

# 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)**

**Assemblyman CLINTON CALABRESE**

**District 36 (Bergen and Passaic)**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 2/27/2023)

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

3

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

6

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.

41 c. The employer may establish a plan or plan option which  
42 permits a participating employee to request the employer to invest  
43 all or a specified percentage of said employee's deferred salary in  
44 one, or a specified combination of, the following kinds of  
45 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.**

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

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

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

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

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

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

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

19

20 2. This act shall take effect immediately.

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#### STATEMENT

24

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

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