



ADVISORY COMMITTEE COMMUNICATION

AGENDA ITEM NO. 6
November 15, 2018

City-Related and Administrative Proposals

Background

At the September Board meeting, the Board discussed nine potential administrative / operational changes to the TMRS Act. At the October meeting, the Board preliminarily agreed to propose legislation that would include these nine “priority items”.

The nine items can be categorized into Board Governance, Legal, City-related, and Administrative proposals. This communication item provides a description of and reasons for the four City-related and Administrative proposals.

Topics of Proposals

1. Amortization Periods

The proposed changes would address amortization period inconsistencies in the TMRS Act.

Proposed Changes

- Combines various TMRS Act provisions referring to differing lengths of amortization periods and clarify that the maximum period is 30 years
- Add a provision to allow the Board to establish open or closed amortization periods either by rule or by funding policy adopted by the Board (currently the Act requires by rule) and to clarify that the Board has authority to change back and forth from open to closed and vice versa
- Expressly provide in the statute that the Board has authority to phase in contribution rate increases or increase cities’ amortization periods in certain circumstances resulting from actuarial changes. Additionally, the revisions would remove a city’s unilateral right to request a new amortization period, but provide the Board authority to allow cities to request a new amortization period in certain circumstances and subject to certain limits on an increase in the amortization period
- Expressly provide in the statute that: a city may decline a Board initiated phase-in of a rate increase or increase its amortization period; the Board may decrease or increase the amortization period, not to exceed 30 years; and the Board may set different amortization periods for unfunded actuarial accrued liabilities arising from different types of benefit enhancements and ladder the amortization of the liabilities

Reason(s) for Changes

- Amortization provisions are contained in more than one TMRS Act section and can sometimes seem confusing or inconsistent when trying to interpret together
- Intent of amendment would be to revise the Act as needed to clarify that the maximum amortization period would be 30 years
 - This would be consistent with the PRB’s Funding Guidelines, which set 30 years as a maximum amortization period
- Remove existing provisions allowing cities to individually request amortization periods up to 40 years
 - This would be consistent with current GASB provisions. Per GASB Statement No. 27: Maximum amortization period—For a term of not more than ten years from the effective date of Statement 25 (issued Nov. 1994), the maximum acceptable amortization period for the total unfunded actuarial liability is 40 years. After that ten-year term, the maximum acceptable amortization period is 30 years
- The Board has discretionary authority to set different amortization periods from time to time
- Board’s current funding policy generally requires a 25 year amortization period for new actuarial gains & losses, but keeping the 30 year maximum provides the Board and cities with flexibility to:
 - Help manage potential future changes to the System, such as potential changes intended to improve the long-term funding and stability of the System, but that might have short-term financial consequences for cities; and
 - Help cities deal with unexpected events that might impact their ability to maintain benefits for their employees

2. Prior Service Credit and Updated Service Credit

The proposed changes would address the TMRS Act requirement that a city provide “prior service credit” (PSC), with a minimum of 10% and a maximum of 100%, when a city joins TMRS, and related Texas Constitution issues that can arise if the city already has an existing retirement plan. The proposed changes would also modify the updated service credit (USC) provisions to make conforming changes related to the PSC revisions, along with adding language to clarify how some USC provisions work administratively.

Proposed Changes

- Prior Service Credit:
 - Would provide that a city joining TMRS with an existing retirement plan would be required to have a 0% PSC option, which effectively means that credit could be given for months of city service prior to the city joining TMRS but there would be no monetary value associated with such credit (defined to be “Excluded Prior Service Credit”). This is being proposed in order to comply with a Texas Constitutional provision that appears to not allow a person to receive benefits from more than one Texas system for the same service.
 - Provide that if a city elects to provide PSC for service with a non-participating department under §853.303, and if the city was required to have a 0% PSC as described above, then only Excluded Prior Service Credit could be granted under §853.303
 - Delete obsolete provisions and shift some administrative/ministerial duties from the Board to the System.
- Updated Service Credits:
 - Provide that for a city joining TMRS that has an existing retirement plan and was required to have the new 0% PSC option, then the Excluded Prior Service Credit granted to the employees would be excluded from any USC calculations. This effectively makes the USC “forward looking only”, such that the USC calculations

- would only be based on service credit from and after the time the city or city department joined TMRS
- Clarify that for a city granting USC, only employees as of the study date used for the USC calculations are eligible for USC
 - Clarify that if a member submits a buyback application and retires in the same calendar year, and the city from which they are retiring has a USC ordinance in effect for Jan. 1 of that same calendar year, then TMRS may recalculate the USC for such member prior to their retirement.

