This Public Employees’ Portable Retirement Option (PRO) Act would authorize state and local public sector employers to provide optional portable retirement plans for state and local public sector employees. The plans would be administered by the employer using a service provider or providers and would allow employees to participate in the optional plan in lieu of continued membership in their existing retirement system. The existing retirement system would be required to transfer the actuarial present value, as defined, to the plan administrator. The bill would establish the Portable Retirement Option Fund in the State Treasury and provide that all moneys would be continuously appropriated for payments of the plan.

Section 1. {Short Title.} This Act shall be known as the Public Employees’ Portable Retirement Option (PRO) Act.

Section 2. {Legislative Declarations.}

Section 3. {Definitions.} As used in this chapter, unless the context clearly requires a different meaning:

(A.) “Retirement” means a member’s withdrawal from the active employment of an employer and completion of all conditions precedent to retirement.

(B.) “Portable retirement option or “plan” means the portable retirement option authorized by this Act as those plans may be established by the state or individual local public agencies.

(C.) “Existing retirement system” means any state or local public retirement system.

(D.) “Existing employer” means any public employer of a member of the existing retirement system.

(E.) “Member” or “employee” means any person employed by the state or any local public agency that elects to be included in the plan.

(F.) “Employer” means the state or local public agency, including, but not limited to, school districts, that employs a member.

(G.) “Compensation” means the remuneration paid by the employer in payment for the employee’s services during normal working hours, but does not include the monetary value of any other advantages furnished to the employee.

(H.) “Member contribution” means an amount reduced from the employee’s regular pay, and deposited into the member’s individual account within a defined contribution plan.

(I.) “Employer contribution” means an amount deposited into the member’s individual account on a periodic basis coinciding with the employee’s regular pay period by an employer from its own funds.

(J.) “Individual account” or “account” means an account in a portable retirement option established for each member and maintained by a service provider or providers to record the deposit of member and employer contributions and earnings thereon on behalf of the member.

(K.) “Fund” means the Public Employees’ Portable Retirement Option Fund.

(L.) “Administrator” means an employee of an employer who has been designated by the employer as plan administrator of the plan, or the service provider hired by the employer to provide plan administration services to the plan.

(M.) “Accrued service benefit” means the amount, determined by the actuary of the existing retirement system, that represents the present value of an employee’s accrued retirement benefit earned through the date on which a payment is made to a portable retirement option by an existing retirement system for the benefit of an individual account. In order to determine the present value of the accrued benefit, the discount rate for investment earnings and the assumptions for current and future compensation shall be approved by the plan administrator. At the employer’s written election, the
accrued services benefit shall also include an employee's pro rata share of any actuarially
determined excess of plan assets compared to accrued liabilities in the existing
retirement system on the reporting date prior to the employer's election to make an
portable retirement option available to a specific group of employees.

(N.) “Service provider” means an insurance, annuity, mutual fund bank, savings
association or qualified company or companies, or any combination of these entities,
responsible for offering investments and the day-to-day service and operation of the plan.

Section 4. (Creation of Public Employees’ Portable Retirement Option.)
Portable retirement options may provide a framework under which the state and each
local public agency are authorized to create retirement plans for their respective
employees that are tailored to each employee's individual needs and that provide the
opportunity for retirement savings and for the orderly administration of the plans.

Section 5. (Purpose.)

(A.) This chapter shall be liberally construed to authorize alternative retirement plans for
state and local public agency employees. The purpose of this chapter is to authorize state
and local public agencies to provide portable retirement options that are fully funded on a
current basis from employer or employee contributions, or both.

(B.) In no event may the state or any local public agency fail to continue to offer
membership in any retirement system in existence at the time of enactment of this Act,
to current employees, new employees, or retirees.

(C.) Portable retirement options shall be established and administered in accordance with
the requirements for qualified retirement or eligible deferred compensation plans
respectively under the Internal Revenue Code of 1986, as amended.

Section 6. (Administration of Plan.)

(A.) The employer has all powers necessary to effectuate the purposes of this Act. The
employer shall determine and charge reasonable costs of administering the system. The
employer may contract with a private pension, insurance, annuity, mutual fund, bank,
savings association, or other qualified company or companies, or any combination of
these entities, to administer the day-to-day operations of the plan and to provide
participant directed investment options for Individual Accounts.

(B.) The Public Employees’ Portable Retirement Option Fund is hereby created for the
portable retirement option and is a trust fund in the State Treasury administered by the
employer in accordance with this Act and applicable state laws. All moneys in the fund
are continuously appropriated, without regard to fiscal years, for administrative costs and
payments that shall be made upon warrants drawn by the Controller upon demands
made by the employer.

Section 7. (Eligibility for the Plan.)

Any state or other public agency employee
who is a member of any existing retirement system on the effective date specified in an
agreement between the employee and the employer may, in lieu of continued or
exclusive participation in an existing retirement system and upon written election,
voluntarily elect membership in an portable retirement option offered by the employer.
The administrator of the portable retirement option shall notify the existing retirement
system of the employee's election and of the employee's service record and
compensation history within [insert time limit, i.e., 45 days] of that election, and the
existing retirement system, within [insert time limit, i.e., 45 days], shall transfer to the
service provider a payment equal to the actuarial present value of the employee's
accrued service benefit on the date of the transfer. The amount so transferred shall be
credited to the employee's individual account.

Section 8. (Readmission to the Plan.)

(A.) Any employee whose employment terminates and is later reemployed by an
employer shall be eligible for membership in either the existing retirement system or the
portable retirement option.

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

(C.) In all cases where a question exists as to the readmission to membership in a plan,
the employer shall decide the question.

Section 9. (Management of the Plan.)
The employer, or the entity or entities
with which it has contracted, in conjunction with this plan, may purchase group annuity
contracts, individual retirement annuities, disability insurance investment contracts,
securities, mutual funds, interests in trusts and other financial arrangements, health care
benefit plans, and group insurance as necessary or appropriate for the plan to provide
retirement and related benefits comparable to those provided under an existing
retirement system. Selections service provider or providers and participant-directed
investment options shall be conducted through a competitive selection process. If
requested by a participating employer, an existing retirement system shall provide an
actuarially determined optional disability benefit option and employer contribution rate
for employees who elect to participate in a portable retirement option.

Section 10. (Reporting Requirements.) The plan administrator or service provider
shall prepare, or cause to be prepared, [insert time period, i.e., at least quarterly] a
statement for each member's individual account. The statement shall include the current
market value of the account, including self-directed investment options, an itemization of
changes in the account, the amount vested, and other information as may be required.
by the plan administrator or the employer. The plan administrator or the employer shall arrange for an independent audit of the plan’s assets unless the audit is provided for by a third party organization.

Section 11. {Severability Clause.}
Section 12. {Repealer Clause.}
Section 13. {Effective Date.}


Center for Media and Democracy’s quick summary

This bill is a move towards eliminating defined benefit pension plans for public employees. Although drafted as an optional program for public workers, it is likely the first step towards replacing defined benefit plans (which guarantees a certain level of benefits) with defined contribution plans (which leaves the payout to free market forces), and eliminating internal management of funds by a state investment board in favor of private sector management by financial service firms which earn money by extracting millions in fees from the pension fund. The 2011 Wisconsin budget bill includes a study of a defined benefit option for state employees.