

**TMRS Advisory Committee on Benefit Design
Meeting Summary
November 15, 2018**



**TMRS ADVISORY
COMMITTEE ON
BENEFIT DESIGN**

Committee Leadership

- Chair: David Landis, TMRS Board Member
- Vice Chair: Jesús Garza, TMRS Board Member

Committee Representatives

- Bonita Hall, TMHRA (Tadd Phillips attended for Ms. Hall)
- Paulette Hartman, TCMA (unable to attend as was alternate)
- George Kauffman, TMRS Retiree (unable to attend)
- Brian Langley, Assistant City Manager/CFO, City of Denton (unable to attend)
- Kevin Lawrence, TMPA (unable to attend as was alternate)
- Julie Masters, Mayor, City of Dickinson
- David Riggs, TSAFF
- J.J. Rocha, TML
- Greg Shipley, CLEAT
- Casey Srader, GFOAT

The TMRS Advisory Committee on Benefit Design (the “Committee”) met on November 15, 2018, in Austin, Texas for its second meeting of the interim. The purpose of the meeting was for Committee representatives to receive an informational briefing on the recent Board decisions about legislation that may be recommended by the TMRS Board of Trustees (the “Board”) in the 86th Legislative Session. The Committee received presentations on 1) the benefit design suggestions that were proposed to the Board, and that the Board has not recommended at this time, and 2) the administrative/organizational/city-related suggestions the Board proposes to recommend as legislation during the 2019 session.

This summary is intended to present the primary themes presented and discussed at the meeting. It is a supplement to the meeting minutes, which are currently being prepared and which will be presented for Committee approval at its next meeting, currently slated for May 2019. The Committee’s meeting materials are available on the [TMRS website](#).

The outcome of the Committee’s meeting will be presented to the TMRS Board at its December 6-7, 2018 meeting. At that time, the Board will finalize its preferred direction for the 86th Legislative Session.

Please contact TMRS staff at 512.476.7577 or 800.924.8677 with any comments or questions.

The responsibilities of the TMRS Advisory Committee on Benefits Design include the following duties, among others:

- Communicate with the Board through updates and presentations.
- Provide input to the Board on the advantages and disadvantages of benefit design issues affecting TMRS cities, members, and retirees.
- Maintain communication with statewide professional organizations, including employer and employee groups, and member cities.

The Committee’s charter can be found online at TMRS.com.

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I. Interim Overview

Mr. Dan Wattles, TMRS Director of Governmental Relations, explained the focus of the interim session and related activities undertaken by staff, noting the connection with the TMRS Strategic Plan. The Strategic Plan calls for the Board and staff to identify possible statutory or rule changes that would improve TMRS' plan design and operations and to determine whether to initiate legislation in the 86th Legislature.

Staff performed a comprehensive review of the TMRS governing statutes and researched proposals to present to the Board. At the August 2018 Board meeting, staff presented a list of the highest priority suggestions. This list of suggestions was narrowed by the Board at its September meeting. The final 12 suggestions included three related to benefit design and nine related to administration and operations. At the October Board meeting, the Board preliminarily decided to pursue the nine administrative/operational proposals but chose not to pursue the three benefit design changes. Final decisions are anticipated at the December Board meeting.

The Board subsequently directed the Committee Chair to use the November 15, 2018, Committee meeting as an informational briefing on each of the proposals considered and the Board's decisions. Mr. Wattles noted the last time that TMRS recommended legislative changes was in 2011.

II. Benefits Design Proposal - COLA

Mr. Joe Newton of Gabriel, Roeder, Smith & Company ("GRS"), the Board's consulting actuary, provided a recap to the Committee on the current TMRS COLA options. Mr. Newton analyzed trends among TMRS cities, noting that while the number of TMRS member cities has risen during the past decade, the number of those adopting COLAs has decreased. Nearly all of the cities which offer a COLA do so on a repeating basis, meaning that the COLA is advanced funded. Mr. Newton then explained the different features of the TMRS COLA provision, noting that the retroactive feature can be a high-cost for cities that have not provided a COLA for many years. He compared and contrasted the TMRS COLA provision with that of other statewide public retirement systems both within and outside of Texas, noting that the retroactive feature is uncommon. Mr. Newton also noted that the retroactive feature is a much higher percentage of the cost increase for an ad hoc (one-time) COLA versus a repeating COLA.

Mr. Wattles provided a synopsis of the COLA proposal that staff presented to the Board and stated the Board's preliminary decision was not to recommend it at this time. The Board's decision was based on the following rationale: the perception of the current fiscal pressures facing TMRS member cities, a lack of broad demand for change, and the Board's preference to not recommend, in the upcoming session, legislation that may be perceived as a benefit enhancement.

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Mr. Wattles concluded with a summary of COLA-related legislative activity initiated by individual cities over the past several sessions, noting that such activity has declined. Notwithstanding, he noted that the direction of the Board was for staff to be prepared with research and possible bill language so that if an individual city sponsored a COLA bill, TMRS would be prepared to work with the sponsor.

