



## **Board Meeting Minutes**

**November 12, 2020**

### **1. Meeting called to order (0:00)**

The third meeting of 2020 of the Pension Review Board (PRB) began on Thursday, November 12, 2020 at 10:03 a.m. via teleconference.

### **2. Roll call of board Members (0:56)**

#### **Board members Present**

Chair Stephanie Leibe  
Marcia Dush  
Ernest Richards

Vice Chair Keith Brainard  
Rosy Fariña-Strauss  
Christopher Zook

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

### **3. Roll call of members of the public (1:35)**

Pre-registered members of the public:

Mr. David Stacy

### **4. Board administrative matters (2:28)**

#### **a. June 30, 2020 meeting minutes**

Chair Leibe entertained a motion to suspend the reading of minutes of the June 30, 2020 meeting and approve them as circulated.

The motion was made by Mr. Richards and seconded by Ms. Dush.

**The motion passed unanimously.**

#### **b. Recognition of outgoing board member (3:45)**

Chair Leibe recognized outgoing board member Shari Shivers for her service as a board member.

### **5. Actuarial Committee matters (5:33)**

#### **a. Actuarial Valuation Report (5:43)**

Kenny Herbold provided a summary of the Actuarial Valuation (AV) report which included 36 new AVs since the June meeting. Most AVs included 2019 investment returns, which he noted were generally good. Additionally, the report did not reflect the most recent valuations for the Teacher Retirement System (TRS), Employees Retirement System (ERS), or the three Houston plans. He stated that the AVs for these systems would be the first to show the COVID-19 impact on investments.

Mr. Herbold noted that 14 of the 36 valuations received included discount rate reductions and the average discount rate was moving closer to 7.25 percent.

Ms. Dush expressed concerns about systems with funded ratios under 50 percent from either an actuarial or GASB standpoint. She stated she was interested in continuing intensive reviews and focusing on systems with low funded ratios. She also stated she would like to see updates on systems that have already been through an intensive review and asked if there would be an update to the legislature about those systems.

Anumeha Kumar stated that there will be an update on the systems that have had intensive reviews in the Biennial Report to the legislature, and she said staff could provide an annual update as a regular report to the Actuarial Committee.

**b. Systems subject to Funding Soundness Restoration Plan (FSRP) requirement, including compliance (11:18)**

Mr. Herbold provided an update about systems currently subject to FSRP requirements, noting that representatives from Irving Firemen's Relief and Retirement Fund, Midland Firemen's Relief and Retirement Fund, and Orange Firemen's Relief and Retirement Fund attended Actuarial Committee meetings and informed the committee about their progress on the FSRPs and changes. Marshall Firemen's Relief and Retirement Fund sent a letter in late June that mentioned increased employee contributions, but the fund has not provided a formal FSRP yet. Beaumont Firemen's Relief and Retirement Fund performed studies on benefit changes and a contribution increase schedule has been approved. He noted that Beaumont Fire would have an election in November on additional benefit changes and the fund was looking to implement a new tier for new hires. He mentioned that the PRB could expect to get final information from Beaumont Fire soon. Mr. Herbold added that Longview Firemen's Relief and Retirement Fund had informed staff that the system was experiencing COVID-19-related budget constraints but had not yet submitted any additional information since the PRB's last meeting.

Additionally, Mr. Herbold noted that Dallas Employees' Retirement Fund and Plainview Firemen's Relief and Retirement Fund became subject to FSRPs. He stated that both systems changed their discount rates and other assumptions, which affected their amortization periods, and that staff were waiting to hear back from both systems after sending notification letters.

Mr. Herbold added there were several systems that were at risk of being subject to FSRPs since their most recent actuarial valuations showed amortization periods greater than 40 years and that three systems were working on their FSRPs, while Odessa Fire had recently submitted an actuarial valuation with an amortization period below 40 years after their revised FSRP and will be removed from the list.

**c. Funding policies received as required by Government Code Section 802.2011 (SB 2224) (18:50)**

Ms. Kumar noted that most systems have submitted funding policies, and some have updated their policies based on committee recommendations to change to a closed actuarially determined contribution benchmark rather than a rolling benchmark. Other systems have kept their rolling benchmarks, but the committee did not decide to include closed benchmarks as a formal recommendation to the legislature.

