QUESTIONS AND ANSWERS ON SEBAC ARP GRIEVANCE AWARD ("SAG Award")

On September 22, 2010, neutral arbitrator Roberta Golick recommended and the parties accepted the attached arbitrator's award which resolves the SEBAC grievances concerning steering of higher ed employees into the Alternate Retirement Plan. The Q& A below is intended to help answer any questions about the award which is at nearly ready to be implemented nearly 8 years after its issuance.

Q1: **What was the steering grievance and what remedies was it seeking?**

A1: There were two major aspects of the steering grievance. First, the grievance alleged that virtually every higher ed employee had not received fully adequate time and/or information in order to make an informed decision among their choice between retirement plans (or in the case of adjuncts, their additional choice not to participate in a retirement plan). The grievance sought two remedies for this claim. For new employees, the grievance sought the imposition of an agreed upon plan selection process by which employees would have adequate time, and the full information necessary to make an informed choice. For current employees, the grievance sought a one-time opportunity to switch plan choices with ARP employees able to use some or all of their ARP proceeds to purchase past service credit at its full actuarial cost.

The second aspect of the grievance affected a small number of employees. This aspect alleged that these employees had either been told they could only choose the ARP plan, or told that if they chose the SERS option there would be an adverse employment impact (for instance, that they could only work part-time). The remedy sought for this aspect of the grievance was the ability to switch to the SERS plan at a subsidized cost.

Q2: **Does the award provide all the remedies sought by the grievance?**

A2: No, the award is a compromise. All employees will have a one-time opportunity to switch retirement plans. ARP participants switching to SERS may use their account balance to purchase past-service credit at the actuarial cost. It did not grant the ability for a small group of people to buy past-service credit at a subsidized cost.

Q3: **What does it mean to buy past service at actuarial cost?**

A3: The actuarial cost is the cash cost of all the projected pension benefits you will receive based on the years of service you are buying, discounted for "present value" – meaning taking into account your projected years until retirement. To figure that value, the actuaries apply the plan rules for calculating benefits at your projected retirement date, and apply all the current assumptions they use for pension funding – life expectancy, projected salary at retirement, expected plan earnings, etc. All of this is done based upon the day you put in your request to move to SERS (or into the Hybrid). Since the window to switch has been open so long, those assumptions have occasionally changed, and when they do, members are given 45 days notice before the new calculation tables are adopted for purchase.

Q4: **But it's been almost 8 years. What has taken so long, and how has the situation changed since the award was issued?**

A4: Questions were raised about whether the award's allowance of members to switch plans would be deemed improper by the IRS. The Retirement Commission referred these questions to the IRS, which has taken since 2010 to indicate that permission will be granted. The Comptroller has indicated that the 90 day window for members to make the choice to switch or not switch plans will be from September 14 to December 14, 2018.

This choice, however, may be made in a different context than existed at the time of the award, because of the creation of the Hybrid Plan through the 2011 SEBAC Agreement. That plan created a window for ARP participants to transfer into the Hybrid Plan which will close at the same time as the SAG window closes. So, ARP eligible employees will have the choice to remain in ARP, move to SERS, or move to the Hybrid.

Q5: **Are the members who can choose the SAG Award the same as those who can choose the Hybrid?**

A5: Not exactly. While the SAG Award covers only people who were on the active payroll on September 22, 2010, the Hybrid allows people who retired as early as January 1, 2009 to shift in that plan. And ARP participants who started as late as June 30th of 2012 are eligible to buy into the Hybrid, but again would be excluded from SAG because they were not on the payroll as of 9/22/2010.

Q6: **What are the differences between the SERS plan and the Hybrid for those who are eligible to switch into both?**

A6: Once you are in the Hybrid, it works precisely like the equivalent Tier of SERS with two very important differences and one much smaller one:

(i) When you leave state service, you can choose the same monthly benefit you would get under SERS, or you have an additional option. You can take a cash withdrawal, which would be all the contributions you made since you joined the Hybrid, plus a 5% of salary Employer match, and a guaranteed 4% rate of interest. Any money you spent to buy your past service when you moved into the Hybrid, plus interest, would also be returned to you but there is no employer match on that initial purchase of service, because the employer has already contributed to the ARP for you.

