

By Representatives Garcia, Dockery, Gottlieb, Rayson and
Henriquez

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

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14 WHEREAS, the State of Florida has a long history of
15 serving its employees and their dependents, survivors, and
16 beneficiaries with the basic protections afforded by
17 governmental retirement systems, and

18 WHEREAS, it is not the intent of this act to lessen the
19 state's responsibility to provide a fiscally responsible
20 retirement, disability, and health subsidy benefit for
21 education employees, and

22 WHEREAS, the state's employee workforce parallels that
23 of the nation's and reflects the growing trend in which the
24 typical worker holds multiple jobs and careers in his or her
25 lifetime, and

26 WHEREAS, the state's Workforce 2000 Study Commission
27 recommended to the 1998 Legislature that Florida implement a
28 defined contribution retirement plan choice for the Florida
29 Retirement System employees and employers that is cost-neutral
30 in all significant aspects, and

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1 WHEREAS, Florida's public school teachers, principals,
2 district administrators, and other educational staff should
3 have an option similar to that currently provided select
4 higher education employees and specific management classes in
5 the public sector, and

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

11 WHEREAS, such an optional retirement program would be
12 portable and permit employees greater freedom and flexibility,
13 thereby assisting employers to attract and retain a quality
14 workforce, NOW, THEREFORE,

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

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18 Section 1. Short title; legislative purpose;
19 definitions; creation of Portable Retirement Option for Public
20 Education Employees; administration; eligibility; readmission;
21 employee education; management; reporting requirements.--

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

24 (2) PURPOSE.--

25 (a) This section shall require the creation of an
26 alternative retirement option for current and future public
27 education employees. The purpose of this section is to
28 require the Florida Retirement System to provide a defined
29 contribution retirement option that is fully portable,
30 immediately vested, and fully funded on a current basis from
31 employer contributions. Further, the purpose of the Portable

1 Retirement Option for Public Education Employees is to
2 increase flexibility for employees to make the transition into
3 other public or private employment; provide an immediate
4 retirement benefit, increase options for addressing retirement
5 needs, personal financial planning and career transition;
6 provide members with the opportunity to participate,
7 contribute, and manage their retirement future and provide a
8 fair and reasonable value for employees who leave service
9 before retirement.

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

15 (c) The alternative retirement option authorized by
16 this section shall be established and administered in
17 accordance with the requirements for section 401(a) qualified
18 retirement plans under the Internal Revenue Code of 1986, as
19 amended.

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

22 (a) "Accrued service benefit" means the amount of an
23 employee's accrued retirement benefit earned through the date
24 of election to participate in the portable retirement option
25 plan.

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

29 (c) "Beneficiary" means the joint annuitant or any
30 other person, organization, estate, or trust fund designated
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- 1 by the participant to receive a retirement benefit which may
2 be payable upon the participant's death.
- 3 (d) "Compensation" means the remuneration paid an
4 employee by the employer for work performed as defined in s.
5 121.021(22), Florida Statutes.
- 6 (e) "Defined benefit plan" or "DB Plan" means the
7 current retirement plan for education employees administered
8 by the Florida Retirement System.
- 9 (f) "Defined contribution plan" means the new portable
10 retirement option plan for education employees administered by
11 the manager.
- 12 (g) "Disability benefit" means benefits payable in the
13 event of disability as provided in subsection (7)(g).
- 14 (h) "Employee" means any public school employee who is
15 eligible to participate in the Florida Retirement System.
- 16 (i) "Employer" means any Florida public school
17 district.
- 18 (j) "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 (k) "Existing employee" means any employee as of the
23 date of implementation of the portable retirement option plan.
- 24 (l) "Existing retirement system" means any state or
25 local public retirement system in existence upon the
26 employer's implementation of the portable retirement option
27 plan, including, but not limited to, those established under
28 ss. 121.011, 122.01, 122.05, 238.01, and 240.3195, Florida
29 Statutes.
- 30 (m) "FRS" means the Florida Retirement System.
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- 1 (n) "Health benefit subsidy" means benefits provided
2 by employer contributions as provided by subsection (6)(a).
- 3 (o) "Implementation date" means July 1, 2001.
- 4 (p) "Individual account" or "account" means an account
5 established for each participant to record the deposit of
6 contributions to the portable retirement option plan. An
7 employer contribution account is maintained for employer
8 contributions and earnings thereon. A participant
9 contribution account is maintained for the participant
10 contributions to the portable retirement option plan and
11 earnings thereon.
- 12 (q) "Manager" means the Division of Retirement (DOR)
13 which is the agency assigned administrative responsibility for
14 the implementation of the portable retirement option plan.
- 15 (r) "Participant" means an employee who elects to
16 participate in the portable retirement option plan.
- 17 (s) "Participant contribution" means an amount
18 contributed voluntarily to the participant contribution
19 account.
- 20 (t) "Portable retirement option" or "PRO" means the
21 alternative portable retirement option plan created by this
22 section for education employees, with contributions
23 accumulating in an individual account and where the
24 participant chooses the investment approach for his or her
25 retirement funds.
- 26 (u) "Portable Retirement Option Commission" or "PROC"
27 means the select committee assigned the responsibility for:
28 overseeing the implementation of the plan; approval of
29 additional plan vendors; selection of the vendor providing
30 transfer education; disability coverage; and for the ongoing
31 oversight of plan service providers.