**d. Recommended changes to the funding policy requirements under Section 802.2011 and FSRP requirements under Sections 802.2015 and 802.2016 of the Government Code (21:16)**

Mr. Brainard explained the board's statutory mandate to recommend legislation and that

the PRB is the only state-level advocate for plan sponsors to prioritize adequate pension funding. He stated that the Actuarial Committee was recommending changes to the FSRP statute to incorporate stakeholder feedback. The committee also recommended updating the FSRP statute to make it consistent with the *Pension Funding Guidelines*. He stated that the committee was working to make sure that the updated FSRP requirements would not go into effect until 2025 and added that the committee believes the proposed statutory changes will help systems move towards full funding.

Michelle Downie Kranes outlined the recommendations and explained the process, final recommendations, and public comments.

Ms. Dush asked for clarification on the recommendation for updated FSRP triggering mechanisms and if it would include a look-back before September 2025. Ms. Kranes explained staff included language in the recommendations to establish the goal that the 30-year amortization period would not be required until 2025; however, a lookback would be at the discretion of the legislature, should they draft a bill.

Ms. Dush noted she wanted to make sure the legislature could help the systems that have been putting in the effort to work towards solutions and decrease their amortization periods under the current rules.

Mr. Brainard explained that while both a retirement system and its sponsor are responsible for the funding of the plan, under current statute the sponsors are not required to support funding policies. He said this has been a common complaint from systems, so the first recommendation was to add the sponsor to the funding policy process.

Mr. Brainard mentioned a comment noting that sponsors and their governing bodies can make rate changes without evaluating the effects on the plan, while systems are required to consider those factors.

Chair Leibe questioned the distinction between the governing body adopting the FSRP through official action compared to acknowledging the system's board adopting the funding policy or FSRP. Ms. Kranes stated that under existing statute the FSRPs were supposed to be a joint product of the system and sponsor. Ms. Kumar said this recommendation was meant to clarify the rules since there have been instances when staff had to ask systems if the FSRPs were developed jointly with the sponsor or alone.

AG Counsel Melissa Juarez suggested not to leave any ambiguity in recommendations for the legislature and suggested including that it be adopted at an open meeting.

Ms. Leibe asked for further clarification about the current process. Ms. Kranes explained that many FSRPs include input and a commitment from sponsors, but not all of them do; this requirement would clarify that both entities are committed to the FSRP.

Ms. Kranes explained the tiered FSRP trigger and the part of the recommendation to allow systems that have implemented a closed funding period and actuarially determined contributions to be exempt from the new requirements. She stated that this was intended so that systems like the Fort Worth Employees Retirement Fund that had made changes before would not have to start over if already moving towards full funding.

Mr. Brainard mentioned there were public comments that requested not changing the trigger from a 40-year amortization period until 2025 and asked if the current language of the recommendation would do that or if the board needed to change the language.



Ms. Kumar explained that the board revised its funding guidelines in 2017 and stated that the 30-year threshold would not take effect until 2025. The recommendation was intended to keep that promise by using a tiered trigger and delaying the 30-year requirement until 2025 and to create a grandfathering provision for systems that have already made or will make changes to improve funding by 2025.

Ms. Kranes explained the recommendation to extend the time allowed to prepare FSRPs to either one year or two rather than six months. She also mentioned currently some FSRPs relied on future actions, which were hard for staff to evaluate, so extending the time frame to complete the FSRP could come with a requirement that key actions be taken by the time the FSRP was completed. She explained that the recommendation would change the 10-year period to adopt an FSRP to two years and change the process for revised FSRPs to only be triggered if a system became subject to an FSRP within 10 years of a previous one. The revised FSRP would include stricter requirements to prevent systems from having to repeatedly revise FSRPs. The board discussed the option to increase the time to develop an FSRP and ultimately recommended providing two years rather than the current six months.

Chair Leibe asked for clarification if the recommendation to require an aggregate analysis of the changes would require only an aggregate analysis or an analysis of both the aggregate effects and the individual effects of proposed changes. Mr. Herbold explained that the individual changes were not necessary if a plan submitted an aggregate analysis, but since some FSRPs received had only presented analysis of individual changes the effects can interact instead of having simple cumulative effects.

Ms. Kumar added that this was intended to clarify what information the PRB receives. Staff wanted to be conscious of the cost of reporting requirements and thought that emphasizing the most important information to evaluate the changes should help reduce the costs to the systems. Ms. Dush stated that allowing two years to complete the FSRP and requiring current changes rather than future changes could also help with some existing problems.

