
17 established for each participant to record the deposit of
18 contributions to the portable retirement option. An employer
19 contribution account is maintained for employer contributions
20 and earnings thereon. A participant contribution account is
21 maintained for the participant contributions to the portable
22 retirement option and earnings thereon.

23 (q) "Participant" means an employee who elects to
24 participate in the portable retirement option.

25 (r) "Portable retirement option," means the
26 alternative portable retirement option plan created by this
27 section for education employees, with contributions
28 accumulating in an individual account and where the
29 participant chooses the investment approach for his or her
30 retirement funds.

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1 (s) "Retirement" means an employee's withdrawal from
2 the active employment of an employer and completion of all
3 conditions precedent to retirement.

4 (t) "Defined benefit plan" means the current
5 retirement plan for education employees administered by the
6 Florida Retirement System.

7 (u) "Defined contribution plan" means the new portable
8 retirement option plan for education employees administered by
9 the manager.

10 (4) CREATION.--The Florida Retirement System shall
11 establish and implement a portable retirement option for
12 current and future public education employees under which
13 contracts providing retirement, death, and disability benefits
14 may be purchased for employees.

15 (5) ELIGIBILITY AND PARTICIPATION.--

16 (a) Any public education employee except employees
17 electing to participate in the optional retirement program
18 established under s. 121.35 or the Senior Management Service
19 Optional Annuity Program established under s. 121.055, may
20 voluntarily elect membership in the portable retirement
21 option. Such employees electing to participate in the portable
22 retirement option may not participate in any applicable
23 existing retirement system, but may participate in any and all
24 applicable supplemental plans including those offered under
25 ss. 403(b) and 457 of the Internal Revenue Code.

26 (b) Existing employees electing to participate in the
27 portable retirement option must provide written notice on a
28 form as provided by the manager and signed by the employee to
29 the employer and the Florida Retirement System of their
30 election and the provider they have chosen. Transfer
31 procedures shall be established by the Florida Retirement

1 System. Each employee shall have an election period not less
2 than 90 days from implementation date of the portable
3 retirement option. In addition, the portable retirement option
4 plan shall be open to employee transfers from the Florida
5 Retirement System for 90 days as of June 1 of every year after
6 the implementation date, but no transfer under the reopening
7 periods shall be permitted for employees who have reached
8 their normal retirement date. Employees failing to make an
9 election during the applicable time period will automatically
10 remain in the Florida Retirement System. A decision to
11 transfer from the Florida Retirement System to the portable
12 retirement option shall be irrevocable. The Florida Retirement
13 System, within 45 days of notification, shall transfer to the
14 named provider or providers a payment equal to the actuarial
15 equivalent single-sum value of the employee's accrued service
16 benefit on the date of transfer. The amount so transferred
17 shall be credited to the employee's employer contribution
18 account.

19 (c) New employees electing to participate in the
20 portable retirement option must provide written notice to the
21 employer and the Florida Retirement System of their election
22 and the provider they have chosen. Employees failing to make
23 an election into portable retirement option will automatically
24 participate in the current defined benefit plan. A new
25 employee shall have the limited right to transfer from the
26 Florida Retirement System to the portable retirement option
27 under the same terms and conditions as existing employees as
28 provided in paragraph (b), as if the date of employment were
29 the date of implementation.

30 (6) CONTRIBUTIONS.--
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1 (a) Each employer shall contribute on behalf of each
2 participant in the portable retirement option an amount equal
3 to 10 percent of compensation, plus the portion of the
4 contribution rate required in s. 112.363(8) that would
5 otherwise be assigned to the Retiree Health Insurance Subsidy
6 Trust Fund, less an amount approved by the manager which shall
7 be deducted to provide for the administration of the portable
8 retirement option.

9 (b) The payment of the contributions to the portable
10 retirement option which is required by this paragraph for each
11 participant and any voluntary participant contributions shall
12 be made by the employer to the designated provider or
13 providers contracting for payment of benefits for the
14 participant under the program. Each participant shall vest
15 immediately in all employer contributions.

