

hbd-06

Bill No. HB 1931, 1st Eng.

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Fasano offered the following:

Amendment (with title amendment)

On page 1, line 19, of the bill

insert:

Section 1. Subsection (1), paragraph (a) of subsection (2), paragraph (e) of subsection (4), paragraph (b) of subsection (8), and paragraphs (a) and (b) of subsection (9) of section 121.4501, Florida Statutes, are amended, and paragraph (f) is added to subsection (9) of said section, to read:

121.4501 Public Employee Optional Retirement Program.--

(1) The Trustees of the State Board of Administration shall establish an optional defined contribution retirement program for members of the Florida Retirement System under which retirement benefits will be provided for eligible employees who elect to participate in the program. The benefits to be provided for or on behalf of participants in such optional retirement program shall be provided through

hbd-06

Bill No. HB 1931, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 employee-directed investments, in accordance with s. 401(a) of
 2 the Internal Revenue Code and its related regulations. The
 3 employers shall contribute, as provided in this section and s.
 4 121.571, to the Public Employee Optional Retirement Program
 5 Trust Fund toward the funding of such optional benefits.

6 (2) DEFINITIONS.--As used in this section, the term:
 7 (a) "Approved provider" or "provider" means a private
 8 sector company that is selected and approved by the state
 9 board to offer one or more investment products or services to
 10 the Public Employee Optional Retirement Program, including a
 11 "bundled provider" that offers participants a range of
 12 individually allocated or unallocated investment products and
 13 may offer a range of administrative and customer services,
 14 which may include accounting and administration of individual
 15 participant benefits and contributions; individual participant
 16 recordkeeping; asset purchase, control, and safekeeping;
 17 direct execution of the participant's instructions as to asset
 18 and contribution allocation; calculation of daily net asset
 19 values; direct access to participant account information;
 20 periodic reporting to participants, at least quarterly, on
 21 account balances and transactions; direct advice and guidance
 22 on its investments options; a broad array of distribution
 23 options; and asset allocation and retirement counseling and
 24 education. Private sector companies include investment
 25 management companies, insurance companies, depositories, and
 26 mutual fund companies.

27 (4) PARTICIPATION; ENROLLMENT.--

28 (e) After the period during which an eligible employee
 29 had the choice to elect the defined benefit program or the
 30 Public Employee Optional Retirement Program, the employee
 31 shall have one opportunity, that is, a second election,~~at the~~

hbd-06

Bill No. HB 1931, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 ~~employee's discretion,~~to choose to move from the defined
 2 benefit program to the Public Employee Optional Retirement
 3 Program or from the Public Employee Optional Retirement
 4 Program to the defined benefit program. This paragraph shall
 5 be contingent upon approval from the Internal Revenue Service
 6 for including the choice described herein within the programs
 7 offered by the Florida Retirement System.

8 1. If the employee chooses to move to the Public
 9 Employee Optional Retirement Program, the applicable
 10 provisions of this section shall govern the transfer.

11 2. If the employee chooses to move from the Public
 12 Employee Optional Retirement Program to the defined benefit
 13 program, the employee must transfer from his or her optional
 14 program ~~Public Employee Optional Retirement Program~~ account
 15 and from other employee moneys as necessary, a sum
 16 representing all contributions that would have been made to
 17 the defined benefit plan for that employee and the actual
 18 return that would have been earned on those contributions had
 19 they been invested in the defined benefit program.

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 21 If, at the time of a member's election to transfer to the
 22 defined benefit program, the member's optional program account
 23 does not contain the total amount required to be transferred
 24 to the defined benefit program, the member must pay the
 25 remaining balance. If the member's optional program account
 26 contains more than the amount required to be transferred to
 27 the defined benefit program, such additional amount shall
 28 remain in the member's optional program account.

29 (8) ADMINISTRATION OF PROGRAM.--

30 (b)1. The state board shall select and contract with
 31 one third-party administrator to provide administrative

hbd-06

Bill No. HB 1931, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 services, where those services do not duplicate services
2 provided by the Division of Retirement within the Department
3 of Management Services. With the approval of the state board,
4 the third-party administrator may subcontract with other
5 organizations or individuals to provide components of the
6 administrative services. As a cost of administration, the
7 board may compensate any such contractor for its services, in
8 accordance with the terms of the contract, as is deemed
9 necessary or proper by the board. The third-party
10 administrator may not be an approved provider or be affiliated
11 with an approved provider.

12 2. These administrative services may include, but are
13 not limited to, enrollment of eligible employees, collection
14 of employer contributions, disbursement of such contributions
15 to approved providers in accordance with the allocation
16 directions of participants; services relating to consolidated
17 billing; individual and collective recordkeeping and
18 accounting; asset purchase, control, and safekeeping; and
19 direct disbursement of funds to and from the third-party
20 administrator, the division, the board, employers,
21 participants, approved providers, and beneficiaries. Nothing
22 in this section shall prevent or prohibit a bundled provider
23 from providing any administrative or customer service,
24 including accounting and administration of individual
25 participant benefits and contributions; individual participant
26 recordkeeping; asset purchase, control, and safekeeping;
27 direct execution of the participant's instructions as to asset
28 and contribution allocation; calculation of daily net asset
29 values; direct access to participant account information;
30 periodic reporting to participants, at least quarterly, on
31 account balances and transactions.

hbd-06

Bill No. HB 1931, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 3. The state board shall select and contract with one
2 or more organizations to provide educational services. With
3 approval of the board, the organizations may subcontract with
4 other organizations or individuals to provide components of
5 the educational services. As a cost of administration, the
6 board may compensate any such contractor for its services in
7 accordance with the terms of the contract, as is deemed
8 necessary or proper by the board. The education organization
9 may not be an approved provider or be affiliated with an
10 approved provider.

