

52: 18A - 113.2

LEGISLATIVE HISTORY CHECKLIST
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(Tax deferred plans--State Colleges)

NJSA: 52:18A-113.2

LAWS OF: 1995 **CHAPTER:** 92

BILL NO: A549

SPONSOR(S): Stuhltrager and Roberts

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** Education
SENATE: State Management

AMENDED DURING PASSAGE: Yes Assembly substitute
(1R) enacted

DATE OF PASSAGE: **ASSEMBLY:** November 14, 1995
SENATE: February 9, 1995

DATE OF APPROVAL: April 21, 1995

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[FIRST REPRINT]

ASSEMBLY SUBSTITUTE FOR
ASSEMBLY, No. 549

STATE OF NEW JERSEY

ADOPTED SEPTEMBER 12, 1994

Sponsored by Assemblymen STUHLTRAGER and ROBERTS

1 AN ACT establishing a tax-deferred annuity program for certain
2 public employees and supplementing Title 52 of the Revised
3 Statutes.

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

7 1. a. ¹[Notwithstanding the provisions of P.L.1963, c.123
8 (C.52:18A-107 et seq.) to the contrary, the] The¹ Department of
9 Education, the Commission ¹[of] on¹ Higher Education, and the
10 governing body of any public institution of higher education
11 ¹[which offers the State-administered Supplemental Annuity
12 Collective Trust program, established pursuant to P.L.1963, c.123
13 (C.52:18A-107 et seq.),]¹ may enter into a written agreement
14 with any of its employees to reduce the employee's annual salary
15 for the purpose of investing in a tax-deferred annuity for the
16 employee pursuant to section 403(b) of the federal Internal
17 Revenue Code of 1954, as amended. Investments shall be ¹(1)¹
18 with an ¹[authorized]¹ insurer or mutual fund company ¹[, as
19 described in subsection a. of section 2 of this act] authorized to
20 provide investment contracts under the alternate benefit
21 program; (2) in investment contracts authorized under the
22 program for supplemental retirement benefits which meet the
23 requirements of section 403(b) of the federal Internal Revenue
24 Code, as amended; and (3) on the same terms and conditions
25 provided for participants in the alternate benefit program¹.

26 b. An agreement (1) shall specify the amount and the effective
27 date of the reduction; (2) shall be subject to filing with and
28 approval by the State Treasurer or filing with and approval by the
29 governing body of the institution of public higher education, as
30 appropriate; and (3) shall be legally binding and irrevocable with
31 respect to the amounts earned while the agreement is in effect.
32 The total amount of the reduction in an employee's salary
33 pursuant hereto, for any calendar year, shall not, when added to
34 the contributions made in the year on behalf of the employee in
35 accordance with section 7 of P.L.1963, c.123 (C.52:18A-113),
36 exceed the limitations set forth in Pub.L.93-406 (Employment
37 Retirement Income Security Act of 1974) and section 415 (c) of
38 the Internal Revenue Code (26 U.S.C. §415 (c)).

39 c. An agreement may be terminated at any time upon written
40 notice by either the employee or the employer. Termination shall
41 take effect at the beginning of the payroll period whose first day
42 is nearest to the 30th day following the day on which notification

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SSM committee amendments adopted December 8, 1994.

1 of termination was (1) received by the employer, in the event
2 termination is initiated by the employee, or (2) sent to the
3 employee, in the event termination is initiated by the employer.

4 ¹[2. a. The insurers or mutual fund companies shall be those
5 companies which are authorized to sell annuities under the
6 provisions of Title 17B of the New Jersey Statutes and the
7 annuities of which are offered as funding vehicles under the
8 Alternate Benefit Program administered by the Division of
9 Pensions and Benefits in the Department of the Treasury.

10 b. Each contract with an insurer or mutual fund company shall
11 be awarded for six years with a renewal option for a period not to
12 exceed three years. Each carrier shall be subject to a
13 performance review by the Pension Provider Selection Board
14 established pursuant to section 1 of P.L.1993, c.385
15 (C.18A:66-172.1) every seven years and shall meet such standards
16 as the Pension Provider Selection Board shall establish by
17 regulation in order to be renewed for another term of seven years
18 as a carrier. Removal of a carrier, for cause, during a term is
19 not waived.]¹

20 ¹[3.] 2.¹ Upon approval and filing, the State Treasurer or the
21 applicable governing body of a public institution of higher
22 education shall reduce an employee's salary pursuant to the
23 agreement and shall pay an amount equal to the amount agreed
24 upon for the salary reduction as an employer contribution to the
25 issuer of the employee's annuity. Participation in a reduction of
26 salary pursuant to this act shall not cause the employee to lose
27 any benefits under a State-administered retirement system to
28 which the employee would otherwise be entitled had the
29 employee not agreed to a reduction in salary for the purpose of
30 purchasing a tax-deferred annuity. Employee contributions and
31 any survivor's benefit shall be paid on the basis of the
32 employee's salary without regard to the reduction authorized by
33 this act.

34 ¹[4.] 3.¹ Payments for tax-deferred annuities shall be made by
35 the State Treasurer or the applicable governing body of a public
36 institution of higher education to the issuers of the annuities out
37 of moneys available for the salaries of employees who have
38 entered into agreements pursuant to this act.

39 ¹[5.] 4.¹ The ¹[Pension Provider Selection Board] Director of
40 the Division of Pensions and Benefits¹ shall promulgate rules and
41 regulations in accordance with the "Administrative Procedure
42 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the
43 purposes of this act.

