

18A:66-127

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2003 **CHAPTER:** 155
NJSA: 18A:66-127 (School boards - deferred compensation plans)
BILL NO: A3385 (Substituted for S2290)

SPONSOR(S): Doria and others

DATE INTRODUCED: February 27, 2003

COMMITTEE: **ASSEMBLY:** Education

SENATE: ----

AMENDED DURING PASSAGE: No

DATE OF PASSAGE: **ASSEMBLY:** June 12, 2003

SENATE: June 30, 2003

DATE OF APPROVAL: August 15, 2003

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Original version of bill enacted)

A3385

[SPONSORS STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: [ASSEMBLY:](#) [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

S2290

[SPONSORS STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

[SENATE:](#) [Yes](#)

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

P.L. 2003, CHAPTER 155, *approved August 15, 2003*
Assembly Bill No. 3385

1 **AN ACT** concerning deferred compensation plans for boards of
2 education employees and amending N.J.S.18A:66-127, 18A:66-128
3 and N.J.S.18A:66-129.

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

7
8 1. N.J.S.18A:66-127 is amended to read as follows:
9 18A:66-127. Any board of education may enter into an agreement
10 with any of its employees whereby the employee agrees to take a
11 reduction in salary with respect to amounts earned after the effective
12 date of such agreement in return for the board's agreement to use a
13 corresponding amount to purchase for the employee an annuity, as
14 defined by N.J.S.17B:17-5, from any company authorized to sell such
15 annuities under the provisions of Title 17B of the New Jersey Statutes,
16 or to invest in a custodial account for the employee through a
17 broker-dealer or agent registered pursuant to the provisions of
18 sections 9 and 10 of the "Uniform Securities Law (1967)," P.L.1967,
19 c.93 (C.49:3-56 and C.49:3-57).

20 Any such annuity shall be purchased by means of an individual or
21 group annuity contract which may provide for continuance of purchase
22 payments during total disability, and under which the rights of such
23 employee to such contract shall be nonforfeitable. Any such custodial
24 account shall be established in accordance with and maintained to meet
25 the requirements of section 403(b)(7) or section 457(b) of the Federal
26 Internal Revenue Code of [1954] 1986, 26 U.S.C. ss.403(b) and
27 457(b), as amended. All moneys deferred for section 457 plans
28 adopted after the effective date of this act, P.L. , c. (C.) (now
29 pending before the Legislature as this bill) and any other income shall
30 be held in trust, in one or more annuity contracts or in custodial
31 accounts for the exclusive benefit of the participating employees and
32 their beneficiaries. Every such agreement shall specify the amount of
33 such reduction, the effective date thereof, and shall be legally binding
34 and irrevocable with respect to the amounts earned while the
35 agreement is in effect. The total amount of the reductions in an
36 employee's salary pursuant hereto, for any calendar year, shall not [,
37 when added to the contributions made in such year on behalf of such
38 employee in accordance with section 7 of P.L.1963, c.123
39 (C.52:18A-113),] exceed the limitations set forth in [P.L.93-406
40 (Employment Retirement Income Security Act of 1974) and section]
41 sections 403(b), 457(b) and 415(c) of the Internal Revenue Code of

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

Matter underlined thus is new matter.

1 [1954] 1986 as amended for such year. Any such agreement may be
2 terminated upon notice in writing by either party.

3 Amounts payable pursuant to this section by a board of education
4 on behalf of an employee for a pay period shall be transmitted and
5 credited not later than the fifth business day after the date on which
6 the employee is paid for that pay period.

7 (cf: P.L.1999, c.247, s.1)

8

9 2. N.J.S.18A:66-128 is amended to read as follows:

10 18A:66-128. [Reduction in salary only for purpose of benefits
11 under s. 403(b) I.R.C.] Any reduction in salary agreed to by any
12 employee pursuant to the provisions of this article shall be deemed to
13 be a reduction in salary for the purpose of obtaining the benefits
14 afforded under section 403(b) or section 457, 26 U.S.C. ss.403(b) and
15 457, of the federal internal revenue code and shall not be deemed to
16 be a reduction in salary in any other matter, the determination of which
17 is based upon the [total] amount of the employee's [salary] includable
18 compensation as set forth in sections 403(b) and 457(b) of the federal
19 Internal Revenue Code.

