RHODE ISLAND BOARD OF EDUCATION
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Enclosure 3k
May 8, 2014

April 25, 2014

TO: The Members of the Board of Education

FROM: Clark Greene, Authorized Agent

SUBJECT: Recommendation related to the adoption of the FICA Alternative Retirement Plan by the System of Public Higher Education

A workgroup consisting of both Human Resources and Financial professionals from the three institutions of higher education as well as Ron Cavallaro, Anne Marie Coleman, and Susan LaPanne of the Office of Higher Education met to study the State's FICA Alternative Retirement Plan (FARP).

While FARP was first introduced federally in the Omnibus Budget Reconciliation Act of 1990, the Rhode Island legislature (along with numerous other states) studied the program for inclusion in the FY 2014 State Budget. They determined that many state agencies that employ significant numbers of people in part time, temporary, and/or seasonal positions will experience significant savings with the participation of this part of the workforce in the program.

Although the system of higher education was not required to participate, the work group was formed to determine if there would be similar savings for the three institutions. Their detailed report is attached.

In summary, however, the work group determined that those employees included in the part time, temporary, and/or seasonal category do not provide the system of higher education with a significant savings that would encourage participation. Unlike the State's classification of FARP eligible employees, their higher education counterparts include adjunct professors, lecturers, coaches, and other part time employee categories who do not experience a turnover that is comparable to those in the State's categories. State statute requires that FARP becomes mandatory for only those employees hired on or after July 1, 2013 with a one-time opt-in provision for those hired earlier.

While there are some savings associated with participation, two of the three institutions would need to make significant overhauls to their internal payroll information technology structures as well as placing additional permanent personnel to implement and administer the program. While the ongoing years would provide additional savings, there would be corresponding additional and ongoing expenses in maintenance.

In addition, the FARP program itself is not as beneficial for the types of employees who fall into these categories in higher education as they may be for participants in other state agencies. Participation in this program would entail increased deductions for employees via payroll although their deductions would result in retirement accounts that are portable. However, their withdrawal from the federal FICA system would decrease the credit that they are building toward Social Security. Upon retirement these funds would also result in a reduction of Social Security benefits during retirement upon withdrawal under the Windfall Elimination Provision.

It was the recommendation of the work group that the Board does not elect to participate in FARP at this time but should return to it for a review at some later date in the future.

Therefore, I recommend:

That the Board of Education does not pursue the issue of participating in the State's FICA Alternative Retirement Plan (FARP) at this time, with the direction that this matter is reviewed again within the next five years.

Rhode Island Office of Higher Education

Analysis of the Costs/Benefits of Participation in the FICA Alternative Retirement Plan

Issue:

The initial FICA Alternative Retirement Plan (FARP) was included in the Omnibus Budget Reconciliation Act of 1990. The Internal Revenue Code under Section 3121(b) (7) (f) allows a state government (and a system of colleges and universities acting as agencies of the state) to allow a FICA alternative retirement plan for its seasonal and temporary employees. However, the federal government allows the states to implement this plan at their discretion.

Included in the FY2014 State Budget was legislation requiring part-time, seasonal, and temporary employees to participate in a Rhode Island FARP plan. However, Department of Administration legal counsel has determined that this required participation of the internal payroll participants at the three public institutions of higher education is debatable per an email memorandum from State Controller, Marc Leonetti. It appears to be more of a policy issue for the Board of Education than a mandate at this time.

The recommendation from the State Controller's Office was that the Board of Education should undertake a financial review of the costs and benefits of this plan to the system. The State perceives that there is significant benefit in the reduction of the 6.2% employer contribution for the FICA match for temporary, seasonal, and part time employees.

The State has set up its own FARP program which would be the vehicle into which the system's eligible employees would enroll. While the Board of Education (for the system of public higher education) has its own retirement plan, it would need to seek enabling legislation to be empowered to establish its own FARP program if that was ultimately desired. If, however, the Board chooses to participate in FARP at all, it would only need to request participation in the State's existing plan.

Therefore this review of the application of FARP to the internal payroll participants at the three institutions has been completed with the recommendation against the adoption of the program for the system's internal payroll participants at this time.

The Process:

A work group was assembled to study this issue and propose a plan for the Board of Education that would analyze any cost savings opportunities that might exist within the system. This work group was comprised of Human Resources managers as well as finance managers from each of the three institutions as well as Anne Marie Coleman and Susan LaPanne from the Office of Higher Education.

The group met from January through March in order to determine how to proceed, how to define the employee groups that may be affected, and to develop a recommendation for the Board.

