

**Texas Pension Review Board  
Minutes  
September 21, 2010**

**1. Meeting called to order (00:00)**

The fourth meeting of 2010 of the Texas Pension Review Board (PRB) was called to order by Chair Richard McElreath on Tuesday, September 21, 2010, at 1:34 p.m., in the Capitol Extension Building, Committee Room E1.012, in Austin, Texas.

**2. Roll call of Board members (00:12)**

**Board Members Present:**

Chair Richard McElreath  
Andrew W. Cable  
J. Robert Massengale  
Norman Parrish  
Wayne Roberts

A quorum being present, the meeting was called to order by Chair McElreath.

**3. Consider Board administrative matters, including the following - Chair McElreath (00:38)**

**A. Approval of the June 14, 2010 Board meeting minutes**

Chair McElreath entertained a motion to suspend the reading of the Minutes of the PRB meeting held June 14, 2010 and to approve the Minutes as circulated.

Motion made by Mr. Wayne Roberts, seconded by Mr. Norman Parrish that the PRB suspend the reading of the Minutes of its meeting held June 14, 2010 and to approve the Minutes as circulated.

**MOTION CARRIED UNANIMOUSLY**

**B. Excusing the absence of Board members from the June 14, 2010 Board meeting (01:14)**

Chair McElreath entertained a motion to excuse Senator John Whitmire and Representative Vicki Truitt from the June 14, 2010 Board meeting.

Motion made by Mr. J. Robert Massengale, seconded by Mr. Wayne Roberts to excuse Senator John Whitmire and Representative Vicki Truitt from the June 14, 2010 Board meeting.

**MOTION CARRIED UNANIMOUSLY**

Chair McElreath inquired if there was any discussion from the Board. There being none, the motion carried unanimously to excuse Senator John Whitmire and Representative Vicki Truitt from the June 14, 2010 Board meeting.

**4. Receive update from the Executive Director on the following matters - Chris Hanson (01:52)**

**A. Texas Workforce Commission (TWC) - Civil Rights Division scheduled review of Agency's personnel policies and procedural systems**

Mr. Hanson referred the members to a letter received from the TWC informing the agency of an upcoming audit by the Civil Rights Division. Mr. Hanson stated the audit occurs every six years. He informed the Board the audit had taken place and the PRB was recertified for another six years.

Mr. Hanson stated the auditors did have some recommendations and those recommendations should be received by the PRB within the next week. The auditors recommended adding a recruitment policy and hiring policy.

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Mr. Hanson explained to the Board there was a cost associated with the TWC audit. This cost was not included in the PRB's current Legislative Appropriations Request (LAR). He stated since the audit occurs every six years, the PRB should consider including that request in the LAR in the future.

**B. Comptroller of Public Accounts – Routine post-payment audit of purchase, travel and payroll transactions**

Mr. Hanson referred the Board to a letter included in their packets, which talked about an impending audit from the Comptroller's Office. Mr. Hanson stated he is not aware of any billing for this audit. The auditors will be checking for procedures in place and ensuring the agency is in compliance.

**C. Request from Senator Eddie Lucio, Jr. regarding certain state public fund investment practices**

Mr. Hanson called the Board's attention to a letter from Senator Eddie Lucio, Jr. requesting information on public fund investment practices. Mr. Hanson stated the request was similar to legislation seen in the prior legislative session and what the PRB expects to see in the upcoming legislative session.

Mr. Hanson stated there is some interest in evaluating statewide investment funds and evaluating their policies regarding emerging managers and investment in Historically Underutilized Business (HUB). Mr. Hanson thanked all of the plans that participated in providing information to Senator Lucio's office.

Mr. Hanson informed the Board the PRB has been approached about conducting a voluntary survey to determine where monies are being invested. This information would be helpful in letting the Legislature know if they need to pursue policy changes. Mr. Hanson stated the PRB has also been approached by the Comptroller's office to conduct a survey in order to see if any funds had policies in place targeting HUB's or emerging managers.

Chair McElreath inquired if staff had the resources to answer all of the questions in Senator Lucio's request.

