

CHAPTER 43

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

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

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

C.43:15B-3 Provisions of plan.

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

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

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

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

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

e. Subject to rules and regulations established by a board or any other body created or designated by the State or public official designated by the State (said board, body or official hereinafter "board"), to administer a deferred payment compensation plan established by the State (hereinafter "State plan") and subject to the approval of the board, the plan may provide for the employer for the benefit of its participants to participate in any State plan established by the board for State employees. In the event that such participation is approved by the board, rules, regulations and conditions established by the board or in the State plan shall apply to such participants, or said rules, regulations and conditions shall so apply as amended or supplemented with regard to said participants.

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

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

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

2. This act shall take effect immediately.

Approved May 8, 2023.