Members of the Committee expressed appreciation of the Board's desire to balance its legislative aims with the uncertain political climate. They also applauded the Board's direction to staff to be "response ready" should individual city initiatives be proposed during the session. There was common ground on the concept that the retroactive nature of the COLA doesn't make sense. Although Committee members do not believe that the COLA provision is an urgent issue for the majority of employers or members, they did express a desire to see the Board address the COLA provision in the future to make it more accessible to cities and members and to possibly expand the options available to cities.

III. Benefits Design Proposal - Return to Work

Mr. Newton summarized how the TMRS Return to Work ("RTW") provision currently functions. He indicated that the percentage of retirees that find themselves in return to work situations is increasing, both at TMRS as well as in other statewide retirement systems. In part, this is because there are generally more retirees but also because there is compression in the labor market. He noted that managing policies that apply to employees who have retired and then choose to return to work for their former employer creates challenges for public retirement systems.

Mr. Wattles then summarized the staff proposal made to the Board, noting that it featured clarifying interpretive language that aligned with TMRS' current practice, but also established a bona fide separation period of 1-year with no suspension of annuity. Mr. Wattles stated the Board's preliminary decision was not to recommend it at this time. While the Board and the TMRS Legislative Committee were generally supportive of addressing the inequity between returning to a retiring member's own city and another city, the perception of "double dipping" by a RTW retiree still exists. Mr. Wattles further expressed that in making its decision about the RTW proposal, similar to the COLA provision, the Board did not want any possible TMRS legislation to become embroiled in potential issues of local control and human resources. Mr. Wattles concluded with an overview of the legislation proposed in previous sessions by other parties to alter the current TMRS RTW Provision.

Mr. Newton and Ms. Leslee Hardy, TMRS Director of Actuarial Services, emphasized the importance of RTW provisions being designed so as not to create an incentive to utilize the provisions by either the member or employer. Incentives can negatively alter retirement patterns and affect retirement system funding.

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Committee members conveyed concern about the perception of double-dipping. They appreciated the need for human resources departments to fill civilian positions in tight or geographically isolated labor markets. While recognizing the potential problems of introducing a RTW provision in the upcoming session, one Committee member was hopeful that the RTW bill could be introduced, noting that the annuity suspension issue for those with less than 8-years of separation required by the current RTW provision is problematic. Addressing it would make a big difference to the labor force, particularly for police departments looking to hire qualified police officers and experiencing high costs for training officers.

IV. Benefits Design Proposal - Supplemental Death Benefit Fund

Ms. Hardy explained how the TMRS Supplemental Death Benefit Fund (the “Fund”) works, noting that the Fund is considered an Other Post Employment Benefit (“OPEB”) plan under the Governmental Accounting Standards Board (“GASB”) standards. It is a cost-sharing defined death benefit plan. It offers a benefit equivalent to one year of salary for active members and a flat dollar amount for retirees, currently \$7,500. There has been some recent interest in raising the retiree benefit amount to \$10,000; however, neither the Board nor Staff could support such a recommendation until conducting more thorough actuarial analysis in connection with the 2019 actuarial experience study.

The Committee appreciated the background and explanation and had no comments on the suggested approach for further study.

V. Administrative/Operational/City-Related Proposals

The Committee heard from staff on all nine of the administrative/operational/city-related proposals. A brief overview of each topic was provided as outlined below.

1. Board Governance and Legal Proposals
 - a. *Board Meetings*. Involves removing statutory specificity for meeting in certain months and provides the Board with more flexibility, comparable to the boards of other statewide public retirement systems. For example, the current statute provides that Board meetings occur in March, June, September, and December. The proposed language would require at least four meetings each year and give the Board the flexibility to determine when those occur during the year and retain the ability to call additional meetings. The proposed language would also allow for Board member participation via video or conference call and permit discussion on certain matters in executive session in accordance with the Public Information Act and the Texas Open Meetings Act. For example, it would permit the Board to discuss private investment matters in executive session along with other topics such as a Board self-evaluation discussion.

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- b. *Immunity and Liability Protection.* Incorporates protections from liability that exist in common law into the TMRS Act. Puts TMRS on par with other statewide public retirement system statutes.
- c. *Legal Advisor.* Clarifies that the Board may appoint and hire legal counsel to represent the System in addition to the System's General Counsel.
- d. *Confidential Information/Audit Working Papers.* Maintains the existing confidentiality provisions but supplements them with additional confidentiality provisions currently in the Public Information Act. Similar supplemental provisions reside in the acts specific to the other statewide systems so that those systems need not look to the Public Information Act, which may be amended. Adds protection for audit working papers. Final audit reports, unless otherwise protected, would continue to be open records
- e. *Investment of Assets / Definition of Security.* Updates the definition of security in the TMRS Act to better reflect the diversity of TMRS' investment portfolio. The proposed language is similar to that of other statewide systems' statutory provisions.