Mr. Hanson explained staff did not have all of the information that was requested. Staff had to reach out to the funds because state reporting requirements do not mandate some of the information requested to be reported to the PRB. Most funds keep different types of records of whom they are invested with and who they are paying fees to.

Chair McElreath inquired if there were any questions from the Board. There being none, Chair McElreath entertained a motion to direct staff to conduct a voluntary survey of Texas public retirement systems investment practices relating to HUB and emerging managers and present it at the next Board meeting.

Motion made by Mr. Roberts, seconded by Mr. Parrish to direct staff to conduct a voluntary survey of Texas public retirement systems investment practices relating to HUB and emerging managers and present it at the next Board meeting.

**MOTION CARRIED UNANIMOUSLY**

Chair McElreath asked if there was any discussion from the Board.

Mr. Parrish inquired if the information included in the Board packet was all of the information that staff had to present to the Senator Lucio's office.

Mr. Hanson stated staff will be surveying more than just statewide systems.

**5. Discuss and consider Government Code Title 8 §802.001(3)(A) – (G) Reporting Exemptions - Anumeha (15:36)**

Anumeha informed the Board this section relates to the definition of a public retirement system. Anumeha stated throughout the years the PRB has received requests from certain defined contribution plans regarding whether or not they are exempt from the state reporting requirements. Staff attempted to answer the question whether or not the Legislature intended to exempt only the plan types enumerated under this section.

Anumeha informed the Board staff had visited the University of Texas Law Library, contacted the Legislative Reference Library and the Texas Legislative Council as part of their research. The staff came to the conclusion the Legislature did not intend to exempt any other plans other than the ones enumerated under this particular section.

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Mr. Hanson gave the Board some background information on this item, stating in addressing compliance with plans submitting their annual reports to the agency, a large percentage of our non-compliant systems tend to be the defined contribution systems. The agency has received comments from these plans saying they did not think they were supposed to report or they were told they were not supposed to report.

Mr. Hanson stated the letter of the law is very clear on what types of plans are exempt from state reporting requirements. In the process of the research, staff was hoping to create a formal procedure where plans could request to be exempted. Staff wants to know what direction the Board would like to take on this matter.

Mr. Parrish inquired why certain defined contribution plans were exempt and not all of them were exempt.

Anumeha stated some of the 401k plans by nature are such where the employee contributes which means the employee takes care of all the investments or bears the losses, but the research did not answer that question.

After much discussion, Chair McElreath entertained a motion to direct staff to develop procedures for a plan to request a formal exemption or a report on possible legislation exempting defined contribution plans from State reporting requirements and present it at the next Board meeting.

Motion made by Mr. Parrish, seconded by Mr. Roberts to direct staff to develop procedures for a plan to request a formal exemption or a report on possible legislation exempting defined contribution plans from State reporting requirements and present it at the next Board meeting.

**MOTION CARRIED UNANIMOUSLY**

**6. Discuss and consider procedures for calling noncompliant retirement systems before the Board – Chris Hanson (30:59)**

Mr. Hanson referred the members to some updates from the April 29, 2010 Board meeting contained in their packet. Mr. Hanson stated the Board had asked the PRB staff to incorporate some of the comments and come back with a report on a compliance timeframe policy.

Mr. Hanson explained there are two options listed and the only difference between the two is that one gives a plan 60 days for a late notification to be sent and the other gives a plan 30 days. At the April 29, 2010 meeting, several comments were made that 60 days was too long a period without contacting a plan to let them know they missed the deadline to submit their reports.

Mr. Hanson informed the Board the PRB's performance measure language states a 60 day timeframe. In the most recent Legislative Appropriations Request (LAR), a request was made to change that timeframe to a timeframe determined by the Board.

Mr. Hanson stated staff is trying to develop a procedure where there is adequate communication between the staff and the plan and they are given several notifications before being told they may be discussed at a Board meeting.

Mr. Cable asked why inconsistency would be created due to the size of a plan.

Mr. Hanson stated size would be a priority when you look at how many people would be impacted if the plan is noncompliant.

