

**TEXAS PENSION REVIEW BOARD**  
**Thursday, September 18th**

**MINUTES**

**1. MEETING CALLED TO ORDER (0:05)**

The third meeting of 2008 of the Texas Pension Review Board (PRB) was called to order by Chair Richard McElreath on Thursday, September 18, 2008, at 1:01 p.m., in the Capitol Extension Building, Committee Room E1.012, in Austin, Texas. Chair McElreath asked Ms. Lynda Baker to call the roll.

**2. ROLL CALL OF BOARD MEMBERS (0:11)**

**Board Members Present:**

Chair Richard McElreath  
Vice Chair Shari Shivers  
Paul Braden  
Roy Casanova  
J. Robert Massengale

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

**3. APPROVAL OF MINUTES OF JUNE 23, 2008 MEETING (0:36)**

Chair McElreath entertained a motion to suspend the reading of the Minutes of the PRB meeting held June 23, 2008.

Motion made by Vice Chair Shari Shivers, seconded by Mr. Roy Casanova, and carried unanimously that the PRB suspend the reading of the Minutes of its meeting held June 23, 2008.

**MOTION CARRIED UNANIMOUSLY**

Chair McElreath asked if any corrections were to be made to the minutes of the June 23, 2008, PRB meeting. There being no corrections, the Minutes were approved as circulated.

**4. WORK OF THE ACTUARIAL COMMITTEE – Norman Parrish, Chair (1:17)**

Due to the aftermath of Hurricane Ike, which resulted in the absence of Mr. Parrish, Chair McElreath recognized Mr. Casanova for an update on the work of the Actuarial Committee.

**A. Report and Discussion on University Park Firemen's Relief and Retirement Fund**

**1. Update from the City of University Park**

Mr. Casanova read a letter from Mayor James Holmes, in which Mayor Holmes stated the following events have occurred since the city and representatives from the Fund appeared before the PRB on June 22, 2006:

- A proposed merger of the Fund with Texas Municipal Retirement System (TMRS) was assembled and presented to the Fund membership. On February 26, 2007, the members rejected the proposal by a vote of 21-8.
- The City increased its contribution rate to the Fund from 14.87% of gross payroll to 15.54%, effective June 17, 2008. This increase is intended to offset the loss of the fire chief's position in the Fund, which occurred when the City's new fire chief opted to stay in TMRS.
- The City elected to contribute at the 15.54% level despite its past policy of contributing to the Fund at the same level as TMRS. The required contribution rate for 2009 for TMRS is 12.89%, compared with 14.87% for 2008.

- The City has offered to increase its contribution to the Fund once the members own contribution rate matches that of the City. This offer was effective due to the City Council resolution on December 5, 2006, and is still active. Currently, the members contribute 10% of their gross pay, and the City contributes 15.54%.

## **2. Update from the Pension Fund**

Mr. Casanova recognized Mr. Cecil Barton, Chairman, and Mr. Paul Abel, Secretary, of the University Park Firefighter's Relief and Retirement Fund (FRRF) Board, for an update on the Fund.

Mr. Barton stated an election was held to vote on two amendments to offset the additional 3.7% in contributions to the Fund required to reach the 30-year amortization period. The first amendment was to remove an unintended benefit in regards to the pay period; this amendment was rejected. The second amendment was to take advantage of the City's disability policy and eliminate the disability policy from the Fund; this amendment was accepted.

Mr. Barton stated due to the fact the Fire Chief opted out of University Park FRRF and into TMRS, the City increased their contribution rate to 15.54% to offset the 10% the Fund would have received had the Chief remained in FRRF. He also mentioned that Mayor Holmes passed a resolution agreeing to match firefighter contributions on a one-to-one basis, with an increase in contributions to 15% over a three year period. This increase will be built into the cost-of-living raise in the fall, so the contribution rate will not be a loss to the firefighters. Upon obtaining this goal, the contribution rate will be 30.54% at the end of the three year period.

Mr. Abel reiterated the goals of the Fund and said two ballots were being prepared by Rudd and Wisdom. The first is to increase the firefighter contributions to 15% over a three year period in conjunction with cost-of-living raises in the fall. The increase would be 2% the first year, 2% the second year, and 1% the third year. The second ballot is to accept the City's offer to match the firefighters on a one-to-one ratio.

For clarification purposes, Mr. Paul Braden asked why the Fund did not merge with TMRS.

Mr. Abel replied that a study revealed several firefighters would receive less in retirement, as much as for a \$300,000 total difference. Mr. Barton added this would have affected the majority of firefighters in the middle income bracket adversely.