(ii) Because of this additional withdrawal option, the Hybrid plan always costs 3% more in employee contributions than the equivalent SERS Tier.

(iii) The much smaller difference is in the post retirement death benefit. The SERS plans all include a post-retirement death benefit which says if you begin your monthly pension and you pass away before the monthly benefits have even added up to the amount of employee contributions you've made, you've made, your survivor gets the difference between your employee contributions and the monthly benefits already paid out. The question is how money an employee uses to purchase past service under SAG or in the Hybrid would be counted in this circumstance. Under the Hybrid, all the purchase money is deemed an employee contribution for purposes of this post retirement death benefit. Under SAG, only the employee share of the ARP account is counted. So employees until very recently paid 5% to their ARP account, and the Employer 8%. So of the money used to buy in, only 5/13ths of that is counted as employee contributions under the SAG. These percentages will vary very slightly due to the recent ¾% reduction in employer contribution. But the point remains.

Q7: **If my choice is to go into the SERS plan or the Hybrid, which plan would I go into? Tier I, Tier II, Tier IIA, or Tier 3?**

A3: Tier I will not be an option. Employees whose service extends to before July 1, 1997 will be placed in Tier II. Anyone whose service does not extent to before July 1, 1997 would be placed into Tier IIA. Since the benefit structure of Tier IIA and Tier II are identical, the only difference would be from the time of the switch forward, Tier IIA participants would make a 2% higher contribution towards their future service, than Tier II participants do. There is no impact on the cost of purchasing past service, since the benefits are the same.

For ARP participants who choose the Hybrid, they move into the Hybrid Tier equivalent to the SERS Tier based on their hire date. So that would be Tier II or IIA, like the SAG award participants, but could even include Tier 3, since Tier 3 began on 7/1/11 and Hybrid transfer is eligible for people who started as late as 6/30/12.

Q8: **What does the award mean by a "one-time" choice?**

A8: Because of IRS rules, the choice of pension plan is in most circumstances irrevocable. So once current employees make the choice allowed by the award, and once new employees make their choice upon hire, that pension plan choice will be binding throughout their tenure with the State. This applies even where the employee changes jobs – for instance, when an adjunct becomes full-time in the state university or community college systems. There are a few complicated exceptions to the one-time rule but they are rare enough not to discuss here.

Q9: **How long will I have to make my choice of plans, and what materials will be available to me?**

A9: The choice must be made between September 14th and December 14th of this year. Materials will be posted shortly which provide some of the information you may need to make your best choice.

One thing to keep in mind is that the current online calculator which figures the actuarial cost of buying past service credit will likely be updated soon to reflect changes in benefits and actuarial assumptions that occurred in 2017. The plan requires 45 days notice prior to the calculator changing. So while the SAG calculator when it is posted will be slightly less expensive than the Hybrid due to the difference in post-retirement death benefits, they may both be more expensive than the Hybrid calculator used today, depending on how the actuaries value in the 2017 changes.

Q10: **What about individuals not covered by social security? Will they be allowed to switch to SERS and if so, what will happen to their exemption from social security coverage?**

A10: Since the exemption applies only to those in the ARP (and only to certain ARP participants), that exemption would end upon the switch, just as it does with the Hybrid. Complex social security rules may make the switch inadvisable for such people, but this is an individual decision that should be discussed carefully with a financial advisor.

Q11: **Will the Unions be encouraging people to change plans?**

A11: No. We think it's very important that all employees have the option to choose a defined benefit plan like SERS or a combined plan like the Hybrid, and that they understand the benefits that a true pension program presents to long-service employees and their employers. But the carrying out of that choice is an individual decision which must be made by each employee based on their own particular circumstances. This is also true -- perhaps even more true – with respect to the decision about whether to purchase past-service credit upon switching. These are individual choices which should be made based upon a careful assessment of individual financial circumstances.

Q12: **I'm an ARP participant thinking of purchasing past service credit. If I choose, can I keep some of my money in ARP and use some to purchase past-service credit?**

A12: Yes

Q13: **What if my ARP funds are insufficient to purchase my full past-service credit? Can I use my own funds?**

A13: You can use money from your 403(b) or 457 savings accounts for this purpose, including money you may have rolled over from other tax deferred accounts.