Mr. Roberts stated a 30 day notification period is too generous. He said 15 days after the due date a notification should be sent to the plan.

Chair McElreath directed staff to continue to work on the procedures but, also, ask the plans to give their feedback and comments.

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**7. Actuarial Committee – Receive update from staff on the following matters – Norman Parrish (38:40)**

Mr. Parrish informed the Board the Actuarial Committee met earlier in the day to discuss two issues. One issue was the definition of actuarial soundness and the other was procedures for addressing plans found to be unsatisfactory under the PRB's soundness criteria.

Mr. Parrish stated several alternatives were looked at for three of the five guidelines that changes were to be made. The next step in the process is for staff to develop a single alternative to consider based on the comments and discussion at the meeting. Once that is done, the Actuarial Committee will hold another meeting in November for staff to present the finalized procedure and then present them to the Board at the December 8, 2010 meeting for adoption.

**8. Administrative and Legislative Committee – Receive update from staff on the following matters – Wayne Roberts (40:49)**

**A. Discuss the 2009 – 2010 Biennial Report – Chris Hanson**

*(This item was taken out of order)*

Mr. Hanson explained to the Board the biennial report is a summary of the agency's activity over the last two years. It is also an opportunity for the PRB to recommend any legislation for the upcoming session. Mr. Hanson stated this was the last opportunity for the Board to give input on anything they would like to include in the biennial report.

**B. Update on Budget Hearing – Chris Hanson**

*(This item was taken out of order)*

Mr. Roberts announced the Legislative budget hearings went as well as could be expected.

Mr. Hanson informed the Board he had a discussion with the agency's Legislative Budget Board (LBB) analyst as to whether or not the one-time database money was included in the baseline. Mr. Hanson stated it appears they did not take the money out of the baseline, so there is a chance the baseline will be reduced because of the item.

**9. Research Committee – Receive update from staff on the following matters – Chair McElreath (45:33)**

**A. Securities and Exchange Commission Pay-to-Play – Anumeha**

Anumeha informed the Board there is a report on the final Pay-to-Play rule adopted by the Securities and Exchange Commission (SEC), under the Investment Advisors Act, in their packet. Anumeha explained the investment advisors provide a wide variety of advisory services to both state and local governments, including the pension plans. Pay-to-Play refers to certain practices employed by these advisors making political contributions or other related payments to government officials who may be in a position to influence the selection of certain advisors.

Anumeha referenced some key elements of the Pay-to-Play rule. Anumeha stated staff wanted to bring this rule to the Board's attention because in the proposal the SEC wanted to ban the use of placement agents completely in any government transactions. The SEC received comments on this ban and so the SEC modified the provision.

**10. Discuss and consider the adoption of Board bylaws - Anumeha (49:35)**

Anumeha stated staff included all of the Board's comments from the last meeting and updated the bylaws to reflect the changes. Additionally, the agency's legal counsel (hereinafter referred to as agency's counsel) reviewed the proposed bylaws and provided comments and recommendations.

The agency's counsel recommended some substantive changes concerning the Administrative Committee of the Board, the voting requirements for amending the bylaws and the delegation of authority. Anumeha stated the options the Board can consider in amending the bylaws regarding the Administrative Committee are: 1) An Administrative Committee that is subject to the Open Meetings Act; 2) The Board can choose to have an Administrative Committee as well as an administrative assistance provision; and, 3) The Board can opt to have an administrative assistance provision and no Administrative Committee.

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Mr. Hanson informed the Board the agency's counsel advised if the Board chooses to have an Administrative Committee it would be subject to the Open Meetings Act it cannot just be advisory in that regard. Mr. Hanson stated if the Executive Director needed to talk to the Chair about something and get advice that would be considered advisory. But, if actual direction is given by a Board member to the staff, that would fall under the Administrative Committee process.

Mr. Parrish inquired if the staff's recommendation was to have an Administrative Committee along with an administrative assistance provision.

Mr. Hanson stated that was staff's recommendation and also the recommendation from the agency's counsel.

Chair McElreath inquired if there were any questions from the Board. There being none, Chair McElreath entertained a motion to direct staff to incorporate Board comments in developing a final draft of the Board bylaws and distribute the draft by October 15, 2010.

