LEGISLATIVE FISCAL ESTIMATE TO

SENATE, No. 1392

STATE OF NEW JERSEY

DATED: AUGUST 19, 1997

Senate Bill No. 1392 of 1996 allows local government employers participating in the State Health Benefits Program (SHBP) to modify the employer and active employee obligations to pay for health benefits coverage under the State Health Benefits Program (SHBP) in accordance with the terms of a binding collective negotiations agreement. The definition of "employer" includes a county, municipality, school district, or a public agency or organization which operates public works or is engaged in service to the public for one or more municipalities, local boards of health, or counties and whose revenue is not derived from State funds.

The bill provides that the obligations of a local employer to pay for SHBP coverage may be determined by means of a binding collective negotiations agreement, including any agreements in force at the time of the adoption of this bill. With respect to employees of such employers for whom there is no majority representative for collective negotiation purposes, the employer may, in its sole discretion, modify the respective SHBP payment obligations for such employer and such employees, except that if there are collective negotiations agreements binding upon the employer for employees within the same community of interest, the modification shall be in a manner consistent with the terms of those collective negotiations. Employees shall have the opportunity to adjust their coverage under the available health care plans during an annual open enrollment period or a special open enrollment period established by the State Health Benefits Commission before any change in the employer-employee obligations to pay the charges for SHBP coverage takes effect.

The bill provides that a local government employer, upon adoption and submission to the Division of Pensions and Benefits in the Department of Treasury of an appropriate resolution, may limit or terminate prospectively its obligations to pay for health benefits coverage of a defined group of retirees. Under current law, there are no provisions allowing a modification or termination of that obligation once it is elected. This bill allows the employer to determine the extent of its payment obligation for SHBP health benefits for its retirees as well as which qualified retirees and dependents shall be included.

The bill also provides that a local government employee who was covered under the SHBP on December 17, 1995 shall, if the employer continued to participate in the SHBP and the employee continued to be employed with that employer for an average work week of 20 hours

during the period between that date and the date on which this legislation takes effect as law, be eligible for such coverage for so long after that effective date as the employer continues to be a participating employer and the employee continues to work for the employer for an average of at least 20 hours per week. Therefore, this legislation would retroactively "grandfather" employees hired before the adoption of the regulation governing "full-time employment" for eligibility in the SHBP for local government employees covered under that regulation who have been and remain continuously employed with the same employer for a minimum average work week of 20 hours.

The bill also allows local employers to establish a cafeteria plan for their employees pursuant to section 125 of the Internal Revenue Code to provide for a reduction in an employee's salary in exchange for payment by the employer of any required employee contribution for SHBP coverage, medical or dental expenses not covered by SHBP, or dependent care expenses.

The Office of Legislative Services (OLS) notes that there will be no impact on the State as this legislation will only affect active employees of local government employers who participate in the SHBP. The specific impact of the bill on local government employers cannot be determined due in part to the elective nature of this legislation and in part because there is no information available to indicate how future collective bargaining agreements might be modified.

The OLS notes that approximately 350 school boards, 258 municipalities, 4 counties, and numerous local government agencies, authorities and commissions, representing 138,994 active employees, participate in the SHBP. No information, however, is available to indicate when local government employee contracts expire nor how future contracts may be modified in terms of sharing the cost of participating in the SHBP. It should be noted that some local employers do not have collective bargaining agreements with any of their employees.

The bill also permits local government employers to establish a cafeteria plan for their employees pursuant to section 125 of the Internal Revenue Code to provide for a reduction in an employee's salary in exchange for payment by the employer of any required employee contribution for SHBP coverage, medical or dental expenses not covered by SHBP, or dependent care expenses. This provision would reduce the cost to the employee of paying for part of the cost of health benefits coverage by allowing the employee to use pre-tax dollars to pay medical premiums. Employees save federal (but not State) income taxes through the reduction in taxable income. In addition to the employee savings in federal income taxes, both the employee and the employer avoid Social Security and Medicare taxes on amounts deferred under a Cafeteria Plan. The employer savings may be minimal though because the employer will have to hire

additional staff or hire a private firm to administer the plan.

It is impossible to estimate the potential employer savings because it is unclear how many employees will elect to participate in a Cafeteria Plan. Employees need to carefully review their particular circumstances because there are some drawbacks to Cafeteria Plans. One of the most important is that because the employee's contributions to Social Security are reduced under a Cafeteria Plan, employees who earn less than the Social Security threshold for their entire working lives will receive a reduced Social Security benefit upon retirement. Employees electing not to participate in the Cafeteria Plan will further reduce any potential employer savings by avoiding Social Security and Medicare taxes.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.