Mr. Brainard asked for clarification about the difference between an actuarial analysis and an actuarial projection because of a comment received. Mr. Herbold explained that an amortization period calculation in an analysis shows a projection of when the plan will be funded compared to a detailed projection for every year, which may affect the cost.

Mr. Brainard invited public comments throughout, but there were none.

Mr. Brainard entertained a motion to adopt the recommendations as amended.

The motion was made by Ms. Dush and seconded by Chair Leibe.

**The motion passed unanimously.**

**e. Public retirement system reporting and compliance, including noncompliant retirement systems under Section 801.209 of the Texas Government Code (1:05:16)**

Ms. Kumar explained that the report could not be completed due to database issues; however, the report would be ready for the next meeting.

**6. Investment Committee matters (1:06:45)**

**a. Investment Practices and Performance Evaluations received as required by Government Code Section 802.109 (SB 322), including compliance (Included in 6c, 1:09:03)**

This item was taken up as part of item 6c.

**b. Recommended improvements to investment Practices and Performance Evaluation statute (Included in 6c, 1:30:39)**

This item was taken up as part of item 6c.

**c. Draft Investment Performance Report (1:08:27)**

Robert Munter presented the Investment Practices and Performance Evaluations (IPPEs), the legislative recommendations to improve the IPPE statute, and the draft PRB Investment Performance Report.

Mr. Munter explained there were 62 systems covered by the IPPE requirements. Since some evaluations included more than one system, 55 IPPEs were expected. Of the expected evaluations, 51 were received and included in the analysis. Two additional evaluations were submitted for systems with less than \$30 million in assets. He said staff reached out to the four remaining systems and learned they were experiencing COVID-related delays; Harris County Hospital District Pension Plan and Corpus Christi Regional Transportation Authority provided expected completion dates, and Midland Fire and Nacogdoches County Hospital District Retirement Plan did not provide expected completion dates at the time.

Mr. Munter stated that the biggest recurring issue was investment fees, which appeared in four of the five topic areas staff created to categorize results. The most common recommendation was performing an annual review of investment policy statements, and other recommendations included fee benchmarking compared to similar systems, using net-of-fee performance to evaluate managers, assigning a role to formally review fees, and documenting the rationale for hiring and firing investment managers.

Mr. Zook highlighted what he considered two important factors: the importance of looking at returns net-of-fees rather than gross returns when evaluating investment managers since that is what systems actually receive, and the differences between asset-only analysis and asset-liability analysis when making asset allocation decisions. He commented that the summary report should give systems and the public a better comparison of the fees different systems pay. Ms. Dush reemphasized the importance of asset-liability analysis since short-term liquidity requirements can affect outcomes and pointed out that improved modeling has reduced the cost of asset-liability assessments in recent years.

Mr. Munter presented the legislative recommendations from the investment committee for consideration of the board. He explained that when preparing the IPPEs several systems asked staff to clarify what should be included in an IPPE and that the legislative intent of this requirement was to improve transparency in decision making. The first recommendation was to require IPPEs to include a rationale for the recommendations that are made or why recommendations are not necessary. The second was to include a formal review-and-comment process to ensure that retirement system boards are reviewing and considering the recommended changes from evaluations and to allow evaluations to remain independent while still allowing systems to review and comment on the suggestions. The third was for the legislature to consider the feasibility of precluding a firm that helped a system develop the existing investment policies from performing the evaluation. He said that after reviewing IPPEs, the Investment Committee found that the data suggest that third-party evaluators typically offered recommendations while existing consultants were less likely to suggest improvements.

Mr. Brainard stated he hoped that the legislature would require the use of a separate, independent firm to provide a more objective review.

Mr. Munter presented the fourth recommendation to require evaluators to identify qualifications and potential conflicts-of-interest. Chair Leibe asked about how conflicts-of-interest are determined. Mr. Munter explained there are standard practices in the investment industry, such as disclosing existing relationships between parties that may influence evaluations, and the system's board would determine if that conflict would preclude someone from doing the work appropriately.

Mr. Zook stated that the intent is to inform stakeholders and the PRB if there is anything that could undermine the evaluation and it is often left open since it would be difficult to outline every possible situation. He said he expected the legislature would define the term within statute to avoid ambiguity.

Mr. Richards asked if disclosing a