The first task was to determine the definition of the group of employees who would be affected by the program. Definitions were sourced from the federal regulations as well as the state statutes to assure that the correct data was included for analysis.

Definitions per the Internal Revenue Code:

§ 31.3121(b) (7) – 2 provides definitions for employees of governmental units who are not members of a public retirement system as follows:

(iii) (A) defines **a part time employee** for purposes of this section as any employee who normally works 20 hours or less per week.

Further, **a seasonal employee** is defined in (III) (B) as one who normally works on a full-time basis less than 5 months in a year.

A temporary employee is defined in the following paragraph as any employee performing services under a contractual arrangement with the employer of 2 years or less duration:

> Possible contract extensions may be considered in determining the duration of a contractual arrangement, but only if, under the facts and circumstances, there is a significant likelihood that the employee's contract will be extended. Future contract extensions are considered significantly likely to occur for purposes of this rule if on average 80% of similarly situated employees have had bona fide offers to renew their contracts in the immediately preceding 2 academic or calendar years. In addition, future contract extensions are considered significantly likely to occur if the employee with respect to whom the determination is being made has a history of contract extensions with respect to his or her current position. An employee is not considered a temporary employee for purposes of this rule solely because he or she is included in a unit of employees covered by a collective bargaining agreement of 2 years or less duration.

At this time, the Rhode Island statutes mirror the above definitions. The Rhode Island statute does indicate that it is effective as of July 1, 2013 with the mandate that all new part time, seasonal, and temporary employees hired on or after that date participate in the state's FARP. However, there is also a one-time opt-out for all other employees in that category hired previously to end their participation in FICA in favor of the FARP. There is no deadline on that opt-out election.

Potential Cost Savings:

The data from the institutions indicates the following savings to the system in the first year of implementation.

The most significant cost of implementing FARP for the public institutions of higher education is in the area of upgrading their internal payroll systems to include a Payroll System Benefits module that allows the flexibility to administer this plan and maintain the database that allows for proper operating and oversight of this program. These costs though significant are one-time costs with some associated computer software maintenance.

Institution	Annualized Wages subject to FARP	FICA %	Projected Savings in each year
URI			
Contract	47,579.00	6.2%	2,949.90
Hourly	152,305.92	6.2%	9,442.97
RIC	662,846.00	6.2%	41,096.45
CCRI	647,984.19	6.2%	40,175.02
TOTAL	**1,510,715.11**		**93,664.34**

As with other employee benefits programs, there are significant costs in the regular operation of the plan and include the collection and recordkeeping of various disclosures, authorizations, and audits of the benefit.

In addition, there are costs associated with administering a program with the outside vendor as well as the maintenance of a database needed to follow up with an employee population is very transient.

Some of the human resources professionals noted that many of these employees are transient in nature which would make these accounts carry minimal balances that could be consumed by account costs and ultimately accruing no benefit to the employee. Others in this category, however, will often become full time employees who also leave behind small balances in accounts that may not be commingled with other retirement plan accounts.

A Summary of the Cost/Benefits to the Employees and Employers related to participation in the FARP program are as follows:

	Costs	**Benefits**
Employees	• Additional 1.3% deducted from each paycheck • Earnings do not contribute to Social Security benefits accrued through working life • Upon retirement, benefits from this alternative plan will be deducted from Social Security benefits (as covered under the Windfall Elimination Provision)	• Will no longer be charged 6.2% for FICA contribution • Pretax alternative contribution of 7.5% is invested in separate plan and is portable upon termination

Employers	• Additional administrative costs related to the opening of numerous small retirement accounts separate from other BOG plans as well as the federally requirement disclosures • Additional administrative costs of compliance with system upon hire as well as opt out option for continuing FICA employees • URI payroll system would require significant maintenance to be able to administer monthly payroll deduction changes • Some concern that these small accounts would be lost by employees whose contributions and balances would be very minimal • Concern that participation in plan would be construed by prospective employees as negative aspect of employment in comparison to competing institutions	• Cost savings to system of 6.2% as employer match ends

Because of the significant savings to the employer in the requirement for matching FICA amounts as well as the portability of an individual plan for the employee, this plan may offer future benefits for the system of higher education. If the Board chooses to look at the program again, it will also need to determine if the system will participate in the State's established program or if it will seek legislation to enable it to establish its own FARP program.

However, the analysis of the costs and benefits of the FARP program lead the work group of system Human Resource and Finance professionals to recommend to the Board that the program is not adopted for the system's part time, seasonal, and temporary employees at this time.