Mr. Braden asked whether the Fund's actuary mentioned if additional contributions would be needed after the 15.4% rate is achieved.

Mr. Abel replied the only information available is what the last actuarial valuation reflects. He stated the idea is that if any kind of benefit increase is merited, the Fund would know in advance what type of costs would be incurred.

Vice Chair Shivers asked about the date of the next election; clarification of the automatic adjustment; and what type of response is expected from the firefighters.

Mr. Abel stated a date had not been set; the increase will be adjusted over three years beginning in October 2009; and the general feeling is this will be a very close election.

There being no further questions, Mr. Casanova thanked Mr. Barton and Mr. Abel for their time and report.

**B. Update on Reporting Compliance Summary**

Mr. Casanova recognized Mr. Chris Hanson for a report on the Compliance Summary.

Mr. Hanson stated the numbers on the Compliance Summary need to be updated, as staff has been contacting plans. The number of non-complaint plans is down from 132 to 105, there has been a slight increase in partially compliant plans to 35, and the overall number of compliant plans has increased from 230 to 253.

Mr. Hanson discussed two non-compliant plans, Los Fresnos Fire and Los Fresnos Housing Authority. He stated staff has been in touch with Los Fresnos Fire. Los Fresno Fire continues to work with staff and has been excused from appearing before the PRB. Los Fresnos Housing Authority continues to be an issue in the matter of complying with PRB statutory requirements. Staff is requesting Board authorization to use Section 801.204, Inspection of Records power, to aid in compliance.

Mr. Casanova stated the QRS Compliance was omitted from the packet and if the public would like a copy to contact Ms. Baker. He thanked Mr. Hanson and then recognized Mr. Paul Nicholson for a discussion on Section 801.204, Inspection of Records power.

Mr. Nicholson discussed three powers of the PRB and why staff has selected the Inspection of Records power to be used in the case with Los Fresnos Housing Authority. He explained under Section 801.204, the PRB has the powers to inspect and subpoena records. Mr. Nicholson stated under Section 802.003, the Board is given the same power as a member of the plan to seek a writ of mandamus. However, both the subpoena and writ of mandamus would require court action, making them more extreme enforcement powers than a simple inspection of records. The inspection of records simply means staff would travel to Los Fresnos and complete the required paperwork for the plan. Mr. Nicholson stated using the Inspection of Records power is not something staff foresees using often and would only be used when a plan refuses to comply.

Vice Chair Shivers asked whether staff had contacted the appropriate legislative offices in hopes that Los Fresnos Housing Authority would comply.

Mr. Nicholson replied that previously staff had contacted the appropriate representative's office and also the federal authorities that grant federal funds to this agency. Mr. Nicholson stated staff has not contacted the senator's office due to the lack of response received from the other offices.

Mr. Braden asked whether staff received any response when contacting the plan.

Mr. Nicholson stated staff had spoken with Los Fresnos Housing Authority and either received a promise the documents would be sent, or that they do not have to comply with the PRB statutes. He stated staff intends to use the Inspection of Records power to inform the plan this issue is being taken seriously.

Mr. Braden inquired about the size of the Los Fresnos staff.

Mr. Nicholson said they have a very small staff of three or four people.

Mr. Braden asked under what premise the plan believes they are outside the PRB's authority and statutory requirements.

Mr. Nicholson said a premise has not been given, but that Los Fresnos Housing Authority misunderstands the statute of a defined contribution plan.

Mr. Braden clarified the intent of using this power is in essence to send staff to fill out the forms for them and stated 'this would not be a bad thing for the plan'.

Mr. Nicholson replied this is not a precedent the PRB would want to set with other plans. Staff would hope to stress the seriousness of the situation and to provide education while visiting with the plan.

Chair McElreath asked Mr. Nicholson to define the number of years the PRB has worked with the plan in attempting to resolve this matter.

Mr. Nicholson stated he did not have the information available, but stated he believed it was in either 2005 or 2006 when the PRB received a complaint and the PRB has been continually working with the plan since receiving the complaint.

There being no further discussion, motion made by Mr. Casanova, seconded by Mr. Braden, and carried unanimously to grant staff permission to use Section 801.204, Inspection of Records power, to aid in performing its functions.

Chair McElreath stated this power absolutely needs to be the exception, not the rule.

Vice Chair Shivers added the PRB should contact the appropriate senator before exercising this power.