20 (cf: N.J.S.18A:66-128)

21

22 3. N.J.S.18A:66-129 is amended to read as follows:

23 18A:66-129. Any agreements having the same purpose as
24 agreements authorized by this article, made prior to October 7, 1966,
25 between a board of education and any of its employees are hereby
26 validated and confirmed and shall be as good and effectual as if they
27 had been made under the provisions of this article provided that the
28 terms of any such agreement applicable after July 1, 1967 are in
29 conformity with the terms applicable to the agreements specifically
30 authorized by this article.

31 Any 457(b) deferred compensation plan established by a board of
32 education prior to the effective date of this act, P.L. , c. (now
33 pending before the Legislature as this bill), which has the same
34 purpose as plans authorized by this act, is hereby validated and
35 confirmed and shall be as good and effectual as if it had been made
36 under the provisions of this act, provided that the terms of such plan,
37 and the manner in which it was established and managed, are in
38 conformity with the provisions of this act.

39 (cf: N.J.S.18A:66-129)

40

41 4. This act shall take effect immediately.

42

43 STATEMENT

44

45 This bill authorizes boards of education to establish tax-sheltered
46 deferred compensation plans under section 457 of the federal Internal

1 Revenue Code.

2 Currently, boards of education are authorized to participate in a
3 tax-sheltered deferred compensation plan under section 403(b) of the
4 federal Internal Revenue Code in the State-administered Supplemental
5 Annuity Collective Trust. The federal Economic Growth and Tax
6 Relief Reconciliation Act of 2001 increased the maximum contribution
7 amounts for deferred compensation plans and repealed the rules
8 requiring the coordination 457 deferred compensation dollar limits
9 with contributions under other types of plans, such as 403(b) plans.
10 Thus, board of education employees can now maximize tax-sheltered
11 deferred compensation through full participation in both a 403(b) plan
12 and a 457 plan.

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16

17 _____
18 Allows school boards to establish 457 deferred compensation plans for
employees.

ASSEMBLY, No. 3385

STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED FEBRUARY 27, 2003

Sponsored by:

Assemblyman JOSEPH V. DORIA, JR.

District 31 (Hudson)

Assemblywoman ELBA PEREZ-CINCIARELLI

District 31 (Hudson)

Assemblyman JOSEPH R. MALONE, III

District 30 (Burlington, Mercer, Monmouth and Ocean)

Co-Sponsored by:

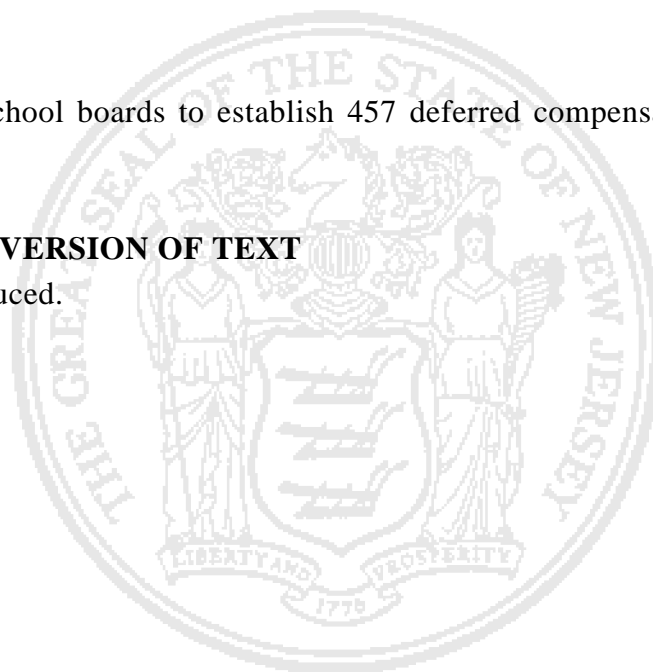
Assemblywoman Quigley, Assemblymen Fraguela, Fisher, Assemblywoman Friscia, Assemblyman Guear, Assemblywoman Greenstein, Assemblyman Eagler, Assemblywoman Pou, Senators Furnari, Bennett and Palaia

SYNOPSIS

Allows school boards to establish 457 deferred compensation plans for employees.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 7/1/2003)

1 AN ACT concerning deferred compensation plans for boards of
2 education employees and amending N.J.S.18A:66-127, 18A:66-128
3 and N.J.S.18A:66-129.

