

SENATE, No. 3499

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MARCH 9, 2021

Sponsored by:

Senator JOSEPH P. CRYAN

District 20 (Union)

SYNOPSIS

Requires same limitation on public employee contributions to flexible spending accounts as provided by federal law adjusted for inflation.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning public employee contributions to flexible
2 spending accounts and amending various parts of the statutory
3 law
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
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8 1. Section 7 of P.L.1996, c.8 (C.52:14-15.1a) is amended to
9 read as follows:

10 7. Notwithstanding the provisions of any other law to the
11 contrary, the State Treasurer on behalf of the State, and the
12 governing body of an independent State authority, board,
13 commission, corporation, agency or organization may establish as
14 an employer a cafeteria plan for its employees pursuant to section
15 125 of the federal Internal Revenue Code, 26 U.S.C. s.125, and
16 shall establish such a plan for medical or dental expenses not
17 covered by a health benefits plan. The plan shall provide for a
18 reduction in an employee's salary, through payroll deductions or
19 otherwise, in exchange for payment by the employer of medical or
20 dental expenses not covered by a health benefits plan, and may
21 provide for a reduction in an employee's salary, through payroll
22 deductions or otherwise, in exchange for payment by the employer
23 of dependent care expenses as provided in section 129 of the code,
24 26 U.S.C. s.129, and such other benefits as are consistent with
25 section 125 which are included under the plan. The limitation on
26 the amount of any reduction in an employee's salary for the purpose
27 of contributing to a flexible spending account as provided for by the
28 plan shall be the limitation as adjusted for inflation annually
29 provided in section 125 of the code, 26 U.S.C. s.125(i). The
30 amount of any reduction in an employee's salary for the purpose of
31 contributing to the plan shall continue to be treated as regular
32 compensation for all other purposes, including the calculation of
33 pension contributions and the amount of any retirement allowance,
34 but, to the extent permitted by the federal Internal Revenue Code,
35 shall not be included in the computation of federal taxes withheld
36 from the employee's salary.
37 (cf: P.L.2011, c.78, s.53).
38

39 2. Section 44 of P.L.2007, c. 62 (C.18A:16-19.1) is amended to
40 read as follows:

41 44. Notwithstanding the provisions of any other law to the
42 contrary, a board of education, or an agency or instrumentality
43 thereof, may establish as an employer a cafeteria plan for its
44 employees pursuant to section 125 of the federal Internal Revenue
45 Code, 26 U.S.C. s.125, and shall establish such a plan for medical

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.

1 or dental expenses not covered by a health benefits plan. The plan
2 shall provide for a reduction in an employee's salary, through
3 payroll deductions or otherwise, in exchange for payment by the
4 employer of medical or dental expenses not covered by a health
5 benefits plan, and may provide for a reduction in an employee's
6 salary, through payroll deductions or otherwise, in exchange for
7 payment by the employer of dependent care expenses as provided in
8 section 129 of the code, 26 U.S.C. s.129, and such other benefits as
9 are consistent with section 125 which are included under the plan.
10 The limitation on the amount of any reduction in an employee's
11 salary for the purpose of contributing to a flexible spending account
12 as provided for by the plan shall be the limitation as adjusted for
13 inflation annually provided in section 125 of the code, 26 U.S.C.
14 s.125(i). The amount of any reduction in an employee's salary for
15 the purpose of contributing to the plan shall continue to be treated
16 as regular compensation for all other purposes, including the
17 calculation of pension contributions and the amount of any
18 retirement allowance, but, to the extent permitted by the federal
19 Internal Revenue Code, shall not be included in the computation of
20 federal taxes withheld from the employee's salary.
21 (cf: P.L.2011, c.78, s.51.

22
23 3. Section 45 of P.L.2007, c. 62 (C. 40A:10-23.5) is amended
24 to read as follows:

25 45. Notwithstanding the provisions of any other law to the
26 contrary, a local unit of government, or an agency, board,
27 commission, authority or instrumentality thereof, may establish as
28 an employer a cafeteria plan for its employees pursuant to section
29 125 of the federal Internal Revenue Code, 26 U.S.C. s.125, and
30 shall establish such a plan for medical or dental expenses not
31 covered by a health benefits plan. The plan shall provide for a
32 reduction in an employee's salary, through payroll deductions or
33 otherwise, in exchange for payment by the employer of medical or
34 dental expenses not covered by a health benefits plan, and may
35 provide for a reduction in an employee's salary, through payroll
36 deductions or otherwise, in exchange for payment by the employer
37 of dependent care expenses as provided in section 129 of the code,
38 26 U.S.C. s.129, and such other benefits as are consistent with
39 section 125 which are included under the plan. The limitation on
40 the amount of any reduction in an employee's salary for the purpose
41 of contributing to a flexible spending account as provided for by the
42 plan shall be the limitation as adjusted for inflation annually
43 provided in section 125 of the code, 26 U.S.C. s.125(i). The
44 amount of any reduction in an employee's salary for the purpose of
45 contributing to the plan shall continue to be treated as regular
46 compensation for all other purposes, including the calculation of
47 pension contributions and the amount of any retirement allowance,
48 but, to the extent permitted by the federal Internal Revenue Code,

1 shall not be included in the computation of federal taxes withheld
2 from the employee's salary.

3 (cf: P.L.2011, c.78, s.52)

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5 4. This act shall take effect immediately.

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8 STATEMENT

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10 This bill requires that the limitation on the amount of any
11 reduction in a public employee's salary for the purpose of
12 contributing to a flexible spending account (FSA) must be the
13 limitation as adjusted for inflation annually, provided in federal
14 law. This bill applies to employees and employers of the State,
15 local governments, and school districts.

16 FSAs are benefit plans established by employers to reimburse
17 employees for health care expenses such as deductibles,
18 copayments, and unreimbursed medical expenses that would be
19 deductible under the Internal Revenue Code, but not for health
20 insurance or long-term care insurance premiums. FSAs are usually
21 funded by employees through "salary reduction agreements,"
22 although employers are permitted to contribute as well. The
23 contributions to and withdrawals from FSAs are tax-exempt.

24 Prior to 2010, the Internal Revenue Code imposed no dollar limit
25 on FSA contributions, but employers could. In 2010, the
26 Affordable Care Act limited the annual FSA contribution to \$2,500
27 commencing in 2013. Section 125 of the federal Internal Revenue
28 Code, 26 U.S.C. s.125(i), was later amended in 2013 to provide an
29 adjustment for inflation beginning in any taxable income year after
30 December 31, 2013. For the taxable year beginning in 2021, the
31 dollar limitation under section 125(i) on voluntary employee salary
32 reductions for contributions to FSAs is \$2,750. If this bill becomes
33 law, then the limitation on a public employee's FSA contributions
34 for 2021 would be increased from \$2,500 to \$2,750. This limitation
35 would be adjusted annually.