

## **Educational Training Program Working Group Meeting October 23, 2013 Summary**

The first meeting of the PRB's Educational Training Program Working Group took place on October 23, 2013. The working group was formed to make recommendations to the Pension Review Board (PRB) regarding the new training requirements for trustees and administrators of non-exempt defined benefit plans, as established by the 83<sup>rd</sup> Legislature. The working group includes a cross-section of representation from the PRB, TEXPERS, TLFRA, and ERS. Many other plans also sent representatives who participated in the brainstorming discussion.

### **BACKGROUND INFORMATION**

#### **Working Group Members:**

Andrew W. Cable, Working Group Chair and Pension Review Board Member  
J. Robert Massengale, Vice Chair, Pension Review Board  
Wayne R. Roberts, Board Member, Pension Review Board  
Alva Littlejohn, Board Member, Lubbock Fire Pension Fund  
Max Patterson, Executive Director, Texas Association of Public Employee Retirement Systems  
Cheryl Scott Ryan, Assistant General Counsel, Employees Retirement System (on behalf of Paula Jones)

**Other public retirement plans in attendance:** Capital Metro Transportation Authority, CPS Energy (San Antonio), Houston Firefighters' Relief & Retirement Fund, Houston Municipal Employees Pension System, Midland Firemen's Relief & Retirement Fund, Texas County & District Retirement System

**Meeting Agenda:** Discuss and consider the development of the educational training requirements for trustees and administrators, including the following:

- A. PRB Staff Report on Survey of Trustee and Administrator Training
- B. Basic subjects and topic areas
- C. Minimum hours and frequency of training
- D. Accreditation of training programs

**PRB Staff Report to the Working Group:** PRB staff briefly outlined the new training requirements and presented a report on the recent survey of plans' training practices, as well as reports on existing training requirements in Texas and other states. The reports have been included in the Nov. 13 board meeting packet and can also be found on the PRB's website or by clicking [here](#).

**Educational Training Program Requirements:** Together, HB 13 and SB 220 (83<sup>rd</sup> Legislature) require the PRB to develop and administer a new educational training program for trustees and system administrators of non-exempt, defined benefit plans, including the following duties:

- Develop minimum training requirements for trustees and system administrators as necessary to begin providing training by September 1, 2014;
- Accredite other training programs;
- Provide TLFRA-specific training, including for small-to-medium sized plans;
- Make training reasonably accessible over the internet;
- Develop a system to track compliance with requirements by January 1, 2015;

- Issue a report on compliance in the PRB Biennial Report by November 30, 2016; and
- The PRB may adopt reasonable fees to cover costs incurred.

### **SUMMARY OF WORKING GROUP DISCUSSION**

The following material highlights the areas of focus of the working group's discussion. For more detail, including who made particular comments, please refer to the meeting minutes, which will be posted on the PRB's [website](#) after they are approved by the working group.

**Trustees and administrators subject to the requirements:** The working group discussed the possible need to clarify who will be subject to the new training requirements. The working group also discussed whether the board may want to consider different requirements for different types of plans or different types of trustees and/or administrators. The counterpoint was made that all defined benefit plans are treated the same under IRS code, and trustees share equal fiduciary duty, and therefore should be subject to the same training requirements and be held equally knowledgeable. The following comments were made on this topic.

- **Non-traditional board structures:** Some plans created under *Chapter 810, Government Code*, have non-traditional board structures with various levels of oversight. One example raised was a city utility that has a board of trustees, which includes the mayor, but their role is mostly restricted to adoption or termination of the plan. An administrative committee made up of employees and retirees makes the investment and other decisions for the plan, with input from an oversight committee. In this type of structure, who should be subject to the training requirements? (The board trustees and oversight committee members are already subject to training under the Public Investment Funds Act, which could be accredited by the PRB).
- **Administrator definition:** The bill requires training for "trustees and system administrators," and existing statute (*Section 801.001, Government Code*) defines a "system administrator" as "a person designated by the governing body of a public retirement system to supervise the day-to-day affairs of the public retirement system." Some plans commented that administrators' experience levels vary greatly, often according to fund size. Administrators range from full-time, paid administrators who may have industry certifications (and not need as much training) to part- or full-time clerical professionals fulfilling administration duties as a small part of their duties (who may really need to learn the basics). For smaller TLFFRA plans, administration duties often fall to a firefighter trustee, who performs them on a voluntary basis.
- **Different types of trustees:** Many plans have two types of members, elected and appointed. The appointed trustees often represent city officials. Some plans, especially TLFFRA plans, also have citizen members. Appointed trustees representing city officials and citizen members often find it difficult to fit training in with their other professional duties. The working group discussed the need to provide flexible options for this population and to ensure that training requirements are not excessive. Members cannot easily be penalized for not completing training, as it is often a challenge to find individuals willing to serve at all.
- **Percentage of board receiving training:** One question raised was whether the requirements must apply to all trustees. A suggestion was made to consider placing requirements on only a percentage of board members.

