

EXECUTIVE E-NEWS

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This E-Newsletter is designed for city officials and others interested in TMRS issues. You are receiving this newsletter because you previously registered for a TMRS Executive Workshop or expressed an interest in receiving it.

We have not yet set dates or locations for the 2019 Executive Workshops, but they will be scheduled after the Legislative session closes. We will post the dates on the website and in the TMRS E-Bulletin. Please let us know if you have suggestions for the workshops or this newsletter.

Executive Workshops Held in 2018

TMRS hosted six workshops in cities around Texas in 2018. Over 150 city officials attended the events in Kingsville, Lakeway, Nacogdoches, Perryton, Deer Park, and Keller. Attendees heard presentations from TMRS staff on investments, city contribution rate stabilization, and other updates on the System. TMRS would like to thank all of the host cities for their hospitality.

Changes Proposed to TMRS Act

The Texas Legislature began its 86th Regular Session on January 8. Legislation amending the TMRS Act was filed in the Texas Senate (SB 1337, by Huffman) and in the Texas House of Representatives (HB 2821, by Flynn). The proposed changes, which were suggested by the TMRS Board, affect the following TMRS operational areas:

Board Meetings

Modifies current Board meeting requirements by: 1) removing quarterly month-specific meeting requirements and allowing the Board to determine when to hold those meetings; 2) allowing Board members to participate via video or conference call; and 3) during meetings called in accordance with the Open Meetings Act, permitting Board members to discuss specific matters (e.g., private investment matters, and Board self-evaluations) in Executive Session. The Board would still be required to meet at least four times annually.

Immunity and Liability Protection

Incorporates common law liability protections for the Board, staff, members of Board-appointed committees, or the TMRS Medical Board. Brings the TMRS statute in line with the other Texas statewide retirement systems' statutes by expressly providing protection for acts or omissions made in good faith in the performance of duties for the retirement system.

Legal Advisor

Removes the requirement that the Board-appointed attorney (i.e., the General Counsel) represent the System in all litigation. Clarifies that the System may hire additional legal counsel to represent the System in litigation and provide advice on fiduciary and legal matters.

Confidential Information/Audit Working Papers

Maintains existing confidentiality provisions for member and retiree personal information but supplements them with provisions in the Public Information Act. Similar supplemental provisions reside in the acts specific to the other Texas statewide retirement systems. Adds protection for audit working papers. Final audit reports, unless otherwise protected, would continue to be open records.

Investment of Assets / Definition of Security

Updates the definition of security to better reflect the diversification of TMRS' investment portfolio. The proposed language is similar to that of other Texas statewide retirement systems' statutory provisions.

Providing Electronic Information to Members and Retirees

Provides TMRS with explicit authority to distribute member and retiree annual statements and other information electronically to members and retirees in addition to the current paper and mail formats. Similar authority has been provided to other Texas statewide retirement systems.

Amortization Periods

Amortization provisions for actuarial liabilities are found in different sections of the TMRS Act and can seem confusing or inconsistent when reviewed. The proposed changes would make these amortization references consistent with Pension Review Board guidelines while clarifying the TMRS Board's authority to establish separate amortization periods for each participating city. More specifically, the changes will:

- Remove a city's unilateral right to request a new amortization period of up to 40 years in certain circumstances, but provide the Board authority to allow cities to request a new amortization period, not to exceed 30 years, in certain circumstances and subject to certain limits.
- Clarify that the maximum amortization period for all participating cities is 30 years.
- Clarify the Board's ability to:
 - Phase in contribution rate increases or increase cities' amortization periods in certain circumstances resulting from actuarial changes;
 - Establish open or closed amortization periods by either rule or funding policy adopted by the Board (currently the Act only provides for it by rule);
 - Decrease or increase amortization periods, not to exceed 30 years; and
 - Set different amortization periods for unfunded actuarial accrued liabilities arising from different types of events that generate liabilities, and ladder the amortization of the liabilities
- Clarify that a city may decline a Board initiated phase-in of a rate increase or increase of its amortization period.

Prior Service Credit/Updated Service Credit

Prior Service Credit (PSC) applies to cities that join TMRS to recognize (in the form of benefits with a monetary value) service performed before the city joins the System. The Texas Constitution (Art. 16, Sec. 67[a][2]) prohibits a person from receiving benefits in more than one public retirement system for the same service. In some cases, this prohibition may affect the ability of a city already in TMRS to, for example, add a new department or close an existing plan to move employees to TMRS. The proposed changes would:

- Require a PSC rate of 0% (currently the lowest rate is 10%) for cities or city departments that have an existing retirement plan that may want to join TMRS. It also eliminates this excluded Prior Service Credit (PSC) from the calculation of Updated Service Credit (USC).
 - These changes would prevent the accrual of a benefit in TMRS (in addition to benefits accrued in the city's existing plan) for an employees' service with a city prior to the time the city or city department joins TMRS, but would still allow such prior service to be counted for purposes of vesting and retirement eligibility in TMRS.
 - New cities joining TMRS that do not have an existing retirement plan would still be required to provide a 10% minimum PSC.
- Also clarify that USC is recalculated when a person buys back service and retires in the same year.

