

Summary of TMRS Bill (SB 1337)

Senate Bill 1337 (SB 1337), by Senator Huffman (House sponsor Representative Flynn) was passed by the Texas Legislature in 2019 and signed by the Governor. The bill's provisions are effective January 1, 2020.

As a public retirement system, applicable provisions of the Texas Government Code require TMRS to distribute to active members and retirees a summary of any significant changes made to the TMRS Act that affect contributions, benefits, or eligibility. The following information is being provided in accordance with that requirement, but includes a summary of all significant changes made by SB 1337, not just ones affecting contributions, benefits, or eligibility. SB 1337 significant provisions include:

Updated Service Credit (USC)

Beginning January 1, 2022, a member must be a contributing employee of a municipality on the Updated Service Credit (USC) "study date" to be eligible to receive a USC from that city. Under the TMRS Act, the "study date" is January 1 of the year immediately preceding the January 1 on which the USC will take effect. For example, January 1, 2018 was the "study date" for any January 1, 2019 USC credit.

Buy Backs

Under the TMRS Act, USC is typically calculated only once a year in January. SB 1337 clarifies administrative procedures providing that (i) if a member who has an option to buy back previously refunded service, exercises the buy back and retires within the same calendar year, and (ii) if a city from which the member is retiring as part of that retirement has a USC ordinance in effect for January 1 of that same calendar year, then TMRS may recalculate the member's USC prior to his/her retirement for purposes of determining the annuity. For example, assume Member A has a buy back option and is working at City 1; if (i) Member A exercises the buy back in May 2019 and retires from City 1 in June 2019, and (ii) City 1 has a USC ordinance with an effective date of January 1, 2019, then TMRS may recalculate Member A's USC prior to retirement.

TMRS notes that, while a buy back may be exercised at any time after a member becomes eligible for it, historically members with buy backs often wait until the time they retire to exercise the buyback. Members with buy back options should consider what effect, if any, the above change to USC eligibility might have on potential USC calculations related to their buy back and whether the member wants to exercise their buy back option before the change to USC eligibility becomes effective January 1, 2022.

Occupational Disability

Under the TMRS Act, occupational disability is a benefit that allows a member who is disabled, to the degree that he or she cannot perform the duties of his or her occupation, to retire if his/her application is approved by the TMRS Medical Board. The benefit is not subsidized and is based on the member's account, city match, and interest at the time of determining the disability retirement.

SB 1337 removes an administrative provision that allowed TMRS to apply an income test to occupational disability retirees, which could result in a reduction of the annuity. The income test will no longer be applicable after January 1, 2020.

SB 1337 adds a provision that allows TMRS to require (by written request from TMRS) a disability retiree who is younger than age 60 to submit to a medical examination or otherwise provide evidence of continued disability. If a retiree does not comply with the request, TMRS may suspend their disability benefit. If a benefit is suspended and the retiree subsequently complies within four years of the request, the suspended payments may be paid and the benefit resumed. If, as result of a medical examination, the retiree is found to no longer meet the requirements for occupational disability, the benefit can be suspended until the retiree turns age 60.

Excluded Prior Service Credit (EPSC)

When a city joins TMRS, Prior Service Credit (PSC) is granted for all months of employee service to the city before the city joins TMRS at a percentage (from 10% to 100% of calculated value) determined by the city. Because the Texas Constitution forbids a person from receiving benefits from more than one public retirement system for the same service, in some circumstances the PSC provision could present an obstacle for a city that wants to join TMRS but already provides retirement benefits to their employees. Examples include cities that wish to join TMRS that have had an existing retirement plan in effect; cities that have one or more departments covered by other retirement systems and that now wish to enroll employees of those departments in TMRS; and cities that joined TMRS but then suspended their TMRS membership for employees hired after a certain date, adopted another retirement arrangement for such employees, and now wish to rejoin TMRS for those employees.

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SB 1337 requires a city that meets specific criteria to grant PSC at 0% of calculated value (Excluded Prior Service Credit). Any city that joins TMRS that does not meet the criteria must still grant PSC at a percentage from 10% to 100%. EPSC may only be used to satisfy length of service requirements for vesting and retirement eligibility and cannot be used to determine eligibility for or the computation of a USC calculation.

Amortization Periods

SB 1337 makes TMRS statutes consistent with Pension Review Board amortization guidelines on maximum amortization periods while clarifying the TMRS Board's authority to establish separate amortization periods for each participating city. The changes:

- Remove a city's unilateral right to request a new amortization period of up to 40 years, but provide the TMRS 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 TMRS Board's ability, by rule or by funding policy, to:
 - Establish open or closed amortization periods;
 - 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 to ladder the amortization of the liabilities.
- Clarify the TMRS Board's ability to phase in contribution rate increases or increase cities' amortization periods, not to exceed 30 years, in certain circumstances resulting from actuarial changes.
- Clarify that a city may decline a TMRS Board initiated phase-in of a rate increase or increase of its amortization period.

TMRS Board Meetings

SB 1337 modifies current Board meeting requirements by: 1) removing month-specific meeting requirements and allowing the Board to determine when to hold those meetings, 2) allowing Board members to participate via video or telephone conference call, and 3) permitting Board members to discuss specific matters (e.g., certain private investment matters, audit matters, evaluations of Board trustees or consultants, and Board self-evaluations) in executive session. The Board is still required to meet at least four times annually.

Immunity and Liability Protection

SB 1337 codifies existing common law liability protections for the Board, staff, members of Board-appointed committees, and the TMRS Medical Board. This change 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

SB 1337 removes the requirement that the Board-appointed General Counsel represent the System in all litigation. It also 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

SB 1337 adds confidentiality provisions for member and retiree personal information currently found in the Public Information Act to those that were already in the TMRS Act. SB 1337 also adds protection for audit working papers. Final audit reports received by the Board, unless made confidential under other law, continue to be open records.

Investment of Assets/Definition of Security

SB 1337 updates the TMRS Act's definition of "security" to better reflect the diversification of TMRS' investment portfolio. For information regarding TMRS' current investment portfolio, please see the website: <https://www.tmr.com/investments.php>.

Providing Electronic Information to Members and Retirees

SB 1337 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 to other Texas statewide retirement systems. TMRS intends to offer members and retirees the option of receiving statements electronically in the very near future. ♦