Motion made by Mr. Massengale, seconded by Mr. Cable to direct staff to incorporate Board comments in developing a final draft of the Board bylaws and distribute the draft by October 15, 2010.

**MOTION CARRIED UNANIMOUSLY**

**11. Discuss and consider the adoption of proposed rule repeal, Government Code Title 40 §603.20 – 603-60 – Anumeha (56:43)**

Anumeha stated that under the Board's direction staff posted the rule repeal notice on August 13, 2010 with the Texas Register. The staff did not receive any public comment. Anumeha informed the Board they have six months to take action on the notice.

Mr. Hanson explained to the Board no action is necessary at this time. If the bylaws are adopted at the December 8, 2010 meeting, the final action on the rule repeal can take place at that time and would still be completed within the appropriate timeframe.

**12. Discuss and receive Board comments on the development of an ethics policy statement – Anumeha (57:53)**

Anumeha referred the members to an outline for a potential ethics policy statement included in their packet. The Board adopted an ethics policy statement in 1997 and the statement was reviewed in 2003. The policy statement has not been reviewed since that time.

Anumeha stated in preparing this outline, staff followed the guidelines of the Texas Ethics Commission and they contacted the Sunset Commission, as well as the Attorney General's office for possible recommendations. Anumeha indicated staff would like to receive Board comment in order to further develop a draft of an ethics policy statement to be presented at the next Board meeting.

Chair McElreath directed staff to proceed with developing an ethics policy statement.

**13. Call for future agenda items – Chair McElreath (58:55)**

Chair McElreath inquired of the Board if there were any future agenda items.

There being none, Chair McElreath called on Mr. Hanson for an update on the date and location for the next Board meeting.

**14. Date and Location for next Board meeting – Chris Hanson (59:05)**

Mr. Hanson stated the next Board meeting will be held on December 8, 2010. Mr. Hanson informed the Board that staff would be in close contact with them leading up to that date due to the significant amount of items on the agenda. Mr. Hanson stated some members have already informed him they could not attend the December 8, 2010 meeting and there could possibly be a quorum issue. The location for the meeting is to be determined.

**15. Invitation for audience participation – Chair McElreath (1:00:54)**

Chair McElreath informed the audience their comments and feedback is appreciated.

Chair McElreath informed the Board that Daniel Gunter has accepted a position at another state agency. Chair McElreath thanked Mr. Gunter for his service with the PRB and wished him the best in his future endeavors.

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Chair McElreath asked for public comment.

**16. Adjournment (1:03:51)**

There being no comments, Chair McElreath thanked the Board for their participation at the meeting, the audience for their attendance, and the staff for their time and effort. With the business of the Board completed, Chair McElreath adjourned the meeting at 2:35 PM.


**In Attendance:**

**Staff:**

Anumeha  
Ben Armendariz  
Lynda Baker  
Joey Evans  
Daniel Gunter  
Chris Hanson  
Daniel Moore  
Cathy Overton-Johns  
Ashley Rendon  
Kimberly Rhodes

**Guests:**

Holly Baird, Teacher Retirement System of Texas  
Trish Bode, HillCo Partners  
Carol Chaney, Fire Fighters' Pension Commission  
Todd E. Clark, Houston Fire Fighters Relief & Retirement Fund  
Everard Davenport, Dallas Police & Fire Pension System  
Alva Littlejohn, Lubbock Fire Pension Fund  
Robert May, Rudd and Wisdom  
Jason McElvaney, Texas County and District Retirement Systems  
Carly Nichols, Buck Consultants  
Max Patterson, Texas Association of Public Employee Retirement Systems  
Rhonda Smith, Houston Municipal Employees Pension System  
David Stacy, Midland Fire Relief & Retirement Fund  
Robert Stanton, El Paso Firemen & Policemen's Pension Fund  
Yuniedth Midence Steen, Locke, Lord, Bissell & Liddell, LLP  
Ana V. Tinsley, Fire Fighters' Pension Commission



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Chair Richard E. McElreath