- Active versus passively managed funds: Another distinction was raised between plans that are managed actively versus passively, and whether that fact should have an impact on the training requirements applicable to their boards and administrators.

**Basic subject areas/minimum training hours/frequency of training:** The discussion on these two items was overlapping, as they are very closely related. The discussion focused on the following.

**Minimum training necessary to ensure trustees and administrators can responsibly fulfill their duties without being overly burdensome**

- The working group and plan participants discussed the need to balance setting high standards with the realities of individuals' busy schedules and ultimately stressed the need to stay focused on establishing the minimum requirements. If trustees and administrators get additional training, they should be recognized for that, but the PRB's focus should be on establishing minimum requirements.

**A 4+4 model: core plus electives**

- **A basic core of 4 hours could be required of all new trustees and administrators.**
- **Up to 4 additional hours of elective courses could be required, for a total of 8 hours per year.**
- After a new trustee or administrator's first year, a refresher course could be made available.
- An annual requirement of up to eight hours, which could consist of two half days or a full day per year, should not be an unreasonable burden for trustees or administrators.

**Basic core of 4 hours covering "Pensions 101" and fiduciary duties**

- **Pensions 101** would include the basics of investments, actuarial principles, and fiduciary duty, and would help new trustees and administrators fulfill their respective roles. The basics of how a pension works, along with a trustee's fiduciary duty are the most important items to provide a solid foundation for administering or guiding a fund, especially for new administrators and trustees. From a liability perspective, these are the topics that matter most for trustees of public funds, and the members of the Legislature have often mentioned these when discussing the need for training requirements.
- Within **fiduciary duty**, it is important that trustees learn the fund's process for decision-making and follow it. This can help encourage well-rounded decision-making and discourage trustees being overly focused on one particular goal at the expense of others. Fiduciary duty includes many other components such as ethics and conflict-of-interest. The OAG and Ethics Commission have online training which could possibly satisfy some of these requirements.
- The core course could be offered on-line, to ensure it is accessible to all, with the elective courses in-person or online or both. After the core, the remaining elective hours could be simply "pension-related" or could be required to cover specific topics.

**Other existing training requirements**

- All public board members are subject to certain statutory training requirements, including open meetings and public information act training. These should not be unnecessarily duplicated.

- Many trustees and administrators are subject to in-depth professional training requirements associated with certifications they may hold. Training should not be duplicative for these individuals.

**Accreditation of other training programs:** The working group heard from many survey respondents as well as plans present at the meeting that current training options are working well and should be accredited by the PRB. The working group discussed different options for how the accreditation process could work.

**Current providers for possible accreditation**

- TEXPERS offers a 21-hour course to trustees and administrators who are already present at their annual conference. The basics of pensions and fiduciary duty are covered in half a day to a full day. TEXPERS reported that training participants generally attend because they believe it is in their best interest. TEXPERS also has a 15-hour annual CE requirement, with 2 hours focused on ethics or fiduciary responsibilities.
- TLFRA offers annually an eight-hour new trustee training or “TLFRA 101” which is also called its Peer Review. They find that trustees come back year after year for a refresher and say they get different things out of it each time.
- Other providers such as NCPERS, NASRA, GFOA, etc. were also mentioned for possible accreditation.

**Cost of training**

- One plan representative mentioned that some outside trainings, such as the International Foundation of Employee Benefit Plans in particular, can be very expensive. The working group is considering allowing, but not requiring, credit for trainings from different providers and should consider the cost of programming to ensure affordable options are available.

**In-house training**

- Many funds receive training in-house, from outside consultants or from internal staff. These can include trainings on IRS and legal matters, investments, etc. In-house training can be very cost-effective, especially for smaller funds.

**List of accredited training programs and process for accrediting other programs, as necessary**

- The PRB could accredit a list of the most common trainings (such as specific sessions offered by TEXPERS, TLFRA, NCPERS, etc.), which would automatically count towards an individual’s CE requirements.
- After the core of 4 hours, the remaining elective hours could be simply “pension-related” to make accreditation easy or could be required to cover specific topics.
- The PRB could also develop a process for trustees and administrators to submit requests for accreditation of other programs. The PRB could choose a number of topic areas for continuing education and within those, develop a list of sub-bullets that would need to be covered, with some margin for staff judgment, for a particular training session to meet PRB criteria for accreditation.