The Committee did not see any issues with these items, other than the normal amount of interest when matters pertaining to executive session, liability protection, or confidential information are Legislatively considered. Staff noted that the proposal for liability protection incorporates language based on good faith performance of duties. The Committee appreciated TMRS' current levels of transparency and discussed the need to emphasize that through these proposals, TMRS is not trying to decrease transparency.

2. Administrative Proposals

- a. *Amortization Periods.* Clarifies that the maximum amortization period is 30 years and better defines the Board's ability to set amortization periods. Establishes statutory consistency with PRB guidelines as well as other Texas statewide retirement systems.
- b. *Prior Service Credit/Updated Service Credit.* Relates to prior service credit granted when a city joins TMRS, and the constitutional provision that a member cannot receive retirement benefits in two systems for the same service. The proposal would require that a city joining TMRS that has an existing plan could only grant 0% prior service credit, called excluded prior service credit. Eliminates excluded prior service credit from the calculation of USC. Allows for the recalculation, in certain circumstances, of USC when an eligible person buys-back serviced credit and retires in the same calendar year. The Committee discussed the application of this proposal to certain situations, such as departmental participation in TMRS, among others.
- c. *Providing Electronic Information to Members and Retirees.* Provides TMRS the authority to distribute member information in an electronic format in addition to the current paper and mail formats. Brings TMRS' statutory provisions in line with Texas County and District Retirement System's statutory language.
- d. *Occupational Disability.* Updates and modernizes TMRS' occupational disability provisions, bringing them in line with those of other cash balance plans and some

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statewide retirement systems. Provides TMRS the authority to request a subsequent medical determination regarding a member’s occupational disability. Removes the earnings test, which staff found is not used by other cash balance-based pension plans. Clarifies that the “regular disability” retirement program is no longer available, since it was replaced by the “occupational disability” program many years ago.

The Committee had no additional comments or questions on the first three administrative proposals but engaged in a focused discussion on the occupational disability proposal. Mr. Newton identified the differences between TMRS’ occupational disability program and that of other statewide public retirement systems which contain subsidies. The average TMRS monthly occupational disability benefit is extremely modest – approximately \$673 – all supported by the member’s account given the TMRS cash balance plan design. The System does not subsidize disability benefits. A member on disability retirement is currently subject to a post-retirement test of other income that can also affect the amount of the disability benefit.

Mr. Newton suggested an alternative to staff’s proposal. He suggested that once the disability benefit is approved that the retiree not be subject to future medical examinations or other testing. If the disabled member should return to work at the city where he or she became disabled or at another TMRS City, he or she should not have the annuity suspended. The objective of an occupational disability is to help incentivize the member return to earning an income comparable to that before becoming disabled. Advantages and disadvantages of this alternative scenario were discussed by the Committee, as well as the possible administrative complexity for TMRS of having to resource ongoing medical determinations in light of such a small average benefit amount. The concept of “provisional approval” was discussed but concern was expressed with “provisional” approval even though the medical board reviews applications for disability retirement from a person who receives surgery and it is too soon to determine whether the retiree will improve. Staff appreciated the information from Mr. Newton.

The Committee was asked to opine on any potential objections to the four city-related and administrative proposals. The Committee noted that removing the earnings test on the occupational disability provision may cause concern that could be addressed by communicating that TMRS proposes replacing the income test with discretionary future medical examinations similar to those used by other systems and that TMRS occupational disability benefits are not subsidized. The Committee was also asked if there was any reason why these proposals could not be supported as they stand currently. The Committee noted no perceived issues with removal of the income test but there were issues with the automatic suspension of the annuity upon returning to work at any TMRS city.

VI. Legislative Session Update

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Mr. Wattles and Mr. Ron Lewis, legislative consultant to the TMRS Board, provided the Committee with an update on the legislative climate. Mr. Wattles reviewed the federal landscape after the mid-term elections. Mr. Lewis noted that Texas voter turnout was the largest since 1970. The concept of straight party ticket voting is gone. The electorate is getting more sophisticated, educated, and knowledgeable.

Two key players in Texas pension matters, Senator Huffman and Representative Flynn both won reelection. Mr. Lewis underscored the degree with which Legislative change was occurring, estimating that the new House speaker will likely select new voices for available posts. Additionally, Mr. Lewis highlighted that bill volume and the time periods for getting a bill submitted and reviewed were significant. Mr. Lewis noted TMRS' strong reputation in the Legislature would help recommended legislation as it moves through the process.

The next meeting of the Committee is scheduled for May 2019 in Austin, TX. It will be a joint meeting with the TMRS Board of Trustees. Reports on actuarial matters and information concerning public pension plan trends will be reviewed and discussed.

To access the Committee's meeting materials, please visit TMRS.com. Please contact TMRS Staff at 512.476.7577 or 800.924.8677 with any comments or questions.