

**CHAPTER 67****TAX-DEFERRED ARRANGEMENT****§881. Tax-deferred arrangements**

The State or any county, city, town or other political subdivision may, by contract, agree with any employee to defer or contribute a portion of that employee's compensation as part of a tax-deferred arrangement permitted for employees under the provisions of the Internal Revenue Code of 1986, as amended, and subsequently contract for, purchase or otherwise procure for the employee an investment product or products as permitted by applicable law, including, but not limited to, a fixed or variable life insurance or annuity contract from an insurance company licensed to contract business in this State, shares of an investment company registered under the federal Investment Company Act of 1940 or investment products offered by any state or national bank. Any tax deferral program offered by a firm must protect the benefits of employees to the full extent allowed by a plan authorized under the Internal Revenue Code of 1986, as amended. The State, pursuant to section 885, may offer to state employees and state employees may elect to participate in any tax-deferred arrangement established and made available by the Board of Trustees of the Maine Public Employees Retirement System pursuant to section 17103. [PL 1997, c. 204, §2 (RPR); PL 2007, c. 58, §3 (REV).]

**SECTION HISTORY**

PL 1973, c. 491 (NEW). PL 1983, c. 791, §1 (AMD). PL 1997, c. 204, §2 (RPR). PL 2007, c. 58, §3 (REV).

**§882. Authorization**

The director or the principal officer of each state agency, department, board, commission or institution is authorized to enter into such contractual agreements with employees of that particular state agency, department, board, commission or institution on behalf of the State to defer any portion of that employee's compensation as part of a tax-deferred arrangement under this chapter. [PL 1997, c. 204, §3 (AMD).]

**SECTION HISTORY**

PL 1973, c. 491 (NEW). PL 1997, c. 204, §3 (AMD).

**§883. Administration**

Administration of tax-deferred arrangements under this chapter, within state agencies, departments, boards, commissions or institutions, is under the direction of the Department of Administrative and Financial Services. Each county, city, town or other political subdivision may designate an officer to administer tax-deferred arrangements. Payroll deductions must be made in each instance by the appropriate payroll officer. [PL 1997, c. 204, §4 (AMD).]

**SECTION HISTORY**

PL 1973, c. 491 (NEW). PL 1985, c. 785, §A39 (AMD). PL 1997, c. 204, §4 (AMD).

**§884. Advisory Council on Tax-deferred Arrangements**

The Advisory Council on Tax-deferred Arrangements, established by section 12004-I, subsection 25, shall meet at least once a year, review the operations of the arrangements program and advise the Department of Administrative and Financial Services on matters of policy relating to the activities under the arrangements program. Members of the advisory council are entitled to compensation as provided in chapter 379. All appointed members serve at the pleasure of the appointing authority. The advisory council consists of 12 members as follows. [PL 2007, c. 298, §1 (AMD).]

**1. Ex officio members; chair.** The ex officio members of the Advisory Council on Tax-deferred Arrangements are: the Commissioner of Administrative and Financial Services, or the commissioner's designee; the Superintendent of Insurance, or the superintendent's designee; and the Superintendent of Financial Institutions, or the superintendent's designee. The Commissioner of Administrative and Financial Services, or a designee, is the chair of the advisory council. [PL 1997, c. 204, §5 (AMD); PL 2001, c. 44, §11 (AMD); PL 2001, c. 44, §14 (AFF).]

**2. Retirement system representative.**

[PL 1997, c. 204, §5 (RP).]

**3. Employee representatives.** The employee representatives of the advisory council are 9 employees appointed by the Governor as follows:

A. [PL 2007, c. 298, §2 (RP).]

B. [PL 2007, c. 298, §2 (RP).]

C. [PL 2007, c. 298, §2 (RP).]

D. Seven classified state employees, one from each bargaining unit recognized pursuant to Title 26, chapter 9-B in the executive branch, recommended to the Governor by the employee organizations certified to represent the units; [PL 2007, c. 298, §2 (NEW).]

E. One employee from the largest bargaining unit recognized pursuant to Title 26, chapter 9-B in the legislative branch, recommended to the Governor by the employee organization certified to represent the unit; and [PL 2007, c. 298, §2 (NEW).]

F. One employee from the largest bargaining unit recognized pursuant to Title 26, chapter 14 in the judicial branch, recommended to the Governor by the employee organization certified to represent the unit. [PL 2007, c. 298, §2 (NEW).]

