

- [COVID-19 Update from the Executive Director](#)
- [Use the City Portal to Enroll New Members](#)
- [Compensation under FFCRA Provisions](#)
- [Furloughs and Other Reductions in Force](#)
- [Extended Supplemental Death Benefits](#)

COVID-19 Update from the Executive Director

We have a lot to tell our cities in this E-Bulletin, but I want to assure you that TMRS operations are proceeding smoothly. Although our building is closed to visitors, and we have temporarily suspended travel for our employees, we are enrolling new members, processing contributions, retirements, and refunds, and staying in close communication with our members, retirees, and cities.

As you may know, I have announced my retirement for May of this year, but the process of selecting my successor has been slowed by the pandemic, so the timing of my departure is less certain. I promise to keep you informed about that and other issues through the [E-Bulletins](#), our [website](#), and our [Facebook](#) and [LinkedIn](#) pages.

I know this may be an extremely difficult time for cities, so I hope it is some comfort to you to know that TMRS is here to provide retirement security for your employees. In so many ways, cities are our partners in the program, and I deeply appreciate all that you and your employees are doing in this crisis. Please let us hear from you if there is anything we can assist you with.

Sincerely,

David Gavia

Use the City Portal to Enroll New Members

TMRS strongly encourages all cities to use the City Portal to enroll new members during this crisis. Using the Portal eliminates paper and the need for a signature. It's more safe and efficient! You can also use the Portal to upload your monthly payrolls. If your city has not yet signed up for the City Portal, send an email to CityPortal@tmrs.com, and we'll help you!

Compensation under FFCRA Provisions

The federal Family First Coronavirus Response Act (FFCRA) contains provisions that establish and define "paid sick leave" and "expanded FMLA" benefits for employees under certain conditions. **These new types of pay should be considered part of compensation for TMRS purposes**, and employee deposits should include this compensation for any employee receiving it.

[back to top](#)

Furloughs and Other Reductions in Force

TMRS has been receiving questions about how to handle furloughs and other staffing changes. In general, the TMRS Act and the IRS do not permit an employee to refund or retire their TMRS account when an employee separates from service if there is any prearrangement (written or oral) for the employee to return to work for the city. Such an arrangement is not considered a "bona fide" termination or separation from service.

In the case of a "furlough," this can be an issue because the meaning and consequences of "furlough" may vary from city to city with respect to whether the furloughed person is or is not still a city employee and whether they are expected to return to work. The Texas Municipal League's recent [Coronavirus Update #19](#) contains a good discussion of potential furlough issues for cities to consider. The Update states, in part, *"The term "furlough" does not have an exact legal definition, but it is generally understood to mean mandatory unpaid time off from work for a certain time period that is limited in duration.... Employers typically use furloughs in times of significant economic downturns that are temporary in nature as an alternative to terminating or laying off employees or implementing across-the-board pay cuts...."*

Additionally, unlike a termination or a layoff in which there is a separation of the employment relationship, a furloughed employee is still considered to be an employee.... A city that is considering a furlough for all or some of its employees should work with local counsel to develop a policy that addresses ..." a variety of issues.

TMRS cannot advise a city as to the difference between a furlough and a termination for purposes of their city's actions, and we recommend that a city seek its own legal advice on this question. This will be important because it will be up to the city to certify that an employee has terminated, without a prearrangement to return to work, on any employee's application for refund or retirement from TMRS.

Options for Furloughed or Terminated Employees

TMRS recently sent an email to members containing information about their options if their hours are reduced or if they are furloughed or terminated. That [email](#) is posted on the COVID-19 page of our website.

It is extremely important for cities to keep a few things in mind when helping an employee who is having his or her hours reduced or is being furloughed.

1. To be eligible for a refund of the member's account and interest or to receive a retirement benefit, a city must first determine that there has been a termination of employment of the employee. Additionally, the employee's termination or separation from service must be bona fide. As noted above, this means there can be NO pre-arrangement for the employee to return to service at a future time. If the city makes a determination that the "furlough" of an employee actually results in a termination of the employee, but there is any kind of arrangement (written or oral) to rehire the furloughed employee, then the separation is not bona fide for TMRS' purposes.
2. If a member is furloughed in a manner that means the person is terminated and the member wishes to retire (if eligible), the city must sign the Service Retirement Application affirming that the separation is bona fide. If, without pre-arrangement, the member then returns to work for the city from which they retired in a TMRS-eligible position, the monthly TMRS benefit payments will cease and be forfeited for as long as the member is re-employed by the city.
3. If a city is reducing employee hours, so that a person who was in a full-time position may be in a position with reduced hours, remember the TMRS Act's 1,000-hour rule. This rule says a position that "normally requires services from the person for not less than 1,000 hours a year" must be enrolled in TMRS. If the city intends for the employee to remain in the same position on reduced hours for a temporary period and later increase the position back to normal hours, the position remains eligible for TMRS benefits; therefore, the city should continue to submit contributions from that member's compensation. If the city transfers the employee to a NEW position that normally requires less than 1,000 hours in a year, the member remains a member in TMRS, but contributions on that employee's compensation would no longer be allowed. However, because the member is still a city employee, the member would not be able to refund his or her account.

Please call TMRS at 800.924.8677 if you have questions relating to any of these issues.

[back to top](#)

Extended Supplemental Death Benefits

If your city participates in the Supplemental Death Benefits (SDB) program, you should be aware of the statutory provision of Extended Supplemental Death Benefits (ESDB). For an active employee, the SDB is an amount equal to the member's annual salary. For cities that include retirees in the SDB coverage, the benefit to a retiree is \$7,500. Retirees are not eligible for ESDB.

In general, once an active member is covered by a city's SDB program, they remain covered until the last day of a month in which an employee contribution is not made for them or they are no longer a member of TMRS. The ESDB is designed to extend the SDB coverage for a member who does not earn compensation from a city under certain circumstances. ESDB coverage may be granted to a member who leaves service due to illness or injury, is unable to engage in gainful employment, and who made a contribution in the month immediately preceding the month in which they were unable to work and make a TMRS contribution due to the illness or injury.

If your city participates in the SDB program, and an employee contracts COVID-19 and is out on unpaid leave due to illness, please contact TMRS so we can advise you of the possibility of ESDB coverage.

[back to top](#)