11 4. Educational services shall be designed by the board
12 and department to assist employers, eligible employees,
13 participants, and beneficiaries in order to maintain
14 compliance with United States Department of Labor regulations
15 under s. 404(c) of the Employee Retirement Income Security Act
16 of 1974 and to assist employees in their choice of defined
17 benefit or defined contribution retirement alternatives.
18 Educational services include, but are not limited to,
19 disseminating educational materials; providing retirement
20 planning education; explaining the differences between the
21 defined benefit retirement plan and the defined contribution
22 retirement plan; and offering financial planning guidance on
23 matters such as investment diversification, investment risks,
24 investment costs, and asset allocation. An approved provider
25 may also provide educational information, including retirement
26 planning and investment allocation information concerning its
27 products and services.

28 (9) INVESTMENT OPTIONS OR PRODUCTS; PERFORMANCE
29 REVIEW.--

30 (a) The board shall develop policy and procedures for
31 selecting, evaluating, and monitoring the performance of

hbd-06

Bill No. HB 1931, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 approved providers and investment products to which employees
2 may direct retirement contributions under the program. In
3 accordance with such policy and procedures, the board shall
4 designate and contract for a number of investment products as
5 determined by the board. The board shall also select one or
6 more bundled providers, each of whom ~~who~~ offer nine multiple
7 investment options and related services ~~products~~ when such an
8 approach is determined by the board to afford value to the
9 participants otherwise not available through individual
10 investment products. Each approved bundled provider may offer
11 investment options that provide participants with the
12 opportunity to invest in each of the following asset classes,
13 to be composed of individual options that represent either a
14 single asset class or a combination thereof: money markets,
15 U.S. fixed income, U.S. equities, and foreign stock.The board
16 shall review and manage all educational materials, contract
17 terms, fee schedules, and other aspects of the approved
18 provider relationships to ensure that no provider is unduly
19 favored or penalized by virtue of its status within the plan.

20 (b) The board shall consider investment options or
21 products it considers appropriate to give participants the
22 opportunity to accumulate retirement benefits, subject to the
23 following:

24 1. The Public Employee Optional Retirement Program
25 must offer a diversified mix of low-cost investment products
26 that span the risk-return spectrum, and may include a
27 guaranteed account as well as investment products such as
28 individually allocated guaranteed and variable annuities, that
29 meet the requirements of this subsection and that combine the
30 ability to accumulate investment returns with the option of
31 receiving lifetime income consistent with the long-term

hbd-06

Bill No. HB 1931, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 retirement security of a pension plan and similar to the
2 lifetime income benefit provided by the Florida Retirement
3 System.

4 2. Investment options or products offered by the group
5 of approved providers may include mutual funds, group annuity
6 contracts, individual retirement annuities, interests in
7 trusts, collective trusts, separate accounts, and other such
8 financial instruments, and shall include products that give
9 participants the option of committing their contributions for
10 an extended time period in an effort to obtain higher returns
11 than could be obtained from investment products offering full
12 liquidity.

13 3. The board shall not contract with any provider that
14 imposes a front-end, back-end, contingent, or deferred sales
15 charge, or any other fee that limits or restricts the ability
16 of participants to select any investment product available in
17 the optional program. This prohibition shall not apply to fees
18 or charges that are imposed on withdrawals from products that
19 give participants the option of committing their contributions
20 for an extended time period in an effort to obtain higher
21 returns than could be obtained from investment products
22 offering full liquidity, provided that the product in
23 question, net of all fees and charges, produces material
24 benefits relative to other comparable products in the program
25 offering full liquidity.

26 4. Fees or charges for insurance features, such as
27 mortality and expense risk charges, shall be reasonable
28 relative to the benefits provided.

29 (f)1. An approved provider shall comply with all
30 applicable federal and state securities and insurance laws and
31 regulations, as well as the applicable rules and guidelines of

hbd-06

Bill No. HB 1931, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 the National Association of Securities Dealers (NASD)
2 governing the ethical marketing of investment products. In
3 furtherance of this mandate, an approved provider must agree
4 in its contract with the board to establish and maintain a
5 compliance education and monitoring system to supervise the
6 activities of all personnel who directly communicate with
7 individual participants and recommend investment products,
8 which system is consistent with National Association of
9 Security Dealers rules.

10 2. Approved provider personnel who directly
11 communicate with individual participants and who recommend
12 investment products shall make an independent and unbiased
13 determination as to whether an investment product is suitable
14 for a particular participant.

15 3. The board shall develop procedures to receive and
16 resolve participant complaints against a provider or approved
17 provider personnel, and, when appropriate, refer such
18 complaints to the appropriate regulatory agency.

19 4. Approved providers are prohibited from selling or
20 in any way distributing any customer list or participant
21 identification information generated through their offering of
22 products or services through the optional retirement program.

23 Section 2. The appointment of the executive director
24 of the State Board of Administration shall be subject to the
25 approval by a majority vote of the Board of Trustees of the
26 State Board of Administration and the Governor must vote on
27 the prevailing side. Such appointment must be reaffirmed in
28 the same manner by the Board of Trustees on an annual basis.
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hbd-06

Bill No. HB 1931, 1st Eng.

Amendment No. ____ (for drafter's use only)

1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 1, line 3, after "programs;"

4

5 insert:

6 amending s. 121.4501, F.S.; redefining the term
7 "approved provider"; providing requirements for
8 the State Board of Administration in carrying
9 out its duties under the program; providing
10 requirements for approved providers regarding
11 federal and state laws and regulations, and for
12 communications with participants; providing
13 requirements for the appointment of the
14 executive director of the State Board of
15 Administration;

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