

## CHAPTER 155

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

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

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

Employees of board of education, agreement to reduce salary for purchase of annuity.

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

Any such annuity shall be purchased by means of an individual or group annuity contract which may provide for continuance of purchase payments during total disability, and under which the rights of such employee to such contract shall be nonforfeitable. Any such custodial account shall be established in accordance with and maintained to meet the requirements of section 403(b)(7) or section 457(b) of the Federal Internal Revenue Code of 1986, 26 U.S.C. ss.403(b) and 457(b), as amended. All moneys deferred for section 457 plans adopted after the effective date of this act, P.L.2003, c.155 and any other income shall be held in trust, in one or more annuity contracts or in custodial accounts for the exclusive benefit of the participating employees and their beneficiaries. Every such agreement shall specify the amount of such reduction, the effective date thereof, and shall be legally binding and irrevocable with respect to the amounts earned while the agreement is in effect. The total amount of the reductions in an employee's salary pursuant hereto, for any calendar year, shall not exceed the limitations set forth in sections 403(b), 457(b) and 415(c) of the Internal Revenue Code of 1986 as amended for such year. Any such agreement may be terminated upon notice in writing by either party.

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

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

Reduction of salary for obtaining certain benefits.

18A:66-128. Any reduction in salary agreed to by any employee pursuant to the provisions of this article shall be deemed to be a reduction in salary for the purpose of obtaining the benefits afforded under section 403(b) or section 457, 26 U.S.C. ss.403(b) and 457, of the Federal Internal Revenue Code and shall not be deemed to be a reduction in salary in any other matter, the determination of which is based upon the total amount of the employee's includable compensation as set forth in sections 403(b) and 457(b) of the federal Internal Revenue Code.

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

Agreements validated, confirmed.

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

Any 457(b) deferred compensation plan established by a board of education prior to the effective date of this act, P.L.2003, c.155, which has the same purpose as plans authorized by this act, is hereby validated and confirmed and shall be as good and effectual as if it had been made under the provisions of this act, provided that the terms of such plan, and the manner in

which it was established and managed, are in conformity with the provisions of this act.

4. This act shall take effect immediately.

Approved August 15, 2003.