Occupational Disability

An employee in a TMRS participating city may be eligible for an Occupational Disability Retirement Benefit (ODB) if it is determined that they are no longer able to perform the duties of their job and that their disability is likely to be permanent. A TMRS ODB allows a person to retire earlier than "normal" retirement, but the annuity is still based on the value of the employee's account at the time of disability retirement and there is no "subsidy" or increased benefit due to disability.

Changes to the TMRS Act would do the following:

- Remove obsolete statutory references to the original TMRS disability retirement program, which was discontinued and replaced by occupational disability when ODB was adopted by a participating city.
- Update and modernize TMRS' occupational disability provisions relating to post-disability retirement evaluations by: a) providing TMRS with the authority to request a subsequent medical determination to verify a retiree's continuing occupational disability; and b) removing the earnings test, which is not used by other cash balance-based pension plans. Similar post-disability retirement medical determination authority has been provided to other Texas statewide retirement systems.

Track TMRS' bills filed in the 86th Legislature and other bills that affect Texas public pensions on TMRS' [Legislative News](#) page.

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Maintaining Contribution Rate Stability

NOTE: This article contains some of the same information that was presented at the 2018 workshops.

Many of the changes TMRS has made in the past 10 years have helped reduce the year-to-year volatility of city contribution rates. Phase-in policies for actuarial changes, asset smoothing, gradual implementation of generational mortality tables, and the use of the Entry Age Normal actuarial funding method have all helped to stabilize city contribution rates. Even so, some individual employers continue to experience significant changes in their rate from year-to-year. In particular, cities that regularly adopt ad hoc Updated Service Credit (USC) and/or ad hoc COLAs will see a steady increase in their contribution rate unless they act to reduce the effect, either by adopting annually repeating benefits or by making additional contributions to TMRS, to offset the additional liability associated with ad hoc adoptions.

Applicability Under Law and Rules

Goal 1, Objective A of the 2018 [TMRS Strategic Plan](#) states: “Educate employers about the rate stabilization tools that are available to them through the current Plan design.”

Government Code Section 855.4065 reads:

(a) In addition to the contributions a participating municipality is required to make under this subtitle, the board of trustees, after consultation with the actuary, by rule may authorize a participating municipality to make lump-sum or periodic employer contributions to the retirement system to be deposited in the municipality's account in the benefit accumulation fund.

(b) A contribution made under this section is not subject to the maximum contribution rates under Sections 855.407 and 855.501.

Furthermore, TMRS Board Rule (Title 34 Texas Administrative Code, Part 6, Chapter 125.7, effective January 1, 2008) allows a city to make additional contributions, on a voluntary basis, to its account in the TMRS Benefit Accumulation Fund (BAF) above the calculated annual contribution rate.

When Additional Contributions Make Sense

Additional contributions can be in the form of a lump sum payment or in periodic monthly payments and are not subject to the maximum contribution rate limits (Statutory Maximum or Stat Max) that are applicable to some TMRS cities. These additional contributions increase the city's BAF assets held by TMRS.

Some cities have adopted the regular practice of making additional lump sum contributions at the end of the year, using unexpended municipal funds from the ending year budget. These contributions directly reduce any Unfunded Actuarial Accrued Liability (UAAL) the city has and, in many cases, also reduce their required contribution rate. Other cities have adopted a practice of maintaining a contribution level from year to year, even when the required contribution rate goes down. In other words, these cities pick a fixed rate to contribute each month that exceeds the minimum required contribution rate. These additional monthly contributions at a predetermined fixed rate accomplish at least the following: Provide the city with a stable contribution rate from year to year for budgeting purposes; directly reduce the UAAL; accelerate the years needed to attain a 100% funded status (i.e., to pay off the UAAL); produce cost savings over the long run; and provide a contribution rate cushion for future adverse plan experience.

A city may use Form [TMRS 3ADD](#) for remitting lump sum contributions. Additional monthly contributions may be made during the normal payroll reporting process by simply filling out line 2. A. of [Form TMRS 3](#) with the increased employer contribution rate.

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