

Legislative and Legal Summary

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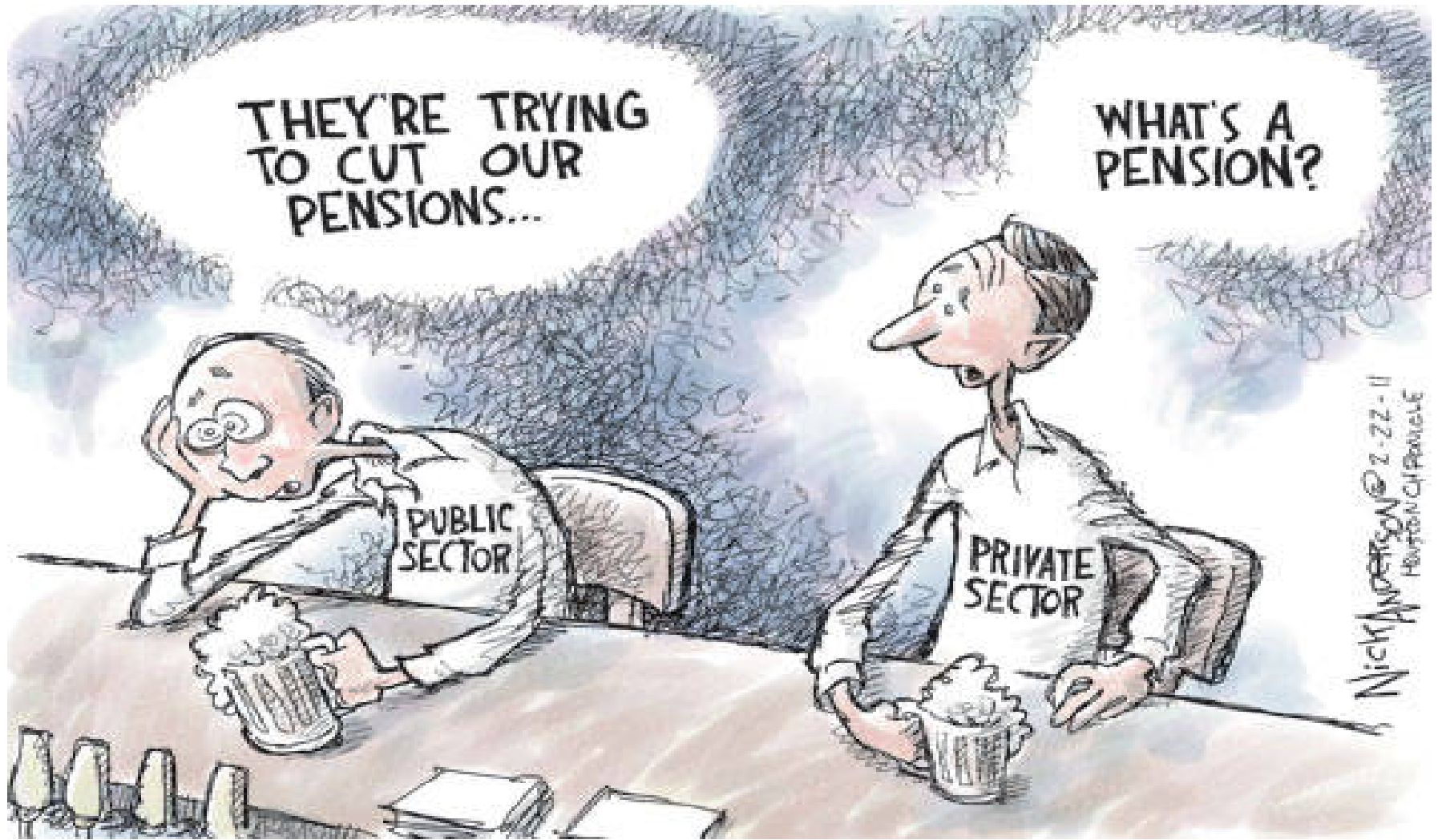
Texas Municipal
Retirement System
Annual Training Seminar
November 19-20, 2013