**MOTION CARRIED UNANIMOUSLY**

Motion made by Mr. Casanova, seconded by Mr. J. Robert Massengale, and carried unanimously to authorize the Chair to work with staff in selecting two plans with amortization periods exceeding 40 years to appear before the PRB at the December meeting.

**MOTION CARRIED UNANIMOUSLY**

Chair McElreath thanked Mr. Hanson, Mr. Nicholson, and Mr. Casanova for their work.

**5. WORK OF THE ADMINISTRATIVE AND LEGISLATIVE COMMITTEE – Shari Shivers, Chair (25:39)**

Chair McElreath recognized Vice Chair Shivers for a report on the work of the Administrative and Legislative Committee.

**A. Discussion and Possible Action on Executive Director's Letter of Resignation**

Vice Chair Shivers announced Mr. Nicholson offered his letter of resignation as Executive Director of the PRB, effective September 20, 2008.

Motion made by Vice Chair Shivers, seconded by Mr. Braden, and carried unanimously that the PRB accept Mr. Nicholson's letter of resignation, effective September 20, 2008.

**MOTION CARRIED UNANIMOUSLY**

**B. Discussion and Possible Action on Interim Executive Director**

Motion made by Vice Chair Shivers, seconded by Mr. Casanova, and carried unanimously that the PRB hire Mr. Christopher Hanson as the interim executive director of the State Pension Review Board beginning September 22, 2008.

**MOTION CARRIED UNANIMOUSLY**

The motion prevailed by the following record vote:

Ayes: Chair McElreath, Vice Chair Shivers, Mr. Braden, Mr. Casanova, Mr. Massengale – Five (5)

Nays: None (0)

Present, Not Voting: None (0)

Absent: Norman Parrish, Frederick Rowe, Craig Eiland, John Whitmire - Four (4)

**C. Report and Discussion on Consideration and Review of the Board Rules in Accordance with the Rule Review Plan**

Vice Chair Shivers explained the PRB was asked to consider and review Chapters 601, 603, & 604, in accordance with the PRB Rule Review Plan. The results of a rule review allow the PRB to re-adopt, re-adopt with amendments, or repeal any rule. The review process requires posting the rule as if the rule were new and give the public a thirty-day period to make comments.

**1) Chapter 601, General Provisions**

Motion made by Vice Chair Shivers, seconded by Mr. Casanova, and carried unanimously that staff file the Notice of Intent to Review Title 40 of the Texas Administrative Code, Part 17, Chapter 601, concerning General Provisions.

**MOTION CARRIED UNANIMOUSLY**

**2) Chapter 603, Officers and Meetings**

Motion made by Vice Chair Shivers, seconded by Mr. Casanova, and carried unanimously that staff file the Notice of Intent to Review Title 40 of the Texas Administrative Code, Part 17, Chapter 603, concerning Officers and Meetings.

**MOTION CARRIED UNANIMOUSLY**

**3) Chapter 604, Historically Underutilized Business Program**

Vice Chair Shivers explained there is a proposed amendment to Chapter 604 to amend the reference to the Texas Building and Procurement Commission to the Comptroller of Public Accounts. The amendment would also delete the reference to Section 111.11-111.28 and replace it with 34 TAC Part 1, Chapter 20, Subchapter B.

Motion made by Vice Chair Shivers, seconded by Mr. Casanova, and carried unanimously that staff file the proposed amendment to Title 40 of the Texas Administrative Code, Part 17, Chapter 604, concerning Historically Underutilized Business Program.

**MOTION CARRIED UNANIMOUSLY**

**D. Discussion and Possible Action on PRB 2007-2008 Biennial Report**

Vice Chair Shivers recognized Mr. Hanson for a report on the PRB 2007-2008 Biennial Report.

Mr. Hanson explained the report is to be filed by the PRB no later than the last working day of November, in even-numbered years. He stated staff is in the process of preparing the report for activities and findings for 2007-2008, which include regional seminars, administrative changes, the directory of pension plans, and updates on plans with amortization periods over 40 years.

Vice Chair Shivers asked the deadline for submitting the report.

Mr. Hanson stated the last day of November is the deadline, but staff has a goal to complete the report the week before Thanksgiving.

Motion made by Vice Chair Shivers, seconded by Mr. Casanova, and carried unanimously that the PRB approve the PRB 2007-2008 Biennial Report with the understanding the final version will require the approval of the PRB chair.

**MOTION CARRIED UNANIMOUSLY**

**8. WORK OF THE RESEARCH COMMITTEE – Richard McElreath, Chair (34:25)**

**A. Update on PRB Annual and Regional Seminars – Dunya Bean**

Chair McElreath recognized Ms. Dunya Bean for an update on PRB Annual and Regional Seminars.