Reason(s) for change:

- The purpose would be to provide additional options, and help alleviate potential constitutional “double crediting” of benefits concerns, for certain cities that might want to join TMRS
 - The Texas constitution appears to not allow a person to receive benefits from more than one Texas system for the same service
 - TMRS Prior Service Credit and Updated Service Credit are both features that provide a monetary value to employees for service provided to a city prior to when the city joined TMRS
 - TMRS has historically interpreted the Act to mean that a city must grant a minimum of 10% PSC (with regard to monetary value; time credit is always a month of credit for each month of prior service) when the city joins TMRS
 - For cities that already have an existing retirement plan, the 10% PSC could potentially result in a “double crediting” of benefits in TMRS and the city’s plan for the period of service time covered by the PSC
 - Also, if such a city adopted a USC ordinance, the granting of USC could potentially result in a similar “double crediting” for some employees
- Providing for a 0% PSC and the related “future only” USC amendments could help alleviate potential constitutional concerns for certain cities wanting to join TMRS

3. Providing Information Electronically

The proposed changes would specifically allow TMRS to electronically deliver information to members, retirees, and beneficiaries.

Proposed Changes

The proposed changes are designed to:

- generally allow TMRS to deliver information electronically (the Act currently only addresses TMRS being able to receive information electronically)
- provide that an unintentional disclosure of information under this section is not a violation of law
- expressly allow TMRS to provide information electronically (in addition to by mail) with regard to member and retiree annual statements and certain other information required to be provided by Texas Gov’t Code §802.106
- would expressly allow TMRS to reproduce any TMRS records by photograph, film, or electronic document imaging, allow the destruction of original records after such reproduction, and treat reproduced records as original records for all purposes, including introducing them as evidence in administrative or court proceedings

Reason(s) for change

- TMRS Act clearly allows TMRS to electronically receive information from members and retirees, but the authority for TMRS to send information electronically (rather than paper) is less clear
- Clearly allowing it could improve administrative efficiencies and reduce costs

4. Occupational Disability

The proposed changes would update the provisions of the statute regarding the post-retirement review and testing of members who retire on occupational disability.

Proposed Changes

- Amend two sections applicable to the old version of disability retirement to clarify that they are no longer available to members.
- Remove the existing provisions that require post-retirement income testing of disability retirees receiving an occupational disability annuity, and replace them with provisions that allow the System to require a disability retiree to periodically submit to a medical exam or provide medical or other relevant information to reaffirm their status as disabled under the Occupational Disability provisions.
- Provide that if the retiree refuses to submit to a requested medical exam or provide requested information, the System may suspend their annuity until they comply; and provide that if they fail to comply within 1 year of request, then the System may suspend the annuity until they reach age 60
- Provide that if, as a result of the requested medical exam, the medical board finds a retiree has experienced medical improvement to the extent that the retiree no longer meets the eligibility certification requirements for occupational disability, it is to certify its findings and submit them to the Executive Director; and if the Executive Director concurs with the medical board, he may adopt the findings and suspend the disability annuity until the retiree reaches age 60; and any suspended payments will be forfeited
- Provide that if an occupational disability retiree is less than 60 and becomes an employee (as defined in the TMRS Act) of any participating TMRS city, then their disability annuity will be suspended until they have terminated employment from all TMRS cities
- Any suspended disability annuity payments would be forfeited (similar to how return-to-work suspended payments are currently treated)

Reason(s) for change:

- Existing Act provisions have not been substantively reviewed in approximately 30 years and can be difficult to understand and administer
- TMRS disability retirement allows a person to retire earlier than “normal” retirement, but the annuity is still based on the member’s account balance and there is no “subsidy” or increased benefit provided as is often found in more traditional defined benefit plans
 - the average TMRS monthly disability annuity payment is \$673
- Staff research of other public retirement systems with hybrid cash balance plans revealed that:
 - none of the responding systems have an income test for disability retirees
 - a common approach is to provide the system with discretionary authority to request post-retirement medical evaluations and/or financial information from certain retirees (such as those under age 60) to determine if still meeting the system’s definition of disabled

Executive Director Approval:

David Gavia

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Date: November 12, 2018