16 (c) Each employer shall receive a debit or credit on
17 behalf of each participant in the portable retirement option
18 an amount equal to the amortization assigned to such
19 participant by the Florida Retirement System based on the
20 percentage applicable to all other members of the Florida
21 Retirement System of that membership class provided that
22 increments to the amortization percentage due to benefit
23 improvements or reductions adopted subsequent to any
24 participant's election of the portable retirement option shall
25 not be assigned to such participants.

26 (d) Participants may make voluntary contributions to
27 their accounts according to procedures established by the
28 manager, subject to the limitations of the Internal Revenue
29 Code.

30 (7) BENEFITS.--
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1 (a) Benefits shall be payable under the portable
2 retirement option to participants, or their beneficiaries as
3 designated by the participant in the contract with a provider
4 company, and such benefits shall be paid only by the
5 designated company in accordance with the terms of the annuity
6 contract or contracts applicable to the participant. The
7 participant must be terminated from all employment with all
8 Florida Retirement System employers, as provided in s.
9 121.021(39), to begin receiving the employer-funded benefit.
10 In the event of the participant's death, benefits will be
11 available as if the participant retired on the day the
12 participant died. In the event of disability, benefits will be
13 available as if the participant retired on the date of
14 disability, and supplemental disability benefits may be
15 available as provided in paragraph (g).

16 (b) The benefits payable to any person under the
17 portable retirement option, and any contribution accumulated
18 under such program, shall not be subject to assignment,
19 execution, or attachment or to any legal process whatsoever.

20 (c) A participant who chooses to receive his or her
21 benefits upon termination of employment shall have
22 responsibility to notify the provider company of the date on
23 which he or she wishes the benefits funded by employer
24 contributions to begin. Benefits may be deferred until such
25 time as the participant chooses to make such application.

26 (d) Benefits funded by the participant contributions
27 may be paid out at any time and in any form within the limits
28 provided in the contract between the participant and his or
29 her provider company. The participant shall notify the
30 provider company regarding the date and provisions under which
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1 he or she wants to receive the participant-funded portion of
2 the plan.

3 (e) Designation of beneficiaries.--Each participant
4 may, on a form provided for that purpose, signed and filed
5 with the manager, designate a choice of one or more persons,
6 named sequentially or jointly, as his or her beneficiary who
7 shall receive the benefits, which may be payable in the event
8 of the participant's death pursuant to the provisions of the
9 portable retirement option. If no beneficiary is named in the
10 manner provided above, or if no beneficiary designated by the
11 participant survives the participant, the beneficiary shall be
12 the spouse of the deceased, if living. If the participant's
13 spouse is not alive at his or her death, the beneficiary shall
14 be the living children of the participant. If no children
15 survive, the beneficiary shall be the participant's father or
16 mother, if living; otherwise, the beneficiary shall be the
17 participant's estate. The beneficiary most recently designated
18 by a participant on a form or letter filed with the manager
19 shall be the beneficiary entitled to any benefits payable at
20 the time of the participant's death.

21 (f) Distribution options.--The manager is directed to
22 develop a variety of standard distribution options for
23 employees participating in the portable retirement option, in
24 the event of death, disability, retirement, or termination.
25 The balance of participant accounts shall be disbursed in
26 accordance with these options.

27 (g) Supplemental disability coverage.--The manager
28 will design supplemental disability coverage for members in
29 the portable retirement option, to be provided from external
30 provider or providers approved by the Portable Retirement
31 Option Commission, so that portable retirement option benefits

1 plus supplemental disability benefits are comparable to the
2 amount of benefits provided under the Florida Retirement
3 System, and contributions to fund the disability coverage will
4 be provided from the employer contribution allocation.