Ms. Bean stated the Annual Seminar, held on June 23<sup>rd</sup>, in Austin, was deemed a success with over 100 attendees and 13 excellent speakers. She stated the PRB is open to suggestions regarding topics and speakers for future seminars. Ms. Bean said the Regional Educational Seminar scheduled to be held in Corpus Christi on August 22<sup>nd</sup> was cancelled due to weather.

The PRB will hold a Regional Educational Seminar on October 23<sup>rd</sup>, in El Paso and will plan another seminar prior to the next legislative session, which begins in January 2009.

Vice Chair Shivers suggested the PRB include plans in selecting seminar topics for future seminars.

Mr. Casanova asked whether the response had been favorable from Corpus Christi and would the PRB look to plan another event for that area.

Ms. Bean stated the response was less than staff had hoped, but was unsure whether it was due to weather and/or higher gas prices. She stated staff will definitely schedule another regional seminar in that area, as there are several plans in the area to benefit from the training.

Chair McElreath thanked Ms. Bean and staff for coordinating and scheduling the seminars.

**B. Written Policies - Development of Policy on Calling Plans before the PRB – Paul Nicholson**

Chair McElreath recognized Mr. Nicholson for a report on calling plans before the PRB.

Mr. Nicholson stated staff has been asked by various plans and agencies about the development of a written policy regarding when a plan may be required to appear before the PRB. This policy would enable the plans to know when and why they could be called before the PRB, which could also help eliminate an expensive trip and time for staff. Currently, the statute is very broad and allows any plan to be called before the PRB.

Chair McElreath asked whether there was ever any type of procedure for calling plans before the PRB.

Mr. Nicholson replied there is the 40-plus year rule, allowing the PRB to select some plans deemed unfunded to appear before the PRB, and there is a guideline where staff may require two non-complaint plans to appear before the PRB for violating statutory requirements.

Vice Chair Shivers and Chair McElreath stated this policy development is an excellent idea.

Motion made by Vice Chair Shivers, seconded by Mr. Casanova, and carried unanimously to accept the written paper for calling plans before the PRB and assign the paper to the PRB Administrative and Legislative Committee for further study.

**MOTION CARRIED UNANIMOUSLY**

**9. DISCUSSION ON STRUCTURE OF PRB COMMITTEES AND COMMITTEE ASSIGNMENTS –**

Paul Nicholson (40:51)

Chair McElreath recognized Mr. Nicholson for a report on the discussion on the structure of PRB committees and committee assignments.

Mr. Nicholson stated the issue is whether the standing committees are a practical extension of the PRB or whether they should change to an ad hoc system, where members are selected based on the matter at hand, was presented at the April meeting. He informed the Board this would create another problem, as the committees fall under the Open Meetings Act and the members would be restricted from using teleconferencing as a means of communication.

Vice Chair Shivers clarified this is not an attempt by the Board to prevent from the public from being fully aware of the PRB's activities. The work of the committees will continue to come before the PRB and continue to keep the public informed.

Motion made by Mr. Massengale, seconded by Vice Chair Shivers, and carried unanimously to accept the paper on the structure of PRB committees and assign it to the PRB Administrative and Legislative Committee for further study.

**MOTION CARRIED UNANIMOUSLY**

In regards to committee assignments, Chair McElreath appointed Mr. Massengale to serve on the Research Committee replacing Mr. Ralph Cantu. Chair McElreath explained he may no longer serve as the chair of the Research Committee and appointed Mr. Frederick Rowe as his replacement.

**10. RECOGNITION OF STAFF SERVICES (44:51)**

Chair McElreath recognized Ms. Baker for her 20 years of continued service to the Texas Pension Review Board. He stated Ms. Baker epitomizes what the agency constantly strives for: competency, work ethic and loyalty. Ms. Baker was presented with two plaques for her service.

**11. EXECUTIVE DIRECTOR'S REPORT – Paul Nicholson (47:52)**

Chair McElreath recognized Mr. Nicholson for the executive director's report.

**A. Update on Performance Audit**

Mr. Nicholson reported the PRB did not do well on the performance measures audit. He stated some of the reasons concerned how technical assistance should be measured, but primarily the reason for poor results was due to the inadequate number of staff to perform the full workload of the agency in 2007. Mr. Nicholson stated with additional funding and staff, performance measures will improve.