44 ¹[6.] 5.¹ This act shall take effect immediately.

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49 Provides additional tax-deferred annuity choices for certain
50 State educational employees and employees of certain public
51 institutions of higher education.

ASSEMBLY, No. 549
STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel
PRE-FILED FOR INTRODUCTION IN THE 1994 SESSION

By Assemblymen STUHLTRAGER and ROBERTS

1 AN ACT authorizing State colleges to provide tax-sheltered
2 403(b) retirement plans for employees and supplementing
3 chapter 64 of Title 18A of the New Jersey Statutes.
4

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

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

19 An annuity shall be purchased by means of an individual or
20 group annuity contract which may provide for continuance of
21 purchase payments during total disability, and under which the
22 rights of the employee to the contract shall be nonforfeitable. A
23 custodial account shall be established in accordance with, and
24 maintained to meet the requirements of, section 403(b)(7) of the
25 federal Internal Revenue Code (26 U.S.C. §403(b)7).

26 Every agreement shall specify the amount of the reduction, the
27 effective date thereof, and shall be legally binding and
28 irrevocable with respect to the amounts earned while the
29 agreement is in effect. The total amount of the reductions in an
30 employee's salary pursuant hereto, for any calendar year, shall
31 not, when added to the contributions made in the year on behalf
32 of the employee in accordance with section 7 of P.L.1963, c.123
33 (C.52:18A-113), exceed the limitations set forth in Pub.L. 93-406
34 (Employment Retirement Income Security Act of 1974) and
35 section 415(c) of the Internal Revenue Code (26 U.S.C. §415(c)).
36 An agreement may be terminated upon notice in writing by either
37 party.

38 2. This act shall take effect immediately.
39
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41 STATEMENT
42

43 Under the current statutes, employees of State colleges may
44 participate in a tax-sheltered retirement plan established under
45 section 403(b) of the federal Internal Revenue Code only through

1 the State-administered Supplemental Annuity Collective Trust
2 program. This bill authorizes State colleges to establish their
3 own plans which will permit their employees to elect to invest in
4 annuities offered by insurance companies and shares issued by
5 mutual funds. Under such a plan, an employee would agree to
6 take a reduction in salary in return for the college's agreement
7 to use a corresponding amount to purchase the insurance
8 annuities or mutual fund shares.

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13 _____
Authorizes State colleges to provide tax-sheltered 403(b) plans.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 549

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 5, 1994

The Assembly Education Committee favorably reports Assembly Bill No. 549 with committee amendments.

Under the current statutes, employees of State colleges may participate in a tax-sheltered retirement plan established under section 403(b) of the federal Internal Revenue Code only through the State-administered Supplemental Annuity Collective Trust program. As amended by committee, this bill authorizes State colleges to establish their own plans which will permit their employees to elect to invest in annuities offered by insurance companies and shares issued by mutual funds. Under such a plan, an employee would agree to take a reduction in salary in return for the college's agreement to use a corresponding amount to purchase the insurance annuities or mutual fund shares.

The committee amended the bill to reflect the provisions of P.L.1993, c.385 which revised the law governing the Alternate Benefit Program. One of the provisions of that law established a process whereby providers of tax-sheltered retirement plans for the Alternate Benefit Program would be selected through a competitive bidding process.

This bill was prefiled for introduction in the 1994-95 legislative session. As amended, the bill includes the changes required by technical review which has been performed.

SENATE STATE MANAGEMENT, INVESTMENTS
AND FINANCIAL INSTITUTIONS COMMITTEE

STATEMENT TO

ASSEMBLY SUBSTITUTE FOR

ASSEMBLY, No. 549

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 8, 1994

The Senate State Management, Investments and Financial Institutions Committee reports favorably and with committee amendments an Assembly Substitute for Assembly, No. 549.

At present, the Department of Education, the Commission on Higher Education, and the governing body of any public institution of higher education can offer its employees a tax-sheltered retirement annuity plan under section 403(b) of the federal Internal Revenue Code through the State-administered Supplemental Annuity Collective Trust program. The purpose of this bill is to offer additional choices to these employees so that they may invest funds in a tax-deferred annuity other than the State-administered Supplemental Annuity Collective Trust program.

Under this bill, the Department of Education, the Commission on Higher Education and the governing body of any public institution of higher education may enter into a written agreement with any of its employees to reduce the employee's annual salary for the purpose of investing in a tax-deferred annuity for the employee pursuant to section 403(b) of the Internal Revenue Code. The investments shall be (1) with an insurer or mutual fund company authorized to provide investment contracts under the alternate benefit program; (2) in investment contracts authorized under the program for supplemental retirement benefits which meet the requirements of section 403(b) of the federal Internal Revenue Code; and (3) on the same terms and conditions provided for participants in the alternate benefit program.

The Director of the Division of Pensions and Benefits shall promulgate rules and regulations to effectuate the purposes of this act.

COMMITTEE AMENDMENTS

The committee amended the bill to provide that investments shall be with a vendor authorized to provide contracts under the alternate benefit program, meet the requirements of the federal Internal Revenue Code, and be on the same terms and conditions provided for participants in the alternate benefit program. The committee also amended the bill to provide that the Director of the Division of Pensions and Benefits and not the Pension Provider Selection Board would promulgate rules and regulations to effectuate the purposes of this act.