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

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

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

13 (5) ELIGIBILITY AND PARTICIPATION.--

14 (a) Any public education employee except employees
15 electing to participate in the optional retirement program
16 established under s. 121.35, Florida Statutes, or the Senior
17 Management Service Optional Annuity Program established under
18 s. 121.055, Florida Statutes, may voluntarily elect membership
19 in the portable retirement option plan on or after the
20 implementation date of July 1, 2001, as provided in this
21 subsection. Such employees electing to participate in the
22 portable retirement option plan may not continue to
23 participate in any applicable existing retirement system, but
24 may participate in any and all applicable supplemental plans
25 including those offered under the Internal Revenue Code ss.
26 403(b) and 457.

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

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

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

31 (6) CONTRIBUTIONS.--

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

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

16 (c) Participants may make voluntary contributions to
17 their accounts according to procedures established by the
18 manager, subject to the limitations of the Internal Revenue
19 Code.

20 (7) BENEFITS.--

21 (a) Benefits shall be payable under the portable
22 retirement option plan to participants, or their beneficiaries
23 as designated by the participant in the contract with a
24 provider company, and such benefits shall be paid only by the
25 designated company in accordance with the terms of the annuity
26 contract or contracts applicable to the participant. The
27 participant must be terminated from all employment with all
28 Florida Retirement System employers, as provided in s.
29 121.021(39), Florida Statutes, to begin receiving the
30 employer-funded benefit. In the event of the participant's
31 death, benefits will be available as if the participant

1 retired on the day the participant died. In the event of
2 disability, benefits will be available as if the participant
3 retired on the date of disability, and supplemental disability
4 benefits may be available as provided in paragraph (g).

5 (b) The benefits payable to any person under the
6 portable retirement option plan, and any contribution
7 accumulated under such program, shall not be subject to
8 assignment, execution, or attachment or to any legal process
9 whatsoever.

10 (c) A participant who chooses to receive his or her
11 benefits upon termination of employment shall have
12 responsibility to notify the provider company of the date on
13 which he or she wishes the benefits funded by employer
14 contributions to begin. Benefits may be deferred until such
15 time as the participant chooses to make such application.

16 (d) Benefits funded by the participant contributions
17 may be paid out at any time and in any form within the limits
18 provided in the contract between the participant and his or
19 her provider company. The participant shall notify the
20 provider company regarding the date and provisions under which
21 he or she wants to receive the participant-funded portion of
22 the plan.

23 (e) Each participant may, on a form provided for that
24 purpose, signed and filed with the manager, designate a choice
25 of one or more persons, named sequentially or jointly, as his
26 or her beneficiary who shall receive the benefits, which may
27 be payable in the event of the participant's death pursuant to
28 the provisions of the portable retirement option plan. If no
29 beneficiary is named in the manner provided in this paragraph,
30 or if no beneficiary designated by the participant survives
31 the participant, the beneficiary shall be the spouse of the

1 deceased, if living. If the participant's spouse is not alive
2 at his or her death, the beneficiary shall be the living
3 children of the participant. If no children survive, the
4 beneficiary shall be the participant's father or mother, if
5 living; otherwise, the beneficiary shall be the participant's
6 estate. The beneficiary most recently designated by a
7 participant on a form or letter filed with the manager shall
8 be the beneficiary entitled to any benefits payable at the
9 time of the participant's death.

