

By Senator Avila

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1 A bill to be entitled
2 An act relating to portable benefits accounts for
3 independent contractors and sole proprietors; creating
4 part III of ch. 448, F.S., entitled "Voluntary
5 Portable Benefits Act"; creating s. 448.31, F.S.;
6 providing a short title; creating s. 448.32, F.S.;
7 providing definitions; creating s. 448.33, F.S.;
8 authorizing certain parties to make voluntary
9 contributions to portable benefits accounts for
10 independent contractors and sole proprietors;
11 prohibiting contributions to a portable benefits
12 account from being used as a criterion for determining
13 a worker's employment classification; providing
14 requirements for such contributions; providing an
15 effective date.

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

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19 Section 1. Part III of chapter 448, Florida Statutes,
20 consisting of ss. 448.31, 448.32, and 448.33, Florida Statutes,
21 is created and entitled the "Voluntary Portable Benefits Act."

22 Section 2. Section 448.31, Florida Statutes, is created to
23 read:

24 448.31 Short title.—This part may be cited as the
25 "Voluntary Portable Benefits Act."

26 Section 3. Section 448.32, Florida Statutes, is created to
27 read:

28 448.32 Definitions.—As used in this part, the term:

29 (1) "Hiring party" means a person who hires or enters into

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30 a contract with an independent contractor or sole proprietor.

31 (2) (a) "Independent contractor" means a person who meets
32 four of the following criteria:

33 1. Maintains a separate business with his or her own work
34 facility, truck, equipment, materials, or similar
35 accommodations.

36 2. Holds or has applied for a federal employer
37 identification number, unless the person is a sole proprietor
38 who is not required to obtain a federal employer identification
39 number under state or federal regulations.

40 3. Receives compensation for services rendered or work
41 performed and such compensation is paid to a business rather
42 than to an individual.

43 4. Holds one or more bank accounts in the name of the
44 business entity for purposes of paying business expenses or
45 other expenses related to services rendered or work performed
46 for compensation.

47 5. Performs work or is able to perform work for any entity
48 in addition to or besides the hiring party at his or her own
49 election without the necessity of completing an employment
50 application or process.

51 6. Receives compensation for work or services rendered on a
52 competitive-bid basis or completion of a task or a set of tasks
53 as defined by a contractual agreement, unless such contractual
54 agreement expressly states that an employment relationship
55 exists.

56 (b) If a person does not meet four of the criteria pursuant
57 to paragraph (a), a person may still be presumed to be an
58 independent contractor and not an employee based on full

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59 consideration of the nature of the person's situation with
60 regard to whether the person meets any of the following
61 conditions:

62 1. Performs or agrees to perform specific services or work
63 for a specific amount of money and controls the means of
64 performing the services or work.

65 2. Incurs the principal expenses related to the service or
66 work that he or she performs or agrees to perform.

67 3. Is responsible for the satisfactory completion of the
68 work or services that he or she performs or agrees to perform.

69 4. Receives compensation for work or services performed for
70 a commission or on a per-job basis and not on any other basis.

71 5. May realize a profit or suffer a loss in connection with
72 performing work or services.

73 6. Has continuing or recurring business liabilities or
74 obligations.

75 7. Has success or failure in the person's business which
76 depends on the relationship of business receipts to
77 expenditures.

78 (3) (a) "Portable benefits account" means an account that
79 is:

80 1. Opened by an independent contractor or a sole proprietor
81 to fund the purchase of one or more benefit plans and is
82 administered by a third-party portable benefits account provider
83 chosen by the independent contractor or the sole proprietor; and

84 2. Assigned to a beneficiary of one or more benefit plans
85 rather than to a hiring party.

86 (b) As used in paragraph (a), the term "benefit plan"
87 includes, but is not limited to, the following products:

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- 88 1. Health insurance.
- 89 2. Income replacement insurance.
- 90 3. Life insurance.
- 91 4. Retirement benefits.
- 92 (4) "Portable benefits account provider" means the
93 administrator of a portable benefits account and includes:
- 94 (a) A bank, as defined in s. 220.62(1).
- 95 (b) An investment management firm.
- 96 (c) A technology provider or program manager that offers
97 services through a bank or investment management firm.
- 98 (d) Any other person that demonstrates to the satisfaction
99 of the Financial Services Commission that the manner in which
100 the person will administer the portable benefits account will be
101 consistent with the portable benefits account requirements under
102 s. 448.33.
- 103 (5) "Sole proprietor" has the same meaning as in s. 440.02.
104 Section 4. Section 448.33, Florida Statutes, is created to
105 read:
- 106 448.33 Voluntary contributions to portable benefits
107 accounts for independent contractors and sole proprietors.-
- 108 (1) Any person or entity, including an independent
109 contractor; a sole proprietor; a hiring party, whether a public
110 or private entity; or an Internet-based or application-based
111 company, may voluntarily contribute funds to a portable benefits
112 account for an independent contractor or sole proprietor.
- 113 (2) (a) Contributions to a portable benefits account may not
114 be used as a criterion for determining a worker's employment
115 classification.
- 116 (b) Contributions to a portable benefits account may be

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117 made using:118 1. The funds of the hiring party; or119 2. A percentage of funds withheld from compensation owed to
120 the independent contractor or sole proprietor if all the
121 following conditions are met:122 a. The withholdings are voluntary and expressly agreed to
123 in writing, and the agreement is written in clear and
124 unambiguous language and prominently displayed in the work
125 contract or a separate notice.126 b. The withholdings require the independent contractor or
127 sole proprietor to opt in, and the independent contractor or
128 sole proprietor may choose to opt out of the withholdings at any
129 time.

130 Section 5. This act shall take effect July 1, 2025.