5 (8) READMISSION TO THE PLAN.--

6 (a) Any employee who terminates employment while
7 covered under the Florida Retirement System Defined Benefit
8 Plan and then is later reemployed by an employer shall be
9 eligible for membership in either the defined benefit plan or
10 the portable retirement option. Members whose employment
11 terminates while covered under the portable retirement option
12 and are later reemployed shall be eligible for membership in
13 the portable retirement option plan only and may have their
14 contributions to that plan restored subject to rules
15 established by the manager.

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

23 (c) In all cases where a question exists as to the
24 readmission to membership in a plan, the manager shall decide
25 the question.

26 (9) TRANSFER EDUCATION PROGRAM.--The manager shall
27 supervise a comprehensive transfer education program, to be
28 available to all eligible education employees. The program
29 shall be provided by an independent counseling specialist
30 selected by the commission.

31 (10) IMPLEMENTATION AND OVERSIGHT.--

1 (a) There is hereby created a Portable Retirement
2 Option Commission. The commission shall be responsible for
3 overseeing the implementation of the portable retirement
4 option, approving additional plan providers, selecting
5 counselors or specialists to deliver a transfer education
6 program, disability coverage, and approving policy and
7 procedures as recommended by the manager. The listed
8 responsibilities shall terminate July 1, 2001. Thereafter, the
9 commission shall continue to meet annually to monitor ongoing
10 plan activities and approve changes in plan services and
11 provide an annual status report to the Governor, the President
12 of the Senate, and the Speaker of the House of
13 Representatives.

14 (b) The commission shall be composed of the following
15 members: The chair shall be selected by a vote of members. One
16 member shall be a school board member selected by the Florida
17 School Boards Association, one member shall be a district
18 superintendent selected by the Florida Association of District
19 School Superintendents and one member shall be a school
20 administrator selected by the Florida Association of School
21 Administrators. Two members shall be teachers with one
22 selected by the Florida Teaching Profession-National Education
23 Association/United and the second selected by the Florida
24 Education Association/United and two members shall be
25 educational support employees with one selected by the Florida
26 Teaching Profession-National Education Association/United and
27 the second selected by the Florida Education
28 Association/United. Commissioners shall serve for 2 years
29 except that for the initial appointment, three of the
30 commission members shall be appointed for a 1-year term and
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1 four for 2-year terms, as determined by the majority of the
2 membership.

3 (c) The Division of Retirement shall be responsible
4 for providing commission staff support for commission
5 functions, and the director of the division shall serve as
6 facilitator for commission meetings. The director shall also
7 provide information, advice, and counsel as requested by the
8 commission in carrying out its duties.

9 (d) Subject to the requirements of paragraph (a), the
10 manager is hereby authorized to exercise all powers necessary
11 to effectuate the provisions of this section. The manager
12 shall delegate to service providers the day-to-day operations
13 of the plan. Administrative costs shall be paid from the
14 employer contributions as provided by paragraph 6(a); any
15 other administrative costs shall be paid from the accounts of
16 the participants in the portable retirement option.

17 (11) MANAGEMENT OF THE PLAN.--

18 (a) The Division of Retirement shall act as manager of
19 the portable retirement option. The manager shall identify
20 plan providers for the portable retirement option. Plan
21 providers shall include the plan providers included in the
22 optional retirement plan pursuant to s. 121.35. Through a
23 competitive bidding process, the manager shall select
24 additional providers, one of which must include a provider who
25 can offer one or more mutual fund options. No more than a
26 total of three additional providers shall be selected. In
27 addition to the required mutual fund option, the manager may
28 consider a group annuity contract, individual retirement
29 annuities, interests in trusts, additional mutual funds, or
30 other financial instruments as necessary or appropriate for
31 the plan to provide retirement and related benefits comparable

