HOUSE BILL ANALYSIS

HB 2371

Brief Description: Creating a medical expense plan for certain retirees.

Background: State and higher education employees accrue sick leave at the rate of 8 hours each month. Under the attendance incentive program, an employee who has over 480 hours (or 60 days) of accumulated sick leave can receive cash for any sick leave over 480 hours accrued in the last year. Such sick leave can be cashed out at the rate of one day's pay for every four days of accrued sick leave. At retirement, state and higher education employees can receive remuneration for all their unused sick leave at the rate of one day's pay for every four days of accumulated sick leave.
Legislation enacted in 1991 gave state and higher education employees the choice of either receiving cash under the attendance incentive program or receiving, with equivalent funds, a benefit plan providing for reimbursement of medical expenses. The legislation stipulated that each eligible employee must have the option of either receiving cash or having equivalent funds placed in a medical expense plan. The legislation further stated that before implementing the medical expense plan, the Committee on Deferred Compensation had to first receive an opinion from the United States Internal Revenue Service (IRS) stating that participating employees would not have to pay federal income tax on the amounts paid into the medical expense plan. The medical expense plan provisions have never been implemented because it was determined that the amounts paid into the fund would be taxable.

Under IRS rules, monies deposited into a medical expense plan are tax exempt only if employees included in the group of employees opting into the plan do not have the option of either receiving a cash payment or participating in a medical expense plan. If the plan allows individual employees the option of receiving cash or participating in the plan, then monies deposited into the medical expense plan are taxable.

Legislation enacted in 1997 allows community college faculty to participate in medical expense plans at retirement in lieu of receiving a cash payment under the attendance incentive program. Under this legislation, participation in a medical expense plan is mandatory for all employees included in units opting into the plans.

Summary: Retiring state and higher education employees can receive, in lieu of a cash payment under the attendance incentive program and with equivalent funds, a benefit plan that provides for reimbursement of medical expenses. The decision of whether or not to participate in a medical expense plan must be made by groups of employees, such as all employees within an agency, all employees within a major division of an agency, all employees of the state Senate or all employees of the state House of Representatives.

All employees in any group opting into the medical expense plan are required to sign an agreement with their employer which states that the employer will be held harmless if the U.S. Government finds that federal income taxes are owed on the funds placed in the medical expense plan. The agreement must also state that the employee will receive no remuneration under the sick leave buy back program at retirement if the employee does not participate in the medical expense plan.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Fiscal Note: Requested on January 16, 1998.