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

7
8 1. N.J.S.18A:66-127 is amended to read as follows:
9 18A:66-127. Any board of education may enter into an agreement
10 with any of its employees whereby the employee agrees to take a
11 reduction in salary with respect to amounts earned after the effective
12 date of such agreement in return for the board's agreement to use a
13 corresponding amount to purchase for the employee an annuity, as
14 defined by N.J.S.17B:17-5, from any company authorized to sell such
15 annuities under the provisions of Title 17B of the New Jersey Statutes,
16 or to invest in a custodial account for the employee through a
17 broker-dealer or agent registered pursuant to the provisions of
18 sections 9 and 10 of the "Uniform Securities Law (1967)," P.L.1967,
19 c.93 (C.49:3-56 and C.49:3-57).

20 Any such annuity shall be purchased by means of an individual or
21 group annuity contract which may provide for continuance of purchase
22 payments during total disability, and under which the rights of such
23 employee to such contract shall be nonforfeitable. Any such custodial
24 account shall be established in accordance with and maintained to meet
25 the requirements of section 403(b)(7) or section 457(b) of the Federal
26 Internal Revenue Code of **[1954] 1986**, 26 U.S.C. ss.403(b) and
27 457(b), as amended. All moneys deferred for section 457 plans
28 adopted after the effective date of this act, P.L. , c. (C.) (now
29 pending before the Legislature as this bill) and any other income shall
30 be held in trust, in one or more annuity contracts or in custodial
31 accounts for the exclusive benefit of the participating employees and
32 their beneficiaries. Every such agreement shall specify the amount of
33 such reduction, the effective date thereof, and shall be legally binding
34 and irrevocable with respect to the amounts earned while the
35 agreement is in effect. The total amount of the reductions in an
36 employee's salary pursuant hereto, for any calendar year, shall not **[**,
37 when added to the contributions made in such year on behalf of such
38 employee in accordance with section 7 of P.L.1963, c.123
39 (C.52:18A-113),**]** exceed the limitations set forth in **[P.L.93-406**
40 (Employment Retirement Income Security Act of 1974) and section**]**
41 sections 403(b), 457(b) and 415(c) of the Internal Revenue Code of
42 **[1954] 1986** as amended for such year. Any such agreement may be

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

Matter underlined thus is new matter.

1 terminated upon notice in writing by either party.

2 Amounts payable pursuant to this section by a board of education
3 on behalf of an employee for a pay period shall be transmitted and
4 credited not later than the fifth business day after the date on which
5 the employee is paid for that pay period.

6 (cf: P.L.1999, c.247, s.1)

7

8 2. N.J.S.18A:66-128 is amended to read as follows:

9 18A:66-128. **[Reduction in salary only for purpose of benefits**
10 **under s. 403(b) I.R.C.]** Any reduction in salary agreed to by any
11 employee pursuant to the provisions of this article shall be deemed to
12 be a reduction in salary for the purpose of obtaining the benefits
13 afforded under section 403(b) or section 457, 26 U.S.C. ss.403(b) and
14 457, of the federal internal revenue code and shall not be deemed to
15 be a reduction in salary in any other matter, the determination of which
16 is based upon the **[total]** amount of the employee's **[salary]** includable
17 compensation as set forth in sections 403(b) and 457(b) of the federal
18 Internal Revenue Code.

