

43:15B-1 to 43:15B-10

LEGISLATIVE HISTORY CHECKLIST

HJSA 43:15B-1 to 43:15B-10 (Deferred compensation plan for county & municipal employees)

LAWS OF 1977 CHAPTER 381

Bill No. A1475

Sponsor(s) Pellecchia

Date Introduced February 19, 1976

Committee: Assembly Municipal Gov't.

Senate County & Municipal Gov't.

Amended during passage Yes ~~XX~~ Amendments during passage denoted by asterisks  
Also according to Governor's recommendations  
Date of Passage: Assembly Feb. 1, 1977 Re'enacted Dec. 19, 1977

Senate June 27, 1977 Re'enacted Jan. 10, 1978

Date of approval February 8, 1977

Following statements are attached if available:

Sponsor statement	Yes	<del>XX</del> (Below)
Committee Statement: Assembly	Yes	<del>XX</del>
Senate	Yes	<del>XX</del>
Fiscal Note	<del>XXX</del>	No
Veto Message	Yes	<del>XX</del>
Message on signing	<del>XXX</del>	No

Following were printed:

Reports	<del>XXX</del>	No
Hearings	<del>XXX</del>	No

Sponsor's Statement:

This bill authorizes counties and municipalities to enter into a deferred compensation plan with their employees. Such plan shall be in addition to any other retirement system or benefit plan previously established.

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CHAPTER 381 LAWS OF NEW JERSEY  
APPROVED 1/8/77

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**ASSEMBLY, No. 1475**

**STATE OF NEW JERSEY**

INTRODUCED FEBRUARY 19, 1976

By Assemblyman PELLECCIA

Referred to Committee on Municipal Government

AN ACT authorizing counties and municipalities to enter into agreements with employees to provide for currently deferring a portion of the total compensation paid to such employees, supplementing Title 43 of the Revised Statutes.

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

1 1. Any municipality or county (hereinafter "employer") may  
1A \*establish a deferred compensation plan (hereinafter "plan")  
2 whereby the employer may\* enter into a written agreement with any  
3 of its employees (hereinafter "participants") constituting a con-  
4 tract for a voluntary deferral of salary. Such contracts shall remain  
5 in effect until the employee's service is terminated or until a new  
6 contract is executed by the employee and employer. Not more than  
7 one contract shall be executed in any one fiscal year of the employer  
8 with any one employee. Pursuant to such contract the employer shall  
9 credit from time to time a specific amount per pay period, as  
10 deferred salary, to a participant's account. This account shall be  
11 known as the Employee's Deferred Salary Account, and shall be  
12 credited from time to time to reflect gains realized on the investment  
13 of the moneys in the deferred salary account. An accounting sum-  
14 mary of the individual deferred salary accounts of all employee  
15 participants shall be maintained to reflect the employer's total  
16 deferred liability under the plan and the individual balances of all  
17 participants. \*Any employer which establishes such a plan shall  
18 designate one or a group of its public officials or its governing body,  
19 as defined in N. J. S. 40A:4-2 of the Local Budget Law as the named  
20 fiduciary responsible for the administration of said plan and  
21 investment of and accounting for the funds maintained thereunder.\*

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

1 2. The amounts of any such deferred salary shall be determined  
 2 by agreement between the employer and the employee \*~~but shall be~~  
 3 in integral dollar amounts not in excess of 10% of the participant's  
 4 annual salary in any fiscal year of the employer]\* \*, *subject to*  
 4A *any limitations which the employer may establish*\*. The total  
 5 amount of the salary deferred pursuant hereto for any year shall  
 6 be in addition to any contributions made in such year on behalf of  
 7 any employee in accordance with section 7 of P. L. 1963, c. 123  
 8 (C. 52:18A-113).

1 \*~~3. A participant shall be entitled to benefits under the plan on~~  
 2 the first day of the month following his attainment of age 60 and  
 3 the termination of his employment for purpose of retirement. If a  
 4 participant should die before receiving all of his benefits under the  
 5 plan, the employer shall pay to his named beneficiary or estate  
 6 any remaining benefits otherwise payable to him. Should a  
 7 participant become totally and permanently disabled, he shall be  
 8 entitled to receive the benefits under the plan upon the date such  
 9 disability shall be determined to be total and permanent regardless  
 10 of his age. Upon termination of employment a participant shall be  
 11 entitled to withdraw the entire amount of his contribution. All  
 12 benefits payable under the plan shall be measured by the credits  
 13 in the participant's deferred salary account, and shall be paid in a  
 14 lump sum, in equal monthly installments over a period of not more  
 15 than 10 years, or for life in accordance with the provisions of the  
 16 contract.

1 4. All money not needed for the immediate payment of benefits  
 2 shall be invested by the employer in interest-bearing securities in  
 3 which savings banks of this State are authorized to invest their  
 4 funds, or the employer shall make deposits in interest-bearing  
 5 accounts, at its discretion.