**Need to develop an efficient accreditation process for additional programs**

- A suggestion was raised to be mindful of the amount of administrative work for staff involved in evaluating requests for accreditation of additional programs submitted by trustees and administrators. One plan administrator who tracks her trustees' training hours expressed that busy individuals often submit courses for credit after attending, and it can be difficult to deny credit once someone has already taken training. The burden should be on the participant to get courses pre-certified.
- For example, the PRB could require individuals to submit courses for accreditation before attendance, rather than after, to minimize unexpected workload demands. In-state and out-of-state course credit requests could be treated differently. Also, it was suggested that the PRB require more than a simple agenda, which cannot always fully depict the course material.
- TEXPERS explained that they require their members to submit both the agenda and training presentation and then, if credit will be offered, they translate the course into a number of hours and subject matter that fits with their CE program.
- The Texas State Bar was mentioned as an example of an efficient accreditation process, whereby many providers are pre-certified, and individuals can submit other courses for credit.

**Compliance Tracking:** The working group touched briefly on tracking compliance, including the following discussion points.

**Need to develop an effective and fair compliance tracking process**

- The PRB should track training compliance by an individual's name, not their fund, because some trustees serve on the boards of multiple funds.
- While the working group's discussion focused on the minimum training requirements, it was also mentioned that trustees and administrators should be able to get credit for earning additional hours beyond the minimum.
- The working group discussed the need to determine whether extra hours can be rolled over to meet the following years' requirement.

**Several options for ensuring compliance**

- To some extent, training compliance will involve the honor system, because of the difficulties of truly knowing whether an individual attended and actively participated in training.
- TEXPERS explained that when their members attend other accredited programs, TEXPERS requires that the program certify the hours by signing a form. TEXPERS also plays that role for other organizations, such as signing off on hours that accountants take at TEXPERS for CE from the Texas Board of Public Accountancy.

**Subsequent comments:** After the meeting, one retirement plan in attendance at the meeting submitted the following for the Board's consideration.

The Texas Public Funds Investment Act (PIFA) requires investment training for certain state and local board members and officials. The following statutory language could serve as a model for the PRB's training requirements to be developed through rule. The language sets specific requirements for new officials as well as continuing education requirements measured biennially. Adjustments are allowed

based on fund size (measured by number of employees) and contracting for investment management. Also, certain training attended under PIFA could be accredited by the PRB.

Texas Government Code, Sec. 2256.008. INVESTMENT TRAINING; LOCAL GOVERNMENTS.

(a) Except as provided by Subsections (b) and (e), the treasurer, the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a local government shall:

- (1) attend at least one training session from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government and containing at least 10 hours of instruction relating to the treasurer's or officer's responsibilities under this subchapter within 12 months after taking office or assuming duties; and
- (2) except as provided by Subsections (b) and (e), attend an investment training session not less than once in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than 10 hours of instruction relating to investment responsibilities under this subchapter from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government.

(b) An investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, that has contracted with an investment management firm under Section 2256.003(b) and has fewer than five full-time employees or an investing entity that has contracted with another investing entity to invest the entity's funds may satisfy the training requirement provided by Subsection (a)(2) by having an officer of the governing body attend four hours of appropriate instruction in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date. The treasurer or chief financial officer of an investing entity created under authority of Section 52(b), Article III, or Section 59, Article XVI, Texas Constitution, and that has fewer than five full-time employees is not required to attend training required by this section unless the person is also the investment officer of the entity.

(c) Training under this section must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with this chapter.

(d) Not later than December 31 each year, each individual, association, business, organization, governmental entity, or other person that provides training under this section shall report to the comptroller a list of the governmental entities for which the person provided required training under this section during that calendar year. An individual's reporting requirements under this subsection are satisfied by a report of the individual's employer or the sponsoring or organizing entity of a training program or seminar.

(e) This section does not apply to a district governed by Chapter 36 or 49, Water Code.

Amended by Acts 1995, 74th Leg., ch. 402, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1421, Sec. 5, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1454, Sec. 6, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 69, Sec. 4, eff. May 14, 2001. Amended by: Acts 2011, 82nd Leg., R.S., Ch. [1004](#), Sec. 3, eff. June 17, 2011.

**Next steps:**

**November PRB Meeting.** The PRB staff will present this summary of the working group's discussion to the PRB at its next board meeting on November 13, 2013. The full board may discuss the training program as an agenda item and may direct the working group to research or discuss other ideas or aspects at the next working group meeting.

**Future Meetings.** The working group will be scheduling its next meetings in the coming months. Subsequently, the full board will receive additional input and recommendations from the working group to make decisions, which are required to be drafted into proposed rules governing the training program. The rules will be posted for public comment and adopted by September 1, 2014.

**Stakeholder Participation.** Working group and board meetings are open to the public, and stakeholder participation is welcomed. Retirement plan representatives and other interested stakeholders may submit thoughts, ideas, or recommendations to the group for consideration at any time by sending them to [Michelle Kranes](#) with the PRB staff.