19 (cf: N.J.S.18A:66-128)

20

21 3. N.J.S.18A:66-129 is amended to read as follows:

22 18A:66-129. Any agreements having the same purpose as
23 agreements authorized by this article, made prior to October 7, 1966,
24 between a board of education and any of its employees are hereby
25 validated and confirmed and shall be as good and effectual as if they
26 had been made under the provisions of this article provided that the
27 terms of any such agreement applicable after July 1, 1967 are in
28 conformity with the terms applicable to the agreements specifically
29 authorized by this article.

30 Any 457(b) deferred compensation plan established by a board of
31 education prior to the effective date of this act, P.L. , c. (now
32 pending before the Legislature as this bill), which has the same
33 purpose as plans authorized by this act, is hereby validated and
34 confirmed and shall be as good and effectual as if it had been made
35 under the provisions of this act, provided that the terms of such plan,
36 and the manner in which it was established and managed, are in
37 conformity with the provisions of this act.

38 (cf: N.J.S.18A:66-129)

39

40 4. This act shall take effect immediately.

41

42

43

STATEMENT

44

45 This bill authorizes boards of education to establish tax-sheltered
46 deferred compensation plans under section 457 of the federal Internal

1 Revenue Code.

2 Currently, boards of education are authorized to participate in a
3 tax-sheltered deferred compensation plan under section 403(b) of the
4 federal Internal Revenue Code in the State-administered Supplemental
5 Annuity Collective Trust. The federal Economic Growth and Tax
6 Relief Reconciliation Act of 2001 increased the maximum contribution
7 amounts for deferred compensation plans and repealed the rules
8 requiring the coordination 457 deferred compensation dollar limits
9 with contributions under other types of plans, such as 403(b) plans.
10 Thus, board of education employees can now maximize tax-sheltered
11 deferred compensation through full participation in both a 403(b) plan
12 and a 457 plan.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3385

STATE OF NEW JERSEY

DATED: MARCH 6, 2003

The Assembly Education Committee favorably reports Assembly Bill No. 3385.

This bill authorizes boards of education to establish tax-sheltered deferred compensation plans under section 457 of the federal Internal Revenue Code.

Currently, boards of education are authorized to participate in a tax-sheltered deferred compensation plan under section 403(b) of the federal Internal Revenue Code in the State-administered Supplemental Annuity Collective Trust. The federal Economic Growth and Tax Relief Reconciliation Act of 2001 increased the maximum contribution amounts for deferred compensation plans and repealed the rules requiring the coordination of 457 deferred compensation dollar limits with contributions under other types of plans, such as 403(b) plans. Thus, board of education employees can now maximize tax-sheltered deferred compensation through full participation in both a 403(b) plan and a 457 plan.

SENATE, No. 2290

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED JANUARY 27, 2003

Sponsored by:

Senator GARRY J. FURNARI

District 36 (Bergen, Essex and Passaic)

SYNOPSIS

Allows school boards to establish 457 deferred compensation plans for employees.

CURRENT VERSION OF TEXT

As introduced.



S2290 FURNARI

2

1 AN ACT concerning deferred compensation plans for boards of
2 education employees and amending N.J.S.18A:66-127 and 18A:66-
3 128.

4

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

7

8 1. N.J.S.18A:66-127 is amended to read as follows:

9 18A:66-127. Any board of education may enter into an agreement
10 with any of its employees whereby the employee agrees to take a
11 reduction in salary with respect to amounts earned after the effective
12 date of such agreement in return for the board's agreement to use a
13 corresponding amount to purchase for the employee an annuity, as
14 defined by N.J.S.17B:17-5, from any company authorized to sell such
15 annuities under the provisions of Title 17B of the New Jersey Statutes,
16 or to invest in a custodial account for the employee through a
17 broker-dealer or agent registered pursuant to the provisions of
18 sections 9 and 10 of the "Uniform Securities Law (1967)," P.L.1967,
19 c.93 (C.49:3-56 and C.49:3-57).

