Sponsorship Updated As Of: 2/27/2023

SENATE, No. 2423

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED MAY 9, 2022

Sponsored by:
Senator NELLIE POU
District 35 (Bergen and Passaic)
Assemblyman JOHN F. MCKEON
District 27 (Essex and Morris)
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District 36 (Bergen and Passaic)

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

CURRENT VERSION OF TEXT
As introduced.
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:

   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)

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.
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,
[and] (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

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

2. This act shall take effect immediately.

STATEMENT

This bill adds collective investment trusts to the list of the kinds
of investments permitted for municipal, county, or local authority
defered compensation plans. Currently these plans are allowed to
invest in (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, and (5) the
State of New Jersey Cash Management Fund.

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