

CHAPTER 358

AN ACT concerning automatic enrollment in State, municipality, and county deferred compensation plans and amending P.L.1977, c.381 and P.L.1978, c.39.

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

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

C.43:15B-1 Deferred compensation plan, length of service award program.

1. a. Any municipality, county, or an authority created by one or more counties or municipalities (hereinafter "employer") may establish a deferred compensation plan (hereinafter "plan"), and a sponsoring agency, pursuant to P.L.1997, c.388 (C.40A:14-183 et al.), may establish a length of service award program based on such plan, whereby the employer may enter into a written agreement with any of its employees (hereinafter "participants") constituting a contract for a voluntary deferral of salary. Such contract shall remain in effect until the employee's service is terminated or until a new contract is executed by the employee and employer. Not more than one contract shall be executed in any one fiscal year of the employer with any one employee. Pursuant to such contract the employer shall credit from time to time a specific amount per pay period, as deferred salary, to a participant's account. This account shall be known as the Employee's Deferred Salary Account, and shall be credited from time to time to reflect gains realized on the investment of the moneys in the deferred salary account. An accounting summary of the individual deferred salary accounts of all employee participants shall be maintained to reflect the employer's total deferred liability under the plan and the individual balances of all participants. Any employer which establishes such a plan shall designate one or a group of its public officials, or the county's or municipality's governing body, as defined in N.J.S.40A:4-2 of the Local Budget Law, or an authority's governing body, as the case may be, as the named fiduciary responsible for the administration of said plan and investment of and accounting for the funds maintained thereunder.

b. An employer may adopt, in connection with the deferred compensation plan, a written plan provision that permits the employer to defer and deduct from an employee's salary a specified percentage unless the employee makes an affirmative election not to defer or to defer a different percentage. An automatic enrollment arrangement shall establish a default deferral percentage, may provide for periodic escalation of deferral percentages, and may provide for the periodic default reenrollment of employees who are not participating in the plan or are participating at less than the default percentage. An automatic enrollment arrangement shall provide an employee with notice and a reasonable opportunity to terminate deferrals or to defer at a different percentage.

If an employer elects to establish an automatic enrollment arrangement, the deduction from an employee's salary pursuant to a default deferral percentage shall be treated as a written agreement that constitutes a contract for a voluntary deferral of salary for purposes of subsection a. of this section and shall be treated as having been authorized in writing for purposes of section 4 of P.L.1965, c.173 (C.34:11-4.4).

If a deferred compensation plan includes an automatic enrollment arrangement, the named fiduciary shall designate a default investment into which an employee's deferred salary shall be invested in the absence of an affirmative investment election from the employee.

c. Notwithstanding the provisions of subsection b. of this section, an employer whose employees are represented by a union that is designated as the majority representative pursuant to the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), and eligible to participate in a deferred compensation plan, shall negotiate the terms of a

deferred compensation plan with such majority representative, including whether such employees represented by the majority representative shall be automatically enrolled in the plan, the default deduction percentage from an employee's salary, if any, and the default investment, if any. The terms of a negotiated deferred compensation plan shall be consistent with subsection a. of this section. Absent a written agreement between an employer and a majority representative, in order to participate in a deferred compensation plan, an employee represented by the majority representative shall be required to affirmatively elect to participate.

2. Section 3 of P.L.1978, c.39 (C.52:18A-165) is amended to read as follows:

C.52:18A-165 Deferral and deduction of salary; voluntary written agreement.

3. a. The State may by a voluntary written agreement with any employee of the State provide that a portion of the employee's current salary from the State shall be deferred and deducted each payroll period for disposition by the board in accordance with the plan.

b. The board may adopt, in connection with the deferred compensation plan, a written plan provision that permits the deferral or deduction from the salary of employees of the State, or a subset thereof determined by the board, an amount equal to a percent of salary specified by the board received on and after the date of hire, unless the employee makes an affirmative election not to defer or to defer at a different percentage. If the board elects to establish an automatic enrollment arrangement pursuant to this subsection, the board shall establish a default deferral percentage, may provide for periodic escalation of deferral percentages, and may provide for the periodic default reenrollment of employees who are not participating in the plan or are participating at less than the default percentage. The board shall ensure that an employee is provided with notice and reasonable opportunity to terminate deferrals or to defer a different percentage.

The board may designate classes of employees who are not subject to the automatic enrollment arrangement, such as part-time, seasonal, or temporary employees.

If the board elects to establish an automatic enrollment arrangement, the deduction from an employee's salary pursuant to a default deferral percentage shall be treated as a voluntary written agreement for purposes of subsection a. of this section and shall be treated as being authorized in writing for purposes of section 4 of P.L.1965, c.173 (C.34:11-4.4).

If a deferred compensation plan includes an automatic enrollment arrangement, the named fiduciary of the plan shall designate a default investment into which an employee's deferred salary shall be invested in the absence of an affirmative investment election from the employee.

c. Notwithstanding the provisions of subsection b. of this section, the State, and any other employer whose employees are represented by a union that is designated as the majority representative pursuant to the "New Jersey Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et seq.), and eligible to participate in the New Jersey State Employees Deferred Compensation Plan established pursuant to section 2 of P.L.1978, c.39 (C.52:18A-164), shall negotiate the terms of a deferred compensation plan with such majority representative, including whether such employees represented by the majority representative shall be automatically enrolled in the plan, the default deduction percentage from an employee's salary, if any, and the default investment, if any. The terms of a negotiated deferred compensation plan shall be consistent with any applicable rules and regulations adopted by the New Jersey State Employees Deferred Compensation Board established pursuant to P.L.1978, c.39 (C.52:18A-163 et seq.). Absent a written agreement between an employer and a majority representative, in order to participate in the New Jersey State Employees Deferred Compensation Plan, an employee represented by a majority representative shall be required to affirmatively elect to participate.

3. This act shall take effect immediately.

Approved January 20, 2026.