

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.2005 d.349, effective October 17, 2005.
See: 37 N.J.R. 1278(a), 37 N.J.R. 3975(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 37, Municipal, County and Authority Employees Deferred Compensation Plans, expires on April 15, 2013. See: 43 N.J.R. 1203(a).

Chapter Historical Note

Chapter 37, Municipal and County Employees Deferred Compensation Programs, was adopted as emergency new rules by R.1980 d.456, effective October 16, 1980. See: 12 N.J.R. 633(b). Pursuant to Executive Order No. 66(1978), Chapter 37 expired on October 16, 1985.

Chapter 37, Municipal, County and Authority Employees Deferred Compensation Programs, was adopted as new rules by 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.

Chapter 37, Municipal, County and Authority Employees Deferred Compensation Plans, 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Chapter 37, Municipal, County and Authority Employees Deferred Compensation Plans, was repealed and Chapter 37, Municipal, County and Authority Employees Deferred Compensation Plans, was adopted as new rules by R.1994 d.578, effective November 21, 1994. See: 26 N.J.R. 2708(a), 26 N.J.R. 4600(a). Pursuant to Executive Order No. 66(1978), Chapter 37 expired on November 21, 1999.

Chapter 37, Municipal, County and Authority Employees Deferred Compensation Plans, was adopted as new rules by R.2000 d.108, effective March 20, 2000. See: 31 N.J.R. 4163(a), 32 N.J.R. 1064(a).

Chapter 37, Municipal, County and Authority Employees Deferred Compensation Plans, expired on September 16, 2005 and Chapter 37, Municipal, County, and Authority Employees Deferred Compensation Plans was adopted as new rules by R.2005 d.349, effective October 17, 2005. See: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 37, Municipal, County and Authority Employees Deferred Compensation Plans, was scheduled to expire on April 15, 2011. See: 42 N.J.R. 1453(a).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. DEFINITIONS

5:37-1.1 Definitions

SUBCHAPTER 2. THE DIRECTOR

5:37-2.1 Approving plans and service agreements
5:37-2.2 Review investments

SUBCHAPTER 3. DEFERRED COMPENSATION PLAN

5:37-3.1 Prototypical plans and service agreements
5:37-3.2 Self-administered plan
5:37-3.3 Uniform system of accounting

5:37-3.4 Certification of Internal Revenue Service compliance
5:37-3.5 Alternative certification of Internal Revenue Service compliance

SUBCHAPTER 4. AMENDMENTS OF PLAN

5:37-4.1 Reasons for amendment
5:37-4.2 Notification of amendment
5:37-4.3 Plan amendment
5:37-4.4 (Reserved)

SUBCHAPTER 5. THE EMPLOYER

5:37-5.1 Institution of plans
5:37-5.2 Plan and service agreement adoption
5:37-5.3 (Reserved)
5:37-5.4 Responsible for administration
5:37-5.5 Exclusive benefit
5:37-5.6 Conflict of interest
5:37-5.7 Non-collusion
5:37-5.8 No personal liability
5:37-5.9 Administrative expenses
5:37-5.10 Minimum amounts
5:37-5.11 Terminated plan or service agreement

**SUBCHAPTER 6. THE LOCAL PLAN ADMINISTRATOR
AND PLAN MANAGER**

5:37-6.1 Responsibilities of the local plan administrator
5:37-6.2 Responsibilities of the plan manager
5:37-6.3 Bonding and evidence of insurance—self-administered plan
5:37-6.4 Document retention
5:37-6.5 Quarterly report—self-administered plan
5:37-6.6 Credit to accounts—self-administered plan

SUBCHAPTER 7. THE CONTRACTOR

5:37-7.1 Award of service agreements
5:37-7.2 Ban on solicitation prior to award of contract
5:37-7.3 Insurance companies
5:37-7.4 Mutual fund companies
5:37-7.5 Non-profit corporations
5:37-7.6 Banking institutions
5:37-7.7 Non-discrimination
5:37-7.8 Contractor disclosure
5:37-7.9 Bonding and evidence of insurance—prototypical service agreement
5:37-7.10 Provisions for rule to be part of service agreement
5:37-7.11 Responsibilities of the contractor
5:37-7.12 Quarterly report—prototypical plan
5:37-7.13 Credit to accounts

SUBCHAPTER 8. ENROLLMENT

5:37-8.1 Joinder agreement
5:37-8.2 Leave of absence

SUBCHAPTER 9. INVESTMENT POLICIES

5:37-9.1 Eligible investments
5:37-9.2 Choice of investments
5:37-9.3 Investment certification
5:37-9.4 Timing of investments

SUBCHAPTER 10. ACCOUNTING PROCEDURES

5:37-10.1 Pooling of funds
5:37-10.2 (Reserved)
5:37-10.3 Compliance requirement—prototypical plan
5:37-10.4 Audit of a self-administered plan
5:37-10.5 Deferrals
5:37-10.6 (Reserved)
5:37-10.7 Return to participants

- 5:37-10.8 Participant records confidential
- 5:37-10.9 Plan records

SUBCHAPTER 11. ENFORCEMENT

- 5:37-11.1 Compliance
- 5:37-11.2 Director determination
- 5:37-11.3 Grace period
- 5:37-11.4 Penalties

SUBCHAPTER 12. PLAN VERIFICATION

- 5:37-12.1 Plan list

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 that is either a municipality, a county, an authority created by one or more counties or municipalities, a fire district or a joint meeting.

“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”.