10 (f) The manager is directed to develop a variety of
11 standard distribution options for employees participating in
12 the portable retirement option plan, in the event of death,
13 disability, retirement, or termination. The balance of
14 participant accounts will be disbursed in accordance with
15 these options.

16 (g) The manager will design disability coverage for
17 members in the portable retirement option plan, to be provided
18 from external providers approved by the Portable Retirement
19 Option Commission, so that the portable retirement option plan
20 benefits plus supplemental disability benefits are comparable
21 to the amount of benefits provided under the Florida
22 Retirement System, and contributions to fund the disability
23 coverage will be provided from the employer contribution
24 allocation.

25 (8) READMISSION TO THE PLAN.--

26 (a) Any employee who terminates employment while
27 covered under the Florida Retirement System Defined Benefit
28 Plan and then is later reemployed by an employer shall be
29 eligible for membership in either the defined benefit plan or
30 the portable retirement option plan. Members whose employment
31 terminates while covered under the portable retirement option

1 plan and are later reemployed shall be eligible for membership
2 in the portable retirement option plan only and may have their
3 contributions to that plan restored subject to rules
4 established by the manager.

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

12 (c) In all cases where a question exists as to the
13 readmission to membership in a plan, the manager shall decide
14 the question.

15 (9) TRANSFER EDUCATION PROGRAM.--The manager shall
16 supervise a comprehensive Transfer Education Program, to be
17 available to all eligible education employees. The program
18 shall be provided by an independent counseling specialist
19 selected by the Portable Retirement Option Plan Commission.

20 (10) IMPLEMENTATION AND OVERSIGHT.--

21 (a) There is hereby created a Portable Retirement
22 Option Commission. The commission will be responsible for
23 overseeing the implementation of the portable retirement
24 option plan, approving additional plan providers, selecting
25 counselors or specialists to deliver a transfer education
26 program, disability coverage, and approving policy and
27 procedures as recommended by the manager. These
28 responsibilities will terminate July 1, 2001. Thereafter, the
29 commission will continue to meet annually to monitor ongoing
30 plan activities and approve changes in plan services and
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1 provide an annual status report to the Governor and the
2 Legislature.

3 (b) The commission shall be composed of the following
4 members: the chair who shall be selected by a vote of members.
5 One member shall be a school board member selected by the
6 Florida School Boards Association, one member shall be a
7 district superintendent selected by the Florida Association of
8 District School Superintendents and one member shall be a
9 school administrator selected by the Florida Association of
10 School Administrators. Two members shall be teachers with one
11 selected by the Florida Teaching Profession-National Education
12 Association/United and the second selected by the Florida
13 Education Association/United and two members shall be
14 educational support employees with one selected by the Florida
15 Teaching Profession-National Education Association/United and
16 the second selected by the Florida Education
17 Association/United. Commissioners shall serve for 2 years
18 except that for the initial appointment, three of the
19 commission members shall be appointed for a 1-year term and
20 four for 2-year terms, as determined by the majority of the
21 membership.

22 (c) The manager shall be responsible for providing
23 commission staff support for commission functions, and as
24 facilitator for commission meetings. The manager shall also
25 provide information, advice, and counsel as requested by the
26 commission in carrying out its duties.

27 (d) Subject to the requirements of paragraph (a), the
28 manager is hereby authorized to exercise all powers necessary
29 to effectuate the provisions of this section. The manager
30 shall delegate to service providers the day-to-day operations
31 of the plan. Administrative costs shall be paid from the

1 employer contributions as provided by subsection (6)(a); any
2 other administrative costs shall be paid from the accounts of
3 the participants in the portable retirement option plan.

