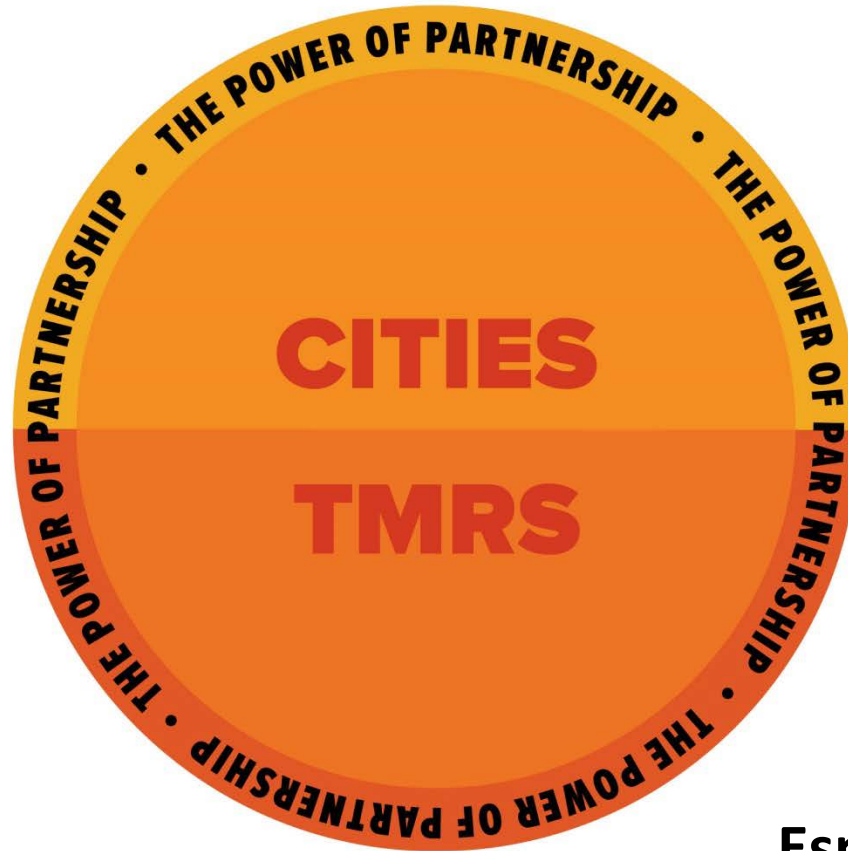


Texas Municipal Retirement System



Moderator:
Shannon Lucero
Regional Manager, TMRS

Panelists:
Esmeralda Arellano
Michelle Mellon-Werch
Tricia Solis

Legal Issues & Special Considerations



Introductions

- Esmeralda Arellano, **City Perspective**
Benefits Manager, City of Garland
 - Michelle Mellon-Werch, **Legal Perspective**
Assistant Legal Counsel, TMRS
 - Tricia Solis, **Member Services Perspective**
Support Services Analyst, TMRS
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- Shannon Lucero, Moderator, **Travel Perspective**
Regional Manager, TMRS



Topics for Discussion

- **Confidentiality**
- **Accuracy**
- **Marriage Issues**
 - Informal Marriage
 - Spousal Consent
- **Divorce**
- **Termination of Employment**
 - Separation from Service
 - Severance Pay
- **Death Benefits**



Confidential Information

Texas Public Information Act – “[I]t is the policy of this state that each person is entitled, *unless otherwise expressly provided by law*, at all times to complete information about the affairs of government and the official acts of public officials and employees.”



Records of TMRS of individual members, annuitants, retirees, beneficiaries, alternate payees, program participants, or persons eligible for benefits, are confidential and not subject to disclosure. (TPIA, Section 552.0038 and TMRS Act, Section 855.115)



Confidential Information

TMRS can share information with

- Those individuals and their legal representatives (Attorney In Fact and Guardian)
- The city — when there is a “legitimate need for the information to perform purposes of the retirement system” or when reasonably necessary to perform duties
- Spouse or former spouse if relevant to their interest in member account or other benefits
- Subpoena (not necessary for those listed above)

IT'S THE LAW: Information remains confidential, even when shared with those individuals. (TPIA Section 552.0038)



Partners in Accuracy

- We need your help! Be aware that cities, members, or retirees could provide incorrect information on a TMRS form (inadvertent or intentional).
- Section 851.101 of the Texas Government Code provides for punishment by fine and/or imprisonment of
 - (i) a person who knowingly makes a false statement in a report or application to the retirement system in an attempt to defraud the system, or
 - (ii) a person who knowingly makes a false certificate of an official report to the retirement system.



Informal Marriages!





Informal Marriage (Common Law)

- A valid **common law marriage** in Texas is where two people become spouses without getting a marriage license and having a marriage ceremony. Once established, a common law marriage has the same legal effect as a ceremonial marriage.
- Under **Texas law**, to have a common law marriage, a couple must do three things:
 - (1) Agree to be married
 - (2) Live together as husband and wife, and
 - (3) Tell others (hold themselves out) that they are married



Spousal Consent

Vested Members

If a member is married and **does not** designate his/her spouse as the **only** primary beneficiary, spousal consent is required.

Retiring Members

If a retiring member is married and **does not** elect a lifetime survivor option for his/her spouse, spousal consent is required.



What about Divorce?

TMRS benefit may or may not be divided

- If the parties agree to not divide it, then specific language should be placed in divorce decree to award the member 100%.
- If the parties agree to divide it, a qualified domestic relations order (QDRO) is required.

Beneficiary designations should be reviewed after divorce.

TMRS Divorce and Retirement Publication is available on the website. <http://www.tmr.com/down/pubs/divorce.pdf>



Qualified Domestic Relations Orders (QDROs)

QDROs divide the community property interests in a member or retiree's TMRS account. Factors that can affect what to put in a QDRO include:

- Member/retiree status
- How parties wish to divide property
- Division of future interest and city matching funds

IT'S COMPLICATED – HAVE THE MEMBER CONTACT TMRS!

We have a team to help the parties document how they want to divide this asset: divorce@tmrs.com



Different Kind of Separation





Separation from Service

To maintain status as a Qualified Plan (tax-deferred) under IRS regulations and under the TMRS Act, TMRS may not give an “In Service Distribution”

- To not have an In Service Distribution, there must be a “bona fide” separation from service
 - A bona fide separation from service means that the work relationship has been completely severed – no prearrangement to return to work (written or oral)
- Applies to both refunds and retirement



Severance Pay

Timing of severance pay can affect inclusion in TMRS-eligible compensation.

- Generally, severance pay will be included if payment is made at termination or within a reasonable time.
- Severance pay will not be included if payment is extended for a period of time beyond termination date.

Under the TMRS Act, contributions may only be made on behalf of employees. Once terminated, a person is no longer an employee.



Death Benefits

Death Benefits are determined by the member's status in TMRS' records:

- Not Vested Member
- Vested Member
- Retiree

Supplemental Death Benefit (SDB) is optional benefit (must be adopted by the city):

- Active employees: 1 x annual salary (based on last 12 deposits)
- Retirees: \$7,500



Biggest Issues TMRS has with Death Benefits

Beneficiary Designations

- No designation on file
 - City Portal enrollments
 - Holding on to forms vs. filing immediately with TMRS
 - Beneficiary predeceased
- Invalid designation on file
 - VESTING REQUIRES NEW DESIGNATION
 - Change in relationship
 - Incorrect form

Late Death Notification

- For retirees and for their beneficiaries

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2016
Annual Training Seminar
September 7-9, 2016 • Sheraton Austin at the Capitol

