

CHAPTER 37

**MUNICIPAL, COUNTY AND AUTHORITY
EMPLOYEES DEFERRED
COMPENSATION PLANS**

Authority

N.J.S.A. 43:15B-1 et seq.

Source and Effective Date

R.1994 d.578, effective November 21, 1994.
See: 26 N.J.R. 2708(a), 26 N.J.R. 4600(a).

Executive Order No. 66(1978) Expiration Date

Chapter 37, Municipal, County and Authority Employees Deferred Compensation Plans, expires on November 21, 1999.

Chapter Historical Note

Chapter 37, originally Municipal and County Employees Deferred Compensation Programs, was adopted as emergency new rules R.1980 d.456, effective October 16, 1980. See: 12 N.J.R. 633(b). Emergency amendments were adopted as R.1980 d.557, effective December 29, 1980. See: 13 N.J.R. 71(b). An amendment was adopted as R.1984 d.297, effective July 16, 1984, but operative January 1, 1985. See: 16 N.J.R. 784(a), 16 N.J.R. 1969(a).

Pursuant to Executive Order No. 66(1978), Chapter 37 expired on October 16, 1985. A new Chapter 37, Municipal, County and Authority Employees Deferred Compensation Programs, was adopted as R.1985 d.598, effective November 18, 1985. See: 17 N.J.R. 1960(a), 17 N.J.R. 2749(b). Pursuant to Executive Order No. 66(1978), Chapter 37 expired on November 18, 1990, and subsequently was adopted as new rules by R.1991 d.19, effective January 7, 1991. See: 22 N.J.R. 3076(a), 23 N.J.R. 57(c).

Chapter 37 was repealed and new rules regarding Deferred Compensation Plans were adopted as R.1994 d.578. See: Source and Effective Date.

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SUBCHAPTER 1. DEFINITIONS

5:37-1.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Accounting date” means the annual date at the close of the fiscal year when the employer provides an accounting of its deferred compensation plan and appraises all participants of the value of their accounts.

“Approved plan” means a deferred compensation plan which has been approved by the Director.

“Beneficiary” means the person, persons or legal entity designated by a participant to receive any undistributed deferred compensation which becomes payable in the event of the participant’s death.

“Complete application package” means the documentation to be submitted to the Director by an employer for approval of a self-administered deferred compensation plan or by a contractor for a prototypical deferred compensation plan which may include, but not be limited to, the deferred compensation plan document, service agreement and resolution.

“Contractor” means any person or entity, other than the employer, authorized to do business in New Jersey, that provides investments or services or both regarding an employer’s deferred compensation plan.

“Deferred compensation” means future benefits for present services payable pursuant to a contract with an employee.

“Deferred compensation plan” or “plan” means a document consistent with the requirements of Section 457, as amended, of the United States Internal Revenue Code under which an employee may defer payment of a specified amount of compensation until the future receipt thereof.

“Director” means the Director of the Division of Local Government Services in the Department of Community Affairs.

“Employee” means any person, including elected, appointed and salaried persons working for the employer.

“Employer” means a local unit, either municipal, county, or an authority created by one or more counties or municipalities.

“Independent auditor” means a registered municipal accountant for a municipality or county pursuant to N.J.S.A. 40A:5-4 or a registered municipal accountant or a certified public accountant for an authority or fire district pursuant to N.J.S.A. 40A:5A-15.

“Joinder agreement” means the agreement signed by an employee to become a participant in the deferred compensation plan.

“Local plan administrator” means the person or group of local public officials or employees, including the local governing body, appointed by the governing body of the local unit to act as the plan representative with respect to the contractor and to perform the plan duties, if any, that are not to be performed by the contractor under the terms of a service agreement.

“Participant” means a local unit employee who is participating in a deferred compensation plan.

“Pay period” means the period of time for which the employer computes compensation for the employee.

“Plan manager” or “manager” means the person or group of local public officials or employees, including the local governing body, appointed by the governing body of the local unit as fiduciary responsible for the administration of the employer’s self-administered deferred compensation plan and for the investments and the accounting of funds maintained under the plan.

“Prototypical plan” means a deferred compensation plan prepared by a contractor and approved by the Director.

“Prototypical service agreement” or “service agreement” means a contract between the employer and a third party for the administration of the employer’s deferred compensation plan, the form and content of which have been approved by the Director.

“Self-administered plan” means a deferred compensation plan prepared and administered by the local unit and approved by the Director.

Amended by R.1997 d.371, effective September 2, 1997.

See: 29 N.J.R. 2743(a), 29 N.J.R. 3805(a).

Deleted “Service agreement” and added “Prototypical service agreement”

Amended by R.1999 d.58, effective March 1, 1999.

See: 30 N.J.R. 3989(a), 31 N.J.R. 673(b).

Deleted “Administrator”; rewrote “Contractor”; and inserted “Local plan administrator” and “Plan manager” or “manager”.

SUBCHAPTER 2. THE DIRECTOR

5:37-2.1 Approving plans and service agreements

(a) The Director shall approve or reject any deferred compensation plan or service agreement or amendment thereto prior to its implementation by an employer.