4 (11) MANAGEMENT OF THE PLAN.--

5 (a) The Division of Retirement shall act as manager of
6 the portable retirement option plan. The manager shall
7 identify plan providers for the portable retirement option
8 plan. Plan providers shall include the plan providers
9 included in the optional retirement plan pursuant to s.
10 121.35, Florida Statutes. Through a competitive bidding
11 process, the manager shall select additional providers, one of
12 which must include a provider who can offer one or more mutual
13 fund options. No more than a total of three additional
14 providers shall be selected. In addition to the required
15 mutual fund option, the manager may consider a group annuity
16 contract, individual retirement annuities, interests in
17 trusts, additional mutual funds, or other financial
18 instruments as necessary or appropriate for the plan to
19 provide retirement and related benefits comparable to those
20 provided in the existing retirement systems. The manager
21 shall consider all of the following in selecting additional
22 plan providers:

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

27 2. The financial stability of the plan provider as
28 evidenced by national rating services.

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

1 4. Product compliance with the Internal Revenue Code.

2 5. The ratio of assigned plan provider employees to
3 participants.

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

6 7. The capability of the plan provider to meet the
7 selection criteria.

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

11 (b) As part of the investment options available in
12 paragraph (a), each provider will offer a conservative asset
13 allocation option for those members who choose not to actually
14 manage their accounts.

15 (c) Policy procedures needed for the selection
16 process, and selection of additional plan providers shall be
17 developed and recommended by the manager, subject to the
18 approval of the commission.

19 (d) Subject to subsection (11)(a) of this act, the
20 manager shall periodically review each plan provider to ensure
21 compliance with the selection criteria established herein.
22 Pursuant to review, plan provider contracts which are not in
23 compliance may be terminated. New plan services may be added
24 as a result of the annual review with providers selected
25 through an open competitive process. Subject to any
26 applicable requirement in the agreement, the manager may
27 provide for the transfer of a participant's individual account
28 to another approved plan provider selected by the participant.

29 (e) The manager, working cooperatively with the school
30 districts in the state, will develop the policies and
31 procedures necessary for the local administration of the

1 portable retirement option plan. Ongoing plan administration
2 shall be under the coordination of each local employer in
3 conjunction with the service providers.

4 (12) REPORTING REQUIREMENTS.--

5 (a) The applicable service providers shall prepare, or
6 cause to be prepared, at least quarterly, a statement for each
7 participant's individual account. The statement shall include
8 the current market value of the account, including
9 earnings/losses, self-directed investment options, an
10 itemization of changes in the account contributions for the
11 period, and other information as may be required by the
12 manager. Service providers shall provide summary reports to
13 the employer annually.

14 Section 2. The Legislature finds that a proper and
15 legitimate state purpose is served when employees and retirees
16 of the state and of its political subdivisions, and the
17 dependents, survivors, and beneficiaries of such employees and
18 retirees, are extended the basic protections afforded by
19 governmental retirement systems that provide fair and adequate
20 benefits and that are managed, administered, and funded in an
21 actuarially sound manner, as required by s. 14, Art. X of the
22 State Constitution and part VII of chapter 112, Florida
23 Statutes. Therefore, the Legislature hereby determines and
24 declares that the provisions of this act fulfill an important
25 state interest.

26 Section 3. Construction severability.--

27 (1) The retirement plan created by this chapter shall
28 be administered so as to comply with the Federal Internal
29 Revenue Code, Title 26 U.S.C., and specifically with plan
30 qualification requirements imposed on governmental plans by
31 section 401(a) of the Internal Revenue Code.

1 (2) Any section or provision of this chapter which may
2 be susceptible to more than one construction shall be
3 interpreted in favor of the construction most likely to
4 satisfy requirements imposed by section 401(a) of the Internal
5 Revenue Code.

6 (3) If any section or provision of this chapter is
7 found to be in conflict with the plan qualification
8 requirements for the governmental plans in section 401(a) of
9 the Internal Revenue Code, the conflicting part of this
10 chapter is hereby inoperative solely to the extent of the
11 conflict, and such finding shall not affect the operation of
12 the remainder of this chapter.

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

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16 HOUSE SUMMARY

17 Creates the Portable Retirement Option for Public
18 Education Employees to require the Florida Retirement
19 System to provide a defined contribution retirement
20 option that is fully portable, immediately vested, and
 fully funded on a current basis from employers
 contributions. See bill for details.

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