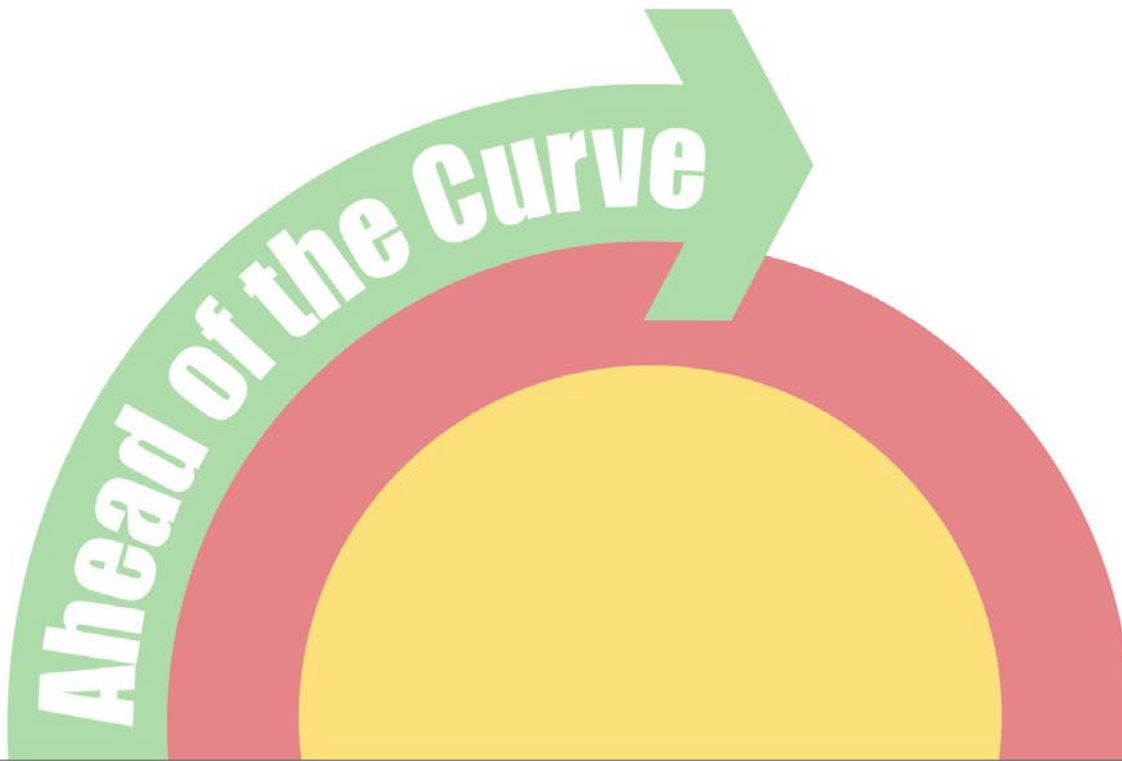
Legislative Update

Topics

- **Legislation**
 - Results of 83rd Session(s)
 - The Interim
- **Challenges**
 - Legislative Change
 - Outside Forces
- **Opportunities**
 - Future Changes
 - TMRS Stability and Improvements
 - Cash Balance
- **Takeaways**



Legislation



Results of the 83rd Session

Regular Session: No TMRS-Specific Bills Passed

- HB 626 (Harper-Brown) proposed to change the threshold for new employees to be enrolled in TMRS from the current threshold of 1,000 hours per year to 1,500 hours per year
- HB 718 (Smithee) proposed a new, optional, fixed-rate cost of living adjustment (COLA), without the catch-up provision

Results of the 83rd Session, cont.

Regular Session: Other Bills Affecting TMRS that Passed

- Senate Bill 200 (Patrick)
 - Reauthorizes the Pension Review Board (PRB) for 12 years
 - Prohibits statewide systems from investing in Iran
- House Bill 13
 - New reporting requirements for all state pension plans
 - Educational program for system trustees and administrators
 - Report on the financial health of pension systems by 9/1/2014

Results of the 83rd Session, cont.

Regular Session: Other Bills Affecting TMRS that Passed

- Senate Bill 220 (Birdwell)
 - "Sunset" for the Office of the Fire Fighters Pension Commissioner
 - Moved responsibilities to PRB and Texas Emergency Services Retirement System
- Senate Bill 366 (Taylor)
 - Clarified that political subdivisions can offer a Roth 457 deferred contribution plan

Results of the 83rd Session, cont.

Regular Session: Other Significant Bills that Passed

- Senate Bill 1458 (Duncan)-Teacher Retirement System
 - Increased state, member, and ISD contributions
 - 62 is retirement age for new hires and those not vested
 - Moved funding from "never" to 28 years (as of 8/31/2013)
- Senate Bill 1459 (Duncan)-Employees Retirement System
 - Increased employer and employee contributions
 - For new hires:
 - 62 is new normal retirement date
 - Annuity calculation based on 60 month avg. salary
 - Unused vacation — either time served or lump sum

Results of the 83rd Session, cont.

