

P.L. 2023, CHAPTER 43, *approved May 8, 2023*

Senate, No. 2423

1    **AN ACT** concerning the investments of local government deferred  
2       compensation plans and amending P.L.1977, c.381.

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4       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

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7       1. Section 3 of P.L.1977, c.381 (C.43:15B-3) is amended to  
8 read as follows:

9       3. a. The plan shall provide that all money not needed for the  
10 immediate payment of benefits shall be invested by the employer in  
11 interest bearing securities in which savings banks of this State are  
12 authorized to invest their funds, or the employer shall make  
13 deposits in interest bearing accounts, or in the State of New Jersey  
14 Cash Management Fund established pursuant to section 1 of  
15 P.L.1977, c.281 (C.52:18A-90.4), or in individual or group annuity  
16 programs whether fixed or variable, mutual funds, or life insurance  
17 contracts whether fixed or variable.

18       b. Notwithstanding section 1 of P.L.1977, c.381 (C.43:15B-1),  
19 the employer may contract with one or more private organizations  
20 for the administration of all or part of the plan, including the  
21 management and investment, or either thereof, of deferred and  
22 deducted salary funds.

23       Each contract shall be subject to the prior approval of the  
24 Director of the Division of Local Government Services on the basis  
25 of restrictions, limitations and other conditions established by the  
26 director by rule and regulation promulgated pursuant to the  
27 "Administrative Procedure Act" (P.L.1968, c.410, C.52:14B-1 et  
28 seq.); provided, however, that the director shall not approve any  
29 contract if it is inconsistent with any standards which the New  
30 Jersey State Employees' Deferred Compensation Board, established  
31 pursuant to P.L.1978, c.39 (C. 52:18A-163 et seq.), may adopt for  
32 the deferred compensation plans of municipalities, counties, or  
33 authorities thereof, including, but not limited to, any service cost  
34 guidelines. If at the time a municipality, county or authority  
35 submits a contract to the Director of the Division of Local  
36 Government Services for his approval and the New Jersey State  
37 Employees' Deferred Compensation Board has not adopted  
38 standards for such deferred compensation plans, the director may  
39 approve such contract if it is consistent with the rules and  
40 regulations which he has promulgated for such contracts.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 c. The employer may establish a plan or plan option which  
2 permits a participating employee to request the employer to invest  
3 all or a specified percentage of said employee's deferred salary in  
4 one, or a specified combination of, the following kinds of  
5 investments: (1) fixed or variable life insurance contracts, (2)  
6 individual or group, fixed or variable annuity contracts, (3) mutual  
7 fund shares, (4) interest bearing accounts or securities in which  
8 savings banks of this State are authorized to invest their funds,  
9 **[and]** (5) the State of New Jersey Cash Management Fund, and (6)  
10 collective investment trusts; provided that the employer retains the  
11 discretion to reject such request. Any such investments shall be  
12 limited to investments that are authorized for fiduciaries of trust  
13 estates pursuant to the "Prudent Investment Law" (P.L.1975, c.337,  
14 C. 3A:15-35 et seq.); provided, however, that with the exception of  
15 investments made by domestic insurance companies licensed to sell  
16 life insurance and annuities in this State and subject to review by  
17 the Commissioner of the Department of Banking and Insurance  
18 pursuant to chapter 20 of Title 17B of the New Jersey Statutes, the  
19 Director of the Division of Local Government Services may review  
20 and reject any such investments as inconsistent with the standard  
21 applicable to the prudent investor as provided in section 3 of  
22 P.L.1975, c.337 (C.3A:15-37).

23 d. No organization seeking a contract pursuant to subsection b.  
24 of this section, shall through distribution of written material or by  
25 any other means, solicit employee participation in any deferred  
26 compensation plan or solicit employees to support the efforts of the  
27 organization to secure the contract. An organization holding a  
28 contract approved pursuant to subsection b. may distribute written  
29 material to solicit employee participation in a deferred  
30 compensation program, provided that the organization has received  
31 approval of the content and form of the material from the Director  
32 of the Division of Local Government Services. No representative  
33 of an organization under contract pursuant to subsection b. of this  
34 section shall initiate verbal communication with any prospective  
35 employee participant in a deferred compensation program without  
36 the express consent of the employer; provided, however, that any  
37 communication so authorized shall be consistent with the written  
38 material approved by the Director of the Division of Local  
39 Government Services.

40 e. Subject to rules and regulations established by a board or  
41 any other body created or designated by the State or public official  
42 designated by the State (said board, body or official hereinafter  
43 "board"), to administer a deferred payment compensation plan  
44 established by the State (hereinafter "State plan") and subject to the  
45 approval of the board, the plan may provide for the employer for the  
46 benefit of its participants to participate in any State plan established  
47 by the board for State employees. In the event that such  
48 participation is approved by the board, rules, regulations and

1 conditions established by the board or in the State plan shall apply  
2 to such participants, or said rules, regulations and conditions shall  
3 so apply as amended or supplemented with regard to said  
4 participants.

5 f. The named fiduciary shall provide in the plan for the  
6 distribution of any investment earnings, gains or losses, consistent  
7 with the requirements of the federal Internal Revenue Code, as  
8 amended. The distribution shall be allocated to each employee  
9 when he or she withdraws from the plan or receives benefits from  
10 the plan in accordance with the terms of the plan and the provisions  
11 of this act. For those employees participating in the State plan  
12 pursuant to subsection 3e. herein, the rules and regulations of the  
13 State board shall apply.

14 g. The plan shall provide for a uniform system of accounting  
15 for each participant and for investment of deferred compensation  
16 funds with annual or more frequent reports to the participants in the  
17 plan.

18 h. The named fiduciary shall have authority to take any steps  
19 reasonably necessary to implement the plan consistent with this act  
20 and the requirements of the federal Internal Revenue Code, as  
21 amended.

22 (cf: P.L.1997, c.116, s.1)

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24 2. This act shall take effect immediately.

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## STATEMENT

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28 This bill adds collective investment trusts to the list of the kinds  
29 of investments permitted for municipal, county, or local authority  
30 deferred compensation plans. Currently these plans are allowed to  
31 invest in (1) fixed or variable life insurance contracts, (2) individual  
32 or group, fixed or variable annuity contracts, (3) mutual fund  
33 shares, (4) interest bearing accounts or securities in which savings  
34 banks of this State are authorized to invest their funds, and (5) the  
35 State of New Jersey Cash Management Fund.

36 A collective investment trust is a trust administered by a bank or  
37 trust company that combines assets for multiple investors. Its  
38 trustees are considered fiduciaries under the Employees Retirement  
39 Income Security Act (ERISA). Collective investment trusts are  
40 regulated by the Office of the Comptroller of the Currency and  
41 subject to oversight by the Internal Revenue Service. In contrast,  
42 mutual funds are regulated by the Securities and Exchange  
43 Commission.

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47 Allows local government deferred compensation plans to invest  
48 in collective investment trusts.