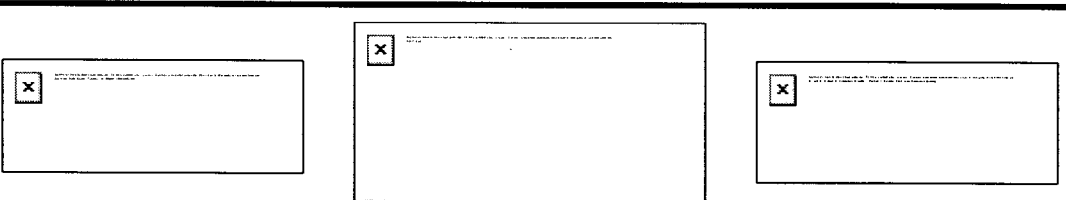


(C)

Lashway, Lisa

From: NJLM - Municipal Clerks [njlm-clerks@cityconnections.com]
Sent: Wednesday, July 09, 2008 2:24 PM
To: Lashway, Lisa
Subject: Municipal Clerks from NJLM



LEAGUE ALERT

Municipal Clerk: Please forward to Mayor and Governing Body.

July 9, 2008

Re: **Defined Contribution Retirement Plan (DCRP) REVISED Model Ordinance**

Dear Mayor:

Thanks to the efforts of Bob Casey, Executive Director of the New Jersey Municipal Management Association, and the members of NJMMA, we are able to provide you with the attached model ordinance, for your consideration.

As you may recall, in June, the Division of Local Government Services (DLGS) directed each municipality to adopt an ordinance indicating which local officials and/or employees would be enrolled in the Defined Contribution Retirement Plan (DCRP), instead of the PERS. Soon thereafter, Mr. Casey informed NJMMA members that the ordinance was, in his opinion, defective, since it ignored the concessions made, by the Local Finance Board, for those already in PERS. If not defective, it was, at least, confusing. Having discussed his concerns with DLGS, Mr. Casey has asked us to distribute the attached REVISED MODEL ORDINANCE for your consideration.

Mr. Casey suggests that you provide your municipal attorney with this revised ordinance, as well as the Local Finance Notice 2008-10, which sets forth the formal Guidelines. The suggested changes are in bold. The DLGS does not take exception to the recommended ordinance, since it does not detract from the legal intention of their original draft.

If you have already introduced or even adopted the original ordinance, you may want to do a revision just to insure there are no future misunderstandings.

Again, we want to express our appreciation to Bob Casey and the members of the NJMMA.

Very truly yours,

William G. Dressel, Jr.
Executive Director

NJJM REVISED

Model Resolution or Ordinance for Determining Positions Eligible for the Defined Contribution Retirement Program

(Items in *italics* or (parens) are intended to be edited by the user to reflect local conditions)

Whereas, the State Legislature recently adopted Chapter 92 of the Laws of 2007 (N.J.S. 43:15C-1 et seq.) to create the Defined Contribution Retirement Program to provide retirement benefits to various county and municipal officials; and,

Whereas, N.J.S. 43:15C-2 requires the governing body of each county, municipality, and other local entity to adopt, as appropriate, either a resolution or ordinance to determine the positions that are substantially similar in nature to the advice and consent of the Senate for appointments by the Governor of the State, pursuant to guidelines or policy that shall be established by the Local Finance Board in the Department of Community Affairs, and for which officials appointed to such positions shall be eligible for and shall participate in the Defined Contribution Retirement Program, subject to the provisions of law; and,

Whereas the (*name of governing body*) of the (*name of local unit*) has considered the guidelines issues by the Local Finance Board;

Therefore, Be it *ordained/resolved* by the (*insert name of governing body*) that:

1. Pursuant to N.J.S. 43:15C-2, the following positions are deemed to be eligible for and shall participate in the Defined Contribution Retirement Program:
 - (*Insert title of position as applicable*) [*Statutory-based, untenured chief administrative officer of the local unit, such as: Business Administrator, County Administrator, Municipal or County Manager, or Municipal or County Administrator appointed under authority of a local ordinance, or similar positions*];

- (Insert titles of positions as applicable) [*Positions with principal responsibility of a government function(s), commonly called "department heads" or similar title, that are filled by action of the governing body and who report directly to an elected official(s) or chief administrative officer*] ;
- (Insert title of position as applicable) [*Legal counsel to the organization regardless of title, i.e., municipal attorney, counsel, director of law, corporation counsel, solicitor, county counsel, etc.*] ;
- (Insert title of position as applicable) [*Municipal or County Engineer*] ;
- (Insert title of position as applicable) [*Municipal Prosecutor*] ;
- (Insert title of position as applicable) [*Municipal Court Judge*] ;
- (Insert titles of position as applicable) [*Appointed members of local authority Board of Commissioners (subject to N.J.S. 40A:5A-1 et seq.)*];
- (Insert title of position as applicable) [*Gubernatorial appointees who serve in county or municipal government for a fixed term (such as County Election Commissioners)*]

1. Individuals serving in the following positions are exempt from Defined Contribution Retirement Program membership, pursuant to N.J.S. 43:15C-2: [*List only as appropriate to the agency*]

- *Certified Health Officer* ;
- *Tax Collector* ;
- *Chief Financial Officer* ;
- *Construction Code Official* ;
- *Qualified Purchasing Agent* ;
- *Tax Assessor* ;
- *Municipal Planner* ;
- *Registered Municipal Clerk* ;
- *Licensed Uniform Subcode Inspector* ;
- *Principal Public Works Manager* .

3. If an individual is appointed to one of the positions listed in Section 1 and the individual is not serving in a position as described in section 2 above, the Pension Certifying Officer of the municipality may determine that the individual is not required to join the Defined Contribution Retirement Program if that individual; 1. was an active participant in the Public Employee Retirement System on July 1, 2007 and continuously since that time; or 2. has been appointed pursuant to a valid promotional process; or 3. is appointed on a temporary, interim, or "acting" basis to a position requiring State Certification as set forth in Section 2 herein, and is in pursuit of the required certification; or 4. meets such other exceptions that may be approved by the Local Finance Board or the Division of Pensions and Benefits.

4. This ordinance/resolution shall be implemented, construed and subject to

the aforesaid Chapter 92 of the Laws of 2007 (N.J.S. 43:15C-1 et seq.) as amended from time to time, and any regulations or guidance documents from the Local Finance Board or the Division of Pensions and Benefits.

5. Should any part or parts of this *ordinance/resolution* be held to be invalid by any competent court of law, such invalidity shall only affect the part or parts held to be invalid, and all other parts shall remain in effect.

6. A copy of this *ordinance/resolution* shall be filed with the Director of the Division of Pensions & Benefits of the New Jersey Department of the Treasury.

7. This ordinance/resolution shall take effect (*upon its passage and publication as required by law/take effect immediately*).

Approved: _____
(Title of officer)

Date: _____

I, (Insert the name of the certifying officer of the local entity), [Insert the job title of the certifying officer], of the [Insert the name of the local entity], in the County of (Insert the name of the county, if appropriate), State of New Jersey do hereby certify that the foregoing is a true and correct copy of a resolution (or ordinance, as appropriate) adopted by the governing body of the (Insert the name of the local entity), County of (Insert name of county, if appropriate), State of New Jersey at a regular session of said governing body held on (Insert the date of meeting).

(Insert the name of the certifying officer)

(Insert the job title of the certifying officer)