By Senator Avila

39-00144-26 2026604__

A bill to be entitled

An act relating to portable benefits accounts for independent contractors and sole proprietors; creating part III of ch. 448, F.S., entitled "Voluntary Portable Benefits Act"; creating s. 448.31, F.S.; providing a short title; creating s. 448.32, F.S.; defining terms; creating s. 448.33, F.S.; authorizing certain parties to make voluntary contributions to portable benefits accounts for independent contractors and sole proprietors; prohibiting contributions to a portable benefits account from being used as a criterion for determining a worker's employment classification; providing requirements for such contributions; providing an effective date.

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

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

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

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

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

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

(1) "Hiring party" means a person who hires or enters into a contract with an independent contractor or a sole proprietor.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

(2)(a) “Independent contractor” means a person who meets at least four of the following criteria:

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

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

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

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

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

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

(b) If a person does not meet at least four of the criteria pursuant to paragraph (a), a person may still be presumed to be an independent contractor and not an employee if the person:

1. Performs or agrees to perform specific services or work

for a specific amount of money and controls the means of performing the services or work;

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

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

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

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

6. Has continuing or recurring business liabilities or obligations; or

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

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

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

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

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

1. Health insurance.

2. Income replacement insurance.

3. Life insurance.

4. Retirement benefits.

(4) “Portable benefits account provider” means the administrator of a portable benefits account and includes:

(a) A bank, as defined in s. 220.62(1).

(b) An investment management firm.

(c) A technology provider or program manager that offers services through a bank or an investment management firm.

(d) Any other person that demonstrates to the satisfaction of the Financial Services Commission that the manner in which the person will administer the portable benefits account will be consistent with the portable benefits account requirements under s. 448.33.

(5) “Sole proprietor” has the same meaning as in s. 440.02.

Section 4. Section 448.33, Florida Statutes, is created to read:

448.33 Voluntary contributions to portable benefits accounts for independent contractors and sole proprietors.—

(1) Any person or entity, including an independent contractor; a sole proprietor; a hiring party, whether a public or private entity; or an Internet-based or application-based company, may voluntarily contribute funds to a portable benefits account for an independent contractor or a sole proprietor.

(2)(a) Contributions to a portable benefits account may not be used as a criterion for determining a worker’s employment classification.

(b) Contributions to a portable benefits account may be made using:

1. The funds of the hiring party; or

2. A percentage of funds withheld from compensation owed to the independent contractor or sole proprietor, if all the

following conditions are met:

a. The withholdings are voluntary and expressly agreed to in writing, and the agreement is written in clear and unambiguous language and prominently displayed in the work contract or a separate notice.

b. The withholdings require the independent contractor or sole proprietor to opt in, and the independent contractor or sole proprietor may choose to opt out of the withholdings at any time.

Section 5. This act shall take effect July 1, 2026.