**B. Update on Legislative Appropriations Request for Fiscal Year 2010-2011**

Mr. Nicholson reported the PRB has requested a 2.5% increase in staff salary to recognize merit and keep qualified staff within the agency. He reported an increase has been requested for the Executive Director's salary from \$60,000 to \$90,000, which is below the state auditor's standard of \$106,500. And finally, \$60,000 is being requested to reconstruct the database which holds all plans' information.

Chair McElreath added the proposed Executive Director's salary is a maintenance step to make the PRB more competitive with today's market and to retain talent within the agency.

**C. Update on Fiscal Year 2009 Operating Budget**

Mr. Nicholson reported the FY 2009 budget is somewhat tied to FY 2008, with the addition of five new positions in 2008. Mr. Nicholson stated beginning in FY 2009, with his departure, there will be one vacant position and should any IT problems or other unexpected expenditures arise, the budget could be a problem.

**D. Progress on Motions of the June 23, 2008, PRB Meeting**

- 1) Actuarial Soundness
- 2) PRB Compliance

Mr. Nicholson stated staff has developed papers, for PRB approval, regarding actuarial soundness and PRB compliance for the plans to better understand both policies.

Motion made by Vice Chair Shivers, seconded by Mr. Massengale, and carried unanimously to accept the papers on Actuarial Soundness and PRB Compliance and request that staff post both papers on the PRB website.

**MOTION CARRIED UNANIMOUSLY**

**E. Introduce New Staff Member**

Mr. Nicholson introduced Ms. Sharon Edmonson, Administrative Assistant for the PRB.

Mr. Nicholson made his farewell to staff and the Board. He commended staff and thanked the Board for the opportunity to serve as Executive Director.

**12. SET DATE AND LOCATION FOR NEXT BOARD MEETING – DECEMBER 2008 (57:02)**

Chair McElreath requested Ms. Baker poll the Board for a meeting in December prior to the 15<sup>th</sup> and he noted the PRB will recognize past members for their service.

**13. INVITATION FOR AUDIENCE PARTICIPATION (57:22)**

Mr. Robert May, actuary for Rudd and Wisdom, spoke regarding a national issue affecting actuaries, directly and indirectly, and retirement systems.

**14. CHAIRMAN'S REMARKS (1:05:18)**

Chair McElreath stated several rules of managing assets that apply to overseeing public pension plans. He paraphrased Warren Buffet's rule #1 "Don't lose the money" and rule #2 "Don't forget rule #1". He also quoted Peter Lynch who stated, "In this business, if you're good, you're right 6 times out of 10. You're never going to be right 9 times out of 10". He stated the plans need to take risks and do so responsibly; some plans are going to lose asset value, but should stay encouraged and focus on winning more than they lose.

Chair McElreath closed by thanking Mr. Nicholson for the tremendous amount of work, leadership and guidance he provided in the amount of time he was with the agency.

**15. ADJOURNMENT (1:11:09)**

With the business of the Board completed, Chair McElreath adjourned the meeting at 2:10 PM.

ENTERED

**IN ATTENDANCE:**

**STAFF:**

Ben Armendariz  
Lynda Baker  
Dunya Bean  
Jolena Close  
Sharon Edmonson  
Joey Evans  
Daniel Gunter  
Chris Hanson  
Martin McCaulay  
Ashley Narvaez  
Paul Nicholson  
Kimberly Rhodes

**GUESTS:**

Paul Abel, University Park Firemen's Relief Retirement Fund  
Anthony Alexander, Fire Fighter's Pension Commission  
Cecil Barton, University Park Firemen's Relief Retirement Fund  
Frank Battle, Office of the Lieutenant Governor  
Everard Davenport, Dallas Police & Fire Pension System  
Steve Edmonds, City of Austin Employee's Retirement System  
Mark Fenlaw, Rudd and Wisdom  
Demetrio Hernandez, Legislative Budget Board  
John E. Lawson, Houston Police Officer's Pension System  
Robert May, Rudd and Wisdom  
Wade McDonald, Legislative Budget Board  
Jason McElvaney, Texas County and District Retirement System  
Lisa Ivie Miller, Fire Fighter's Pension Commission  
Robert Miller, Locke Lord Bissell & Liddell LLP  
Erin Perales, Houston Municipal Employees Pension System  
Clint Smith, TEXPERS  
Randy Stalnaker, TEXPERS  
Robert Stanton, El Paso Fire & Police Pension Fund  
Arlene Truong, TEXPERS  
Laura Wendler, Senator Whitmire's Office



Chair Richard E. McElreath