1 5. In lieu of a plan administered solely by an employer, the  
 2 participant may choose to participate in a plan which allows:

3 a. The purchase of a group annuity contract from any company  
 4 authorized to transact the business of making insurance, as  
 5 specified in subsection C of R. S. 17:17-1, as licensed to do such  
 6 business in the State; or

7 b. Entering into a trust and other agreements with a national  
 8 nonprofit organization offering a deferred compensation plan as a  
 9 service to employers.]\*

10 \*3. a. *The plan shall provide that all money not needed for the*  
 11 *immediate payment of benefits shall be invested by the employer in*  
 12 *interest bearing securities in which savings banks of this State are*

13 *authorized to invest their funds, or the employer shall make*  
 14 *deposits in interest bearing accounts, or in the State of New Jersey*  
 15 *Cash Management Fund established pursuant to P. L. 1977,*  
 16 *c. . . . (S3223).*

17 *b. Subject to rules and regulations established by a board or any*  
 18 *other body created or designated by the State or public official*  
 19 *designated by the State (said board, body or official hereinafter*  
 20 *“board”), to administer a deferred payment compensation plan*  
 21 *established by the State (hereinafter “State plan”) and subject to*  
 22 *the approval of the board, the plan may provide for the employer*  
 23 *for the benefit of its participants to participate in any State plan*  
 24 *established by the board for State employees. In the event that such*  
 25 *participation is approved by the board, rules, regulations and con-*  
 26 *ditions established by the board or in the State plan shall apply to*  
 27 *such participants, or said rules, regulations and conditions shall*  
 28 *so apply as amended or supplemented with regard to said*  
 29 *participants.*

30 *c. The named fiduciary shall provide in the plan for the distri-*  
 31 *bution of any investment earnings, gains or losses, consistent with*  
 32 *the requirements of the U. S. Internal Revenue Service. The distri-*  
 33 *bution shall be allocated to each employee when he or she withdraws*  
 34 *from the plan or receives benefits from the plan in accordance with*  
 35 *the terms of the plan and the provisions of this act. For those*  
 36 *employees participating in the State plan pursuant to subsection 3b*  
 37 *herein, the rules and regulations of the State board shall apply.*

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

42 *e. The named fiduciary shall have authority to take any steps*  
 43 *reasonably necessary to implement the plan consistent with this act*  
 44 *and the requirements of the U.S. Internal Revenue Service.\**

45 **\*\****【The employer is hereby authorized to enter into an agreement*  
 46 *with any person, corporation or association designated by the em-*  
 47 *ployee to provide for the investment of amounts of deferred com-*  
 48 *penetration.】\*\**

1 **\****【6.】\* \*4.\* Any deferred compensation plan shall be in addition*  
 2 *to the obligation of the employee under any other retirement system*  
 3 *or benefit plan established pursuant to any other law of this State.*  
 4 **\****【No provision or any deferred compensation plan shall in any*  
 5 *manner modify, impair, or affect the rights or interest of the em-*  
 6 *ployee participants except as provided herein.】\**

1     \*5. All moneys which are deferred and deducted in accordance  
 2 with the provisions of this act and the plan shall remain assets of  
 3 the employer and shall be invested in accord with the provisions of  
 4 this act and the plan. The obligation of the employer to participat-  
 5 ing employees shall be contractual only and no preferred or special  
 6 interest in the deferred moneys shall accrue to such employees.

1     6. No participating employee or beneficiary thereof shall have  
 2 the right to commute, sell, assign or otherwise transfer or convey  
 3 the rights to receive any payments deriving from participation in  
 4 the plan and such payments and rights are expressly declared to be  
 5 and shall be unassignable.

1     7. Any amount of the employee's salary that is deferred and  
 2 deducted under this act and the plan shall continue to be included  
 3 as regular compensation for all purposes, including pension benefits  
 4 earned by any such employee, but any salary deferred and deducted  
 5 shall not be included in the computation of any Federal taxes  
 6 withheld from the employee's salary on behalf of such employee.\*

1     \***[7.]**\* \*8.\* Any employee who made contributions to a similar  
 2 plan while employed in a state other than New Jersey or by an  
 3 employer in New Jersey different from the current employer may  
 4 \***[elect to purchase an amount of]**\* \*transfer his\* credit \***[equal**  
 5 to the amount he had contributed to]\* \*from\* the previous  
 6 plan \*pursuant to provisions contained in the plan, provided the  
 7 previous similar plan allows such transfers\*. Such purchase of  
 8 credit in a plan authorized by this act shall enable the employee to  
 9 gain the same benefits of the plan as if he had always been  
 10 employed by his current employer.