Employee representatives are appointed for terms of 3 years.  
[PL 2007, c. 298, §2 (AMD).]

**4. Voting.** All votes of the council must be one vote cast by labor and one vote cast by management. The labor vote must be cast by the labor cochair, who must be chosen by the labor members, and must represent the majority opinion of the labor members of the council. The management vote must be cast by the management cochair, who is the Commissioner of Administrative and Financial Services or the commissioner's designee.  
[PL 1997, c. 204, §5 (NEW).]

#### SECTION HISTORY

PL 1973, c. 491 (NEW). PL 1973, c. 585, §§11,12 (AMD). PL 1983, c. 812, §22 (AMD). PL 1985, c. 785, §A40 (AMD). PL 1989, c. 503, §B16 (AMD). PL 1991, c. 108 (RPR). PL 1991, c. 780, §§Y32,33 (AMD). PL 1997, c. 204, §5 (AMD). PL 2001, c. 44, §11 (AMD). PL 2001, c. 44, §14 (AFF). PL 2001, c. 503, §§1,2 (AMD). PL 2007, c. 298, §§1, 2 (AMD).

#### §885. Selection of firms

The advisory council shall select up to 7 firms for participation by state employees as the result of investigation and competitive bidding, as outlined in chapter 155. The advisory council may, at any time after the evaluation and study of new programs, replace any previously selected firm with another firm through the process of competitive bidding. Participants in the plan retain the right to continue to invest with a previously selected firm with which they have already established an account in the State of Maine plan. Any firm selected by the advisory council in accordance with this section must be a registered investment advisor under the federal Investment Company Act of 1940 or a bank or insurance company authorized to receive or manage contributions as part of a tax-deferred arrangement under this chapter. [PL 1997, c. 204, §6 (AMD).]

Any county, city, town or other political subdivision wishing to make use of any material relating to evaluation, or competitive bidding compiled by the advisory council, may receive copies on request. [PL 1997, c. 204, §6 (AMD).]

#### SECTION HISTORY

PL 1973, c. 491 (NEW). PL 1997, c. 204, §6 (AMD).

#### §886. Definition

For the purposes of this chapter, "employee" means any person whether appointed, elected or under contract, providing services for the State, county, city, town or other political subdivision, for which compensation is paid. [PL 1973, c. 491 (NEW).]

#### SECTION HISTORY

PL 1973, c. 491 (NEW).

#### §887. Payment of premiums; purchase of shares; investment products

Notwithstanding any other provision of law to the contrary, those persons designated to administer the tax-deferred arrangements are authorized to make payment for investment products acquired as part of a tax-deferred arrangement. The payments are not construed to be a prohibited use of the general assets of the State, county, city or other political subdivision. [PL 1997, c. 204, §6 (AMD).]

#### SECTION HISTORY

PL 1973, c. 491 (NEW). PL 1997, c. 204, §6 (AMD).

#### §888. Application

Any compensation or portion of compensation reduced by an employee in conjunction with a deferred compensation program and any earnings or income thereon must be held in trust for the

exclusive benefit of that participant and that participant's beneficiary as provided in the United States Internal Revenue Code, Section 457. For purposes of this section, custodial accounts, annuity contracts and other contracts described in the United States Internal Revenue Code, Section 457(g) must be treated as trusts. Any compensation or portion of compensation reduced must be considered in calculating any employee benefits and is subject to any withholding imposed on the employee. Any compensation or portion of compensation reduced is not subject to any income taxation until distribution is actually made to the employee. [PL 1997, c. 192, §1 (AMD).]

#### SECTION HISTORY

PL 1973, c. 491 (NEW). PL 1973, c. 788, §§16-A (RPR). PL 1997, c. 192, §1 (AMD).

#### **§889. Liability limited**

The financial liability of the State, county, city, town or other political subdivision under a tax-deferred arrangement under this chapter is limited in each instance to the transmittal to the provider of the investment product or products selected by an employee of that portion of the employee's compensation deferred under the tax-deferred arrangement while the enrollee remains an employee of the State, county, city, town or other political subdivision enrolled in the tax-deferred arrangement, and only to the amount of the portion of the employee's compensation. [PL 1997, c. 204, §7 (RPR).]

#### SECTION HISTORY

PL 1973, c. 491 (NEW). PL 1997, c. 204, §7 (RPR).