20 Any such annuity shall be purchased by means of an individual or
21 group annuity contract which may provide for continuance of purchase
22 payments during total disability, and under which the rights of such
23 employee to such contract shall be nonforfeitable. Any such custodial
24 account shall be established in accordance with and maintained to meet
25 the requirements of section 403(b)(7) or section 457 of the Federal
26 Internal Revenue Code of 1954, 26 U.S.C. ss.403(b) and 457, as
27 amended. All moneys deferred for section 457 plans adopted after the
28 effective date of this act, P.L. , c. (C.) (now pending before
29 the Legislature as this bill) and any other income shall be held in trust,
30 in one or more annuity contracts or in custodial accounts for the
31 exclusive benefit of the participating employees and their beneficiaries.
32 Every such agreement shall specify the amount of such reduction, the
33 effective date thereof, and shall be legally binding and irrevocable with
34 respect to the amounts earned while the agreement is in effect. The
35 total amount of the reductions in an employee's salary pursuant hereto,
36 for any calendar year, shall not, when added to the contributions made
37 in such year on behalf of such employee in accordance with section 7
38 of P.L.1963, c.123 (C.52:18A-113), exceed the limitations set forth in
39 P.L.93-406 (Employment Retirement Income Security Act of 1974)
40 and section 415(c) of the Internal Revenue Code of 1954 as amended
41 for such year. Any such agreement may be terminated upon notice in
42 writing by either party.

43 Amounts payable pursuant to this section by a board of education

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 on behalf of an employee for a pay period shall be transmitted and
2 credited not later than the fifth business day after the date on which
3 the employee is paid for that pay period.

4 (cf: P.L.1999, c.247, s.1)

5

6 2. N.J.S.18A:66-128 is amended to read as follows:

7 18A:66-128. [Reduction in salary only for purpose of benefits
8 under s. 403(b) I.R.C.] Any reduction in salary agreed to by any
9 employee pursuant to the provisions of this article shall be deemed to
10 be a reduction in salary for the purpose of obtaining the benefits
11 afforded under section 403(b) or section 457, 26 U.S.C. ss.403(b) and
12 457, of the federal internal revenue code and shall not be deemed to
13 be a reduction in salary in any other matter, the determination of which
14 is based upon the total amount of the employee's salary.

15 (cf: N.J.S.18A:66-128)

16

17 3. This act shall take effect immediately.

18

19

20 STATEMENT

21

22 This bill allows boards of education to establish tax-sheltered
23 deferred compensation plans under section 457 of the federal Internal
24 Revenue Code.

25 Currently, employees of boards of education are eligible to
26 participate in a tax-sheltered deferred compensation plan under
27 section 403(b) of the Internal Revenue Code in the State-administered
28 Supplemental Annuity Collective Trust. The federal Economic Growth
29 and Tax Relief Reconciliation Act of 2001 increased the maximum
30 contribution amounts for deferred compensation plans and repealed
31 the rules requiring the coordination 457 deferred compensation dollar
32 limits with contributions under other types of plans such as 403(b)
33 plans. Thus, boards of education employees can now maximize tax-
34 sheltered deferred compensation through full participation in both a
35 403(b) plan and a 457 plan. No 457 plans, however, are available to
36 boards of education employees. This bill permits the boards of
37 education employers to establish 457 plans.

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 2290

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 10, 2003

The Senate State Government Committee reports favorably and with committee amendments Senate, No. 2290.

This bill authorizes boards of education to establish tax-sheltered deferred compensation plans under section 457 of the federal Internal Revenue Code.

Currently, boards of education are authorized to participate in a tax-sheltered deferred compensation plan under section 403(b) of the federal Internal Revenue Code in the State-administered Supplemental Annuity Collective Trust. The federal Economic Growth and Tax Relief Reconciliation Act of 2001 increased the maximum contribution amounts for deferred compensation plans and repealed the rules requiring the coordination 457 deferred compensation dollar limits with contributions under other types of plans, such as 403(b) plans. Thus, board of education employees can now maximize tax-sheltered deferred compensation through full participation in both a 403(b) plan and a 457 plan.

COMMITTEE AMENDMENTS

The committee amended the bill to validate any 457(b) deferred compensation plan established by a board of education prior to the effective date of this bill and to clarify various references in the bill.