

"[CHAPTER 88D]  
TAX DEFERRED COMPENSATION PLANS FOR PUBLIC EMPLOYEES

Section

- 88D-1 Definitions
- 88D-2 Special pay plan; authority established;  
participation
- 88D-3 Special pay plans; implementation
- 88D-4 Administration of a special pay plan
- 88D-5 Costs of a special pay plan

" **[§88D-1] Definitions.** As used in this chapter, unless the context clearly indicates otherwise:

"Employee" shall have the same meaning as defined in section 76-11.

"Jurisdiction" shall have the same meaning as defined in section 76-11.

"Special pay plan" means a governmental retirement plan that meets the requirements of sections 401(a) and 414(d) of the Internal Revenue Code, and which may be a qualified pick-up plan under section 414(h)(2) of the Internal Revenue Code. [L 2003, c 109, pt of §2]

" **[§88D-2] Special pay plan; authority established; participation.** (a) Each jurisdiction may establish a special pay plan for its employees.

(b) Eligibility and participation in a special pay plan shall be determined by each jurisdiction; provided that the plan shall be:

- (1) In accordance with chapter 89, for employees subject to a collective bargaining agreement; and
- (2) Mandatory for employees not subject to a collective bargaining agreement employed in a jurisdiction that has elected to establish a special pay plan. [L 2003, c 109, pt of §2]

" **§88D-3 Special pay plans; implementation.** (a) All accumulated vacation allowance of an employee who separates from service in a jurisdiction that has established a special pay plan shall be paid to the special pay plan.

(b) The employer shall pick up any mandatory employee contribution of accumulated vacation allowance to the special pay plan within the meaning of section 414(h)(2) of the Internal Revenue Code.

(c) No employee shall have the option of receiving their accumulated vacation allowance in cash in lieu of having a contribution made to the special pay plan by their employer.

(d) The employer shall reimburse employees under the age of fifty-five who elect a withdrawal of their entire account balance from the special pay plan within sixty days from the date that the employee separated from service, an amount equal to the difference between the FICA and medicare tax savings to the employee, and any early withdrawal penalty imposed by the Internal Revenue Service. [L 2003, c 109, pt of §2; am L 2004, c 10, §3]

" **[\$88D-4] Administration of a special pay plan.** (a) Each jurisdiction that establishes a special pay plan shall be responsible for the administration of the plan.

(b) Each jurisdiction, individually or jointly with other jurisdictions, may contract the services of a special pay plan provider to administer the respective jurisdiction or jurisdictions' special pay plan. Each jurisdiction may adopt rules in accordance with chapter 91, and federal and state law, to effectuate the administration of the special pay plan. [L 2003, c 109, pt of §2]

" **[\$88D-5] Costs of a special pay plan.** Costs associated with the implementation and administration of a special pay plan established pursuant to this chapter shall be borne by the selected plan provider. [L 2003, c 109, pt of §2]