

COMMITTEE ON HIGHER EDUCATION
Representative Don Carlson, Chair

BILL ANALYSIS
PSHB 2090

BRIEF DESCRIPTION: Establishing a community and technical college employees attendance incentive program.

BACKGROUND: Most permanent full-time state employees, including employees of the community and technical college system, accrue sick leave at the rate of one day per month. Most of these employees are eligible to participate in the state attendance incentive program, sometimes called the sick leave buyback program. Through the program, eligible employees are paid for a portion of their unused sick leave. Each January, a participating employee who has accrued 60 or more days of sick leave over his or her career may opt to receive one day's salary for every four days of sick leave accrued during the previous year.

When a participating employee dies or retires, the employee or the employee's estate is paid one day's salary for every four days of unused sick leave. This compensation is subject to federal income taxes. The law establishing the state attendance incentive program permits participating employees to invest their sick leave compensation in a medical benefit plan instead of receiving a direct payment for it. If the employee opts to put his or her sick leave compensation into a medical benefit plan, the compensation is exempt from federal income taxes. However, the option to participate in a medical benefit plan has not been implemented for state employees. A possible reason for the decision not to implement the option: the state law conflicts with rulings of the Internal Revenue Service (IRS). The IRS has issued a letter ruling that requires all employees in a unit to participate in the benefit plan in order for any participant to enjoy the federal tax exemption. Washington's law requires agencies to give employees a choice of whether to participate.

Employees of the K-12 system may participate in a medical benefit option for retiring employees. A number of school districts have implemented this option for their retiring employees.

SUMMARY OF PROPOSED SUBSTITUTE: Certain employees of the community colleges, technical colleges, and the State Board for Community and Technical Colleges are removed from the attendance incentive program for state employees. Eligible employees will participate in an attendance incentive program that is identical in most respects to the state employee attendance incentive program. Eligible employees include members of the faculties

and exempt staff from any community college or technical college and technical college classified staff. Exempt employees of the State Board for Community and Technical Colleges are also eligible to participate. In order to participate in the attendance incentive program, college and state board employees must meet the same requirements as other state employees. Most classified staff are not eligible to participate in this attendance incentive program. They must remain in the program for state employees.

Through the attendance incentive program, participating employees may receive compensation for unused sick leave. Each January, a participating employee who has accrued 60 or more days of sick leave over his or her career may opt to receive one day's salary for every four days of sick leave accrued during the previous year. When a participating employee dies or retires, the employee or the employee's estate will be paid one day's salary for every four days of unused sick leave. Any compensation or benefits received under this program will not be included in salary calculations for the state retirement systems.

There is one major difference between the state employee attendance incentive program and this program. Instead of receiving compensation for their unused sick leave, retiring eligible employees of the colleges and the state board may choose to participate in a medical benefit plan that differs from the plan available to state employees.

For employees who bargain collectively, a medical benefit plan option cannot be implemented unless it is bargained for the entire bargaining unit. The employer may institute a medical benefit plan option for all exempt employees. Participating employees must sign an agreement with their employers. The agreement must include provisions covering possible tax liabilities. The agreement must also include a provision requiring any employee in a unit that is covered by a medical benefit plan option to participate in the plan or forfeit any compensation for unused sick leave.

The state board will adopt rules for the attendance incentive program. The rules will require colleges to maintain accurate sick leave records for all employees. The rules also will define categories of employees eligible to participate in the program. The Office of Financial Management must approve the employee categories.

If any part of the medical benefit option permitted in this law conflicts with federal tax laws or with the rulings of the IRS, the conflicting provisions in this law will be inoperable.

DIFFERENCES BETWEEN SUBSTITUTE AND ORIGINAL BILL: Definitions are adopted, employees of the state board are included, the provisions of the medical benefit plan option are clarified, the rule making authority of the state board is revised, the current statute governing the state attendance incentive program is amended to exclude employees

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participating in this program, and severability language is included.