- 1 to those provided in the existing retirement systems. The
2 manager shall consider all of the following in selecting
3 additional plan providers:
- 4 1. The experience of the plan provider in 10 other
5 states providing retirement annuities or trusteed mutual fund
6 arrangements as defined contribution primary pension plans for
7 public employees.
 - 8 2. The financial stability of the plan provider as
9 evidenced by national rating services.
 - 10 3. The intrastate and interstate portability of the
11 product offered by the plan provider, including flexibility in
12 offering early withdrawal options.
 - 13 4. Product compliance with the Internal Revenue Code.
 - 14 5. The ratio of assigned plan provider employees to
15 participants.
 - 16 6. The ability of the plan provider to coordinate and
17 apply employer contribution data with the employer.
 - 18 7. The capability of the plan provider to meet the
19 selection criteria.
 - 20 8. The educational services of the plan provider
21 including personal counseling, group seminars, and retirement
22 related financial planning services.
- 23 (b) As part of the investment options available in
24 paragraph (a) of this section, each provider will offer a
25 conservative asset allocation option for those members who
26 choose not to actually manage their accounts.
- 27 (c) Policy procedures needed for the selection
28 process, and selection of additional plan providers shall be
29 developed and recommended by the Division of Retirement,
30 subject to the approval of the commission.
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1 (d) Subject to paragraph (a), the manager shall
2 periodically review each plan provider to ensure compliance
3 with the selection criteria established herein. Pursuant to
4 review, plan provider contracts which are not in compliance
5 may be terminated. New plan services may be added as a result
6 of the annual review with providers selected through an open
7 competitive process. Subject to any applicable requirement in
8 the agreement, the manager may provide for the transfer of a
9 participant's individual account to another approved plan
10 provider selected by the participant.

11 (e) The manager, working cooperatively with the school
12 districts in the state, shall develop the policies and
13 procedures necessary for the local administration of the
14 portable retirement option. Ongoing plan administration shall
15 be under the coordination of each local employer in
16 conjunction with the service providers.

17 (12) REPORTING REQUIREMENTS.--The applicable service
18 provider or providers shall prepare, or cause to be prepared,
19 at least quarterly, a statement for each participant's
20 individual account. The statement shall include the current
21 market value of the account, including earnings, losses,
22 self-directed investment options, an itemization of changes in
23 the account contributions for the period and other information
24 as may be required by the manager. Service providers shall
25 provide summary reports to the employer annually.

26 Section 2. The Legislature finds that a proper and
27 legitimate state purpose is served when employees and retirees
28 of the state and of its political subdivisions, and the
29 dependents, survivors, and beneficiaries of such employees and
30 retirees, are extended the basic protections afforded by
31 governmental retirement systems that provide fair and adequate

1 benefits and that are managed, administered, and funded in an
2 actuarially sound manner, as required by s. 14, Art. X of the
3 State Constitution and part VII of chapter 112, Florida
4 Statutes. Therefore, the Legislature hereby determines and
5 declares that the provisions of this act fulfill an important
6 state interest.

7 Section 3. Construction.--

8 (1) The retirement plan created by this act shall be
9 administered so as to comply with the Federal Internal Revenue
10 Code, Title 26 U.S.C., and specifically with plan
11 qualification requirements imposed on governmental plans by s.
12 401(a) of the Internal Revenue Code.

13 (2) Any section or provision of this act which may be
14 susceptible to more than one construction shall be interpreted
15 in favor of the construction most likely to satisfy
16 requirements imposed by s. 401(a) of the Internal Revenue
17 Code.

18 Section 4. This act shall take effect July 1, 2000.

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21 HOUSE SUMMARY

22
23 Creates the Public Education Portable Retirement Option
24 within the Florida Retirement System for current and
25 future public education employees which provides a
26 defined contribution retirement option that is fully
27 portable, immediately vested, and fully funded on a
28 current basis from employer contributions. See bill for
29 details.

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31 ADDITIONAL SPONSORS

Rayson, Effman, C. Smith, Betancourt, Greenstein, Henriquez,
Russell and Levine