1     \***[8.** Any employee who changes jobs, either within or without the  
 2 State may purchase his contributions from the plan and be allowed  
 3 to apply such contributions to any plan which may be offered by  
 4 another employer, either within or without the State.]\*\*

5     \*9. Any participant who changes jobs may transfer his credit  
 6 from the plan pursuant to authorizing provisions which may be  
 7 contained in the plan, provided the similar plan of the participant's  
 8 new employer permits such a transfer.\*

1     \*10. No agreement may be entered into between the employer and  
 2 any employee for the deferral and deduction of any portion of  
 3 current salary, pursuant to this act, until the named fiduciary  
 4 determines that the plan and any related implementing rules and  
 5 regulations are consistent with the requirements of the United  
 6 States Internal Revenue Service.\*

1     \***[9.]**\* \*11.\* This act shall take effect immediately.

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1475**

**STATE OF NEW JERSEY**

DATED: MAY 24, 1976

Assembly Bill No. 1475 permits counties and municipalities to enter into a deferred compensation plan by contract with their employees. Such plan shall be in addition to any other retirement system or benefit plan previously established. The employee would designate a specific amount, not to exceed 10% of his salary in any fiscal year, to be deferred salary, which the employer would credit to his account. The money in the Employee's Deferred Salary Account would be invested and the employee would be credited with gains from such investments.

The employee would receive the benefits of the deferred salary plan upon reaching 60 years of age and retirement, or upon becoming permanently and totally disabled regardless of age. His beneficiary or estate would receive the benefits in case of the employee's death. If the employee leaves his job, he could withdraw the entire amount of his contribution. Benefits could be paid in a lump sum, in equal monthly installments over a period of not more than 10 years, or for life in accordance with the contract.

The moneys of the account are to be invested in savings securities or interest bearing accounts at the employee's discretion.

The bill provides the employees with the option of participating in either the purchase of a group annuity contract with a group insurance company, or the entrance into a trust with a national nonprofit organization offering a deferred compensation plan as a service to employees, in lieu of participating in an employer administered plan.

The bill also provides for the purchase of credit of individuals who have participated in a similar plan in another State or with another New Jersey employer, and provides that an individual member of a deferred compensation plan may upon changing jobs purchase back his contributions and apply them to another such plan.

Such deferred compensation plan would obviously be in addition to pension plans, such as PERS and PFRS, already provided for by statute, and would, of course, be most valuable to employees not able

to participate in such existing pension systems. The deferred compensation plan provided in Assembly Bill No. 1475 is similar to the annuity plan currently available to education employees, under N. J. S. 18A:66-127 through 18A:66-129. The State similarly provides to its employees an annuity plan pursuant to P. L. 1963, c. 123 (C. 52:18A-107 et seq.). No such plan currently is authorized for county and municipal employees.

The committee received favorable opinions on this bill from the New Jersey League of Municipalities, the Municipal Finance Officers' Association and the City of Jersey City.

The committee believes this permissive legislation would be in the interest of local government employees, and would not impose any financial burdens on counties and municipalities of the State.

SENATE COUNTY AND MUNICIPAL  
GOVERNMENT COMMITTEE

STATEMENT TO  
**ASSEMBLY, No. 1475**

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**STATE OF NEW JERSEY**

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DATED: APRIL 28, 1977

The Assembly committee statement adequately sets forth the objectives and contents of the bill.

The employee's deferred salary account is a deferred compensation plan for supplemental retirement benefits with the same tax advantages available to its members as accrue to eligible enrollees in such (qualified) plans. All employees of a participant employer (county or municipality) shall be eligible to participate in such a plan under this bill.

The benefits provided in this act are in addition to those provided by the Division of Pensions pursuant to P. L. 1963, c. 123 (C. 52:18A-107 et seq.), which established the Supplemental Annuity Collective Trust of New Jersey.



To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14(b) of the Constitution, I herewith return Assembly Bill No. 1475 with my objection for reconsideration.

This bill allows any county or municipality to establish a voluntary deferred salary plan with its employees that will qualify for Federal Internal Revenue Service tax shelter benefits for those employees.

In order for the proposed plan to conform with the Internal Revenue Service regulations regarding tax shelter benefits under deferred salary plans, the employee must have no interest in the money contributed to the plan. However, language appearing in Section 3e, lines 45-48 of this legislation allows the employer to enter into an agreement with any entity designated by the employee for investment of specified amounts of deferred compensation.

This language violates the Internal Revenue Service provision concerning tax sheltered benefits for enrolled employees and would render the plan inoperative.

Accordingly I herewith return Assembly Bill No. 1475 for reconsideration and recommend that it be amended as follows:

Page 3, Section 3e, lines 45-48: Omit in their entirety.

Respectfully,

/s/ Brendan Byrne

GOVERNOR

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Attest:

/s/ Henry N. Luther, III

Executive Secretary to the Governor