Three Special Sessions held after Regular Session

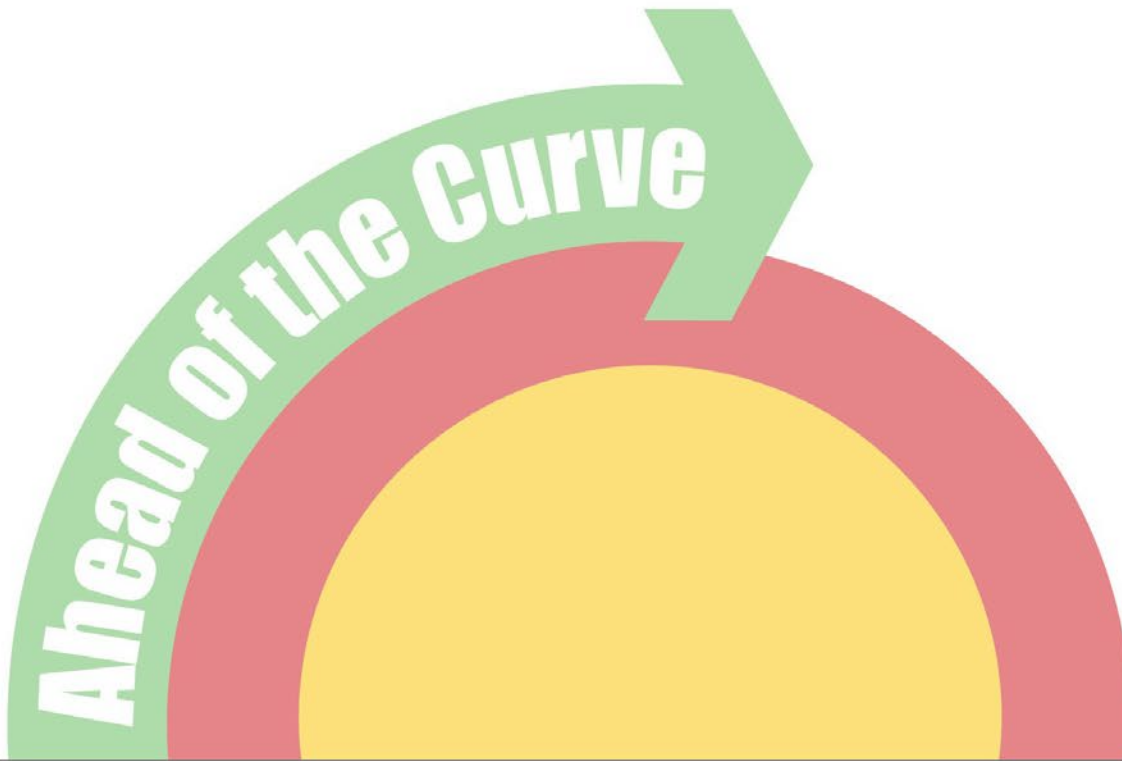
- No pension-related issues placed on "Call"
- Various bills filed, but none were considered

The Interim (Period between Regular Sessions)

Interim Studies

- Lt. Governor and Speaker of the House issue submit study topics to Senate and House committees, respectively
- Committees study and issue report before regular session (January 2015); results are often used as basis for legislation
- Study topics not yet released

Challenges



Legislative Changes

Senate and House Changes

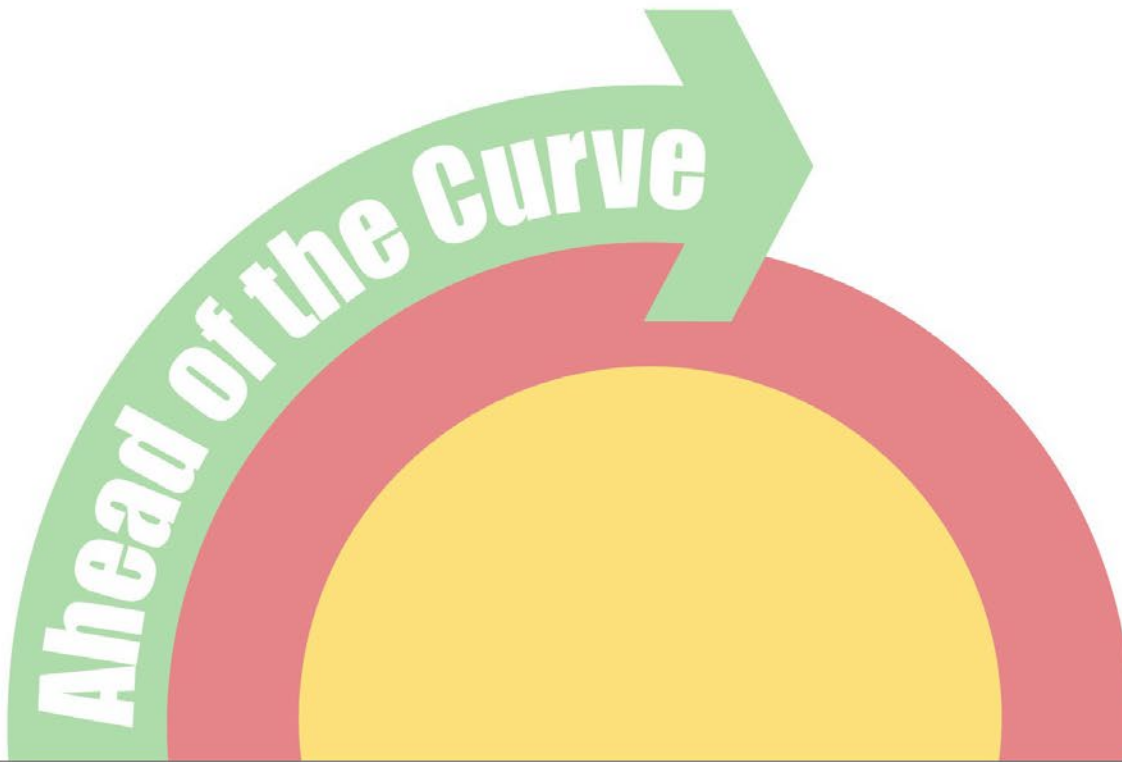
- Chair of Senate Finance has resigned, and Chair of House Appropriations Committee is not seeking reelection
- Chair of House Pensions Committee is not seeking reelection
- Three other senators will not return; nine other veteran representatives are retiring or running for other offices

Outside Forces

Movement to Dismantle / Change Defined Benefit Plans

- Primarily outside of Texas
- Lobbying, playbooks, and associations
- Evolving presence in academic institutions
- Heavily funded
- Questioning sustainability of pension plans

Opportunities



Future Changes

- Potential changes to System studied in Interim period
- Vetted through TMRS
- Reasons and importance:
 - Complexity of TMRS Plan
 - Assistance of TMRS staff and consultants to understand potential consequences
 - Determine viability
 - Identify level of external support and opposition

TMRS Stability and Improvements

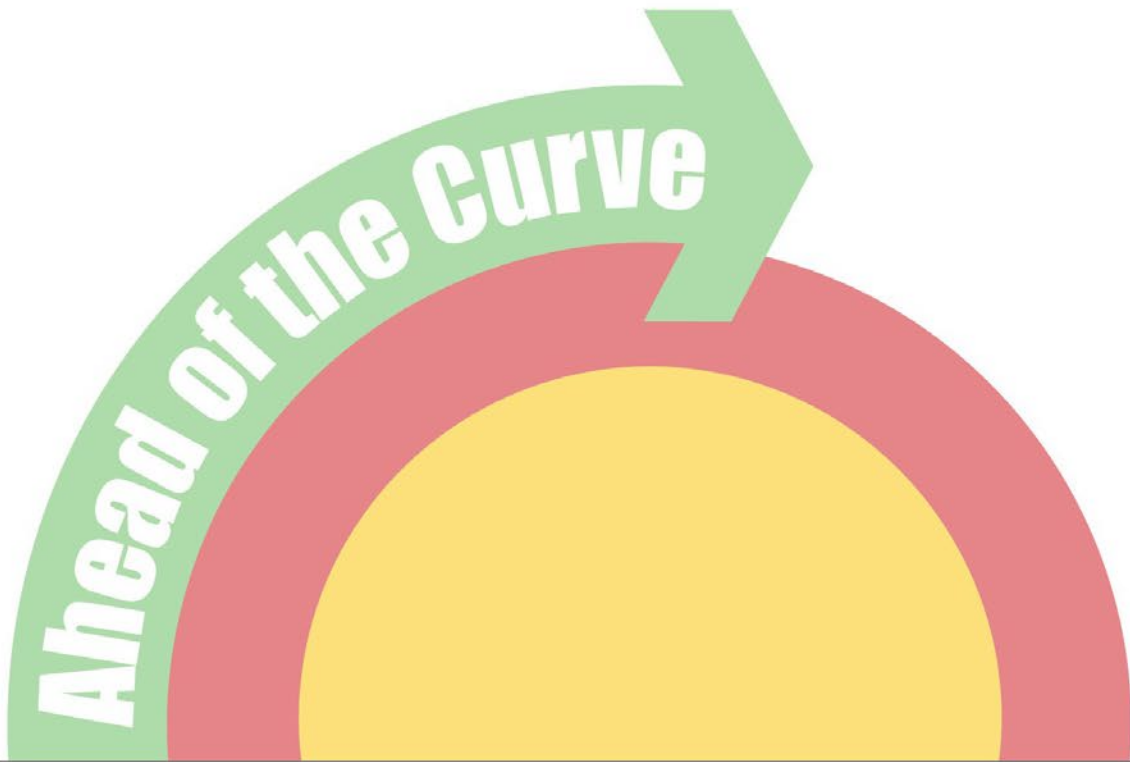
TMRS has made improvements for the long term

- HB 360 allowed for investment diversification
- SB 350 provided for restructuring of accounts to remove leveraging against cities
- Board decision to update mortality assumptions for annuity purchase rates addressed increased longevity
- Board decision to move to Entry Age Normal cost method improves predictability and city contribution rate stability, and puts TMRS in “sync” with new GASB reporting requirements

The Viewpoint on TMRS

- TMRS is considered a “defined benefit” (DB) plan, but has some characteristics of a defined contribution plan
 - Also called a “cash-balance” or “savings-based” plan
 - Employer and employee contribute to account
 - When eligible to retire, an employee receives a monthly amount calculated based on their account balance, not by a standard DB plan formula
- Cash Balance plans are now in vogue
 - DB opposition groups are promoting as viable option
 - Kentucky recently changed from a traditional DB plan to a cash-balance type plan

Takeaways



Takeaways

- Statutory and Board changes have improved TMRS and will keep it sustainable for the long term
- The effort to dismantle / do away with defined benefit plans continues
- Changes at the Legislature will require continued member education
- Stay in touch through our publications, e-bulletin and website



Keeping Ahead on Common Legal Issues

Common TMRS Legal Questions

- Who is an “Employee”?
- How does the City correct an error?
- Some common mistakes with USERRA
Military Service Credit
- What is a “bona fide separation” from work?
- What are the new Return to Work provisions?

TMRS Legal Authorities

- Texas Constitution — Article 16, Section 67(c)
- TMRS Act — Sections 851-855 of Texas Government Code
- TMRS Board Rules — 34 Texas Admin Code Ch.121-129
- TMRS Policies — In publications on our website:
www.tmrs.com

Who is an Employee?

- Section 851.001(8) of the TMRS Act
 - ☑ “Employee” means a person, including a person serving a period of probationary employment,
 - ☑ Who receives compensation from and
 - ☑ Is certified by a municipality as being
 - ☑ Regularly engaged
 - ☑ In the performance of duties of a position that normally requires services from the person for not less than 1,000 hours a year

Employee (cont).

- 1000-Hour Rule
 - A position that normally requires services for not less than 1000 hours a year
- Employees must work for a “Department” of the City
 - Section 851.001(7): “Department” means a recognized division performing a governmental or proprietary function of a municipality
 - Three Qualifiers: Purpose, Governance, and Dissolution
 - Yellow Flags: Economic Development Corporations, Utilities, Housing Authorities

How Does the City Correct an Error?

- Section 852.110 of the TMRS Act

The retirement system shall correct an error in current service performed, or current service credit that should have been received, not more than four years before the date an application for the correction, on a form approved by the board of trustees, is received by the retirement system.



Correction of Errors (cont.)

- Four-year window
 - IMPORTANT first step — file the Application for Correction with TMRS
- Compensation-based — Corrections for Settlement Agreements or Arbitration awards must be based on compensation
- All contributions must come from City

USERRA Military Service Credit

- Section 853.506 of TMRS Act – Compliance with 414(u) of Internal Revenue Code
- Board Rule 127.4
 - Definitions of Eligible Member, Uniformed Services, Service
 - Description of what can be credited and how
- General Rule – up to 60 months military service credit
- Member may deposit contributions that would have been deposited for months for Service in Uniformed Services

USERRA Issues (cont.)

- Time for payment of military service credit contributions limited
 - Three times the service credit granted, up to 5 years from the date of rehire
 - Employee must still be employed by City to make payments

What is a Bona Fide Separation from Work?

- To maintain status as a Qualified Plan (tax-deferred) under IRS regulations, TMRS may not give an “In Service Distribution”
- An employee must separate from service to retire
- There can be no prearrangement to return to work (as employee or contract employee)

What is the New Return to Work Law?

- HB 159 passed during the 82nd Legislative Session
 - Amended Section 852.108 of the TMRS Act
 - Retiree returns to work for same City with an 8-year gap in service
 - Annuity is suspended, separate account started for new service
- On re-retirement — a lump-sum payment of all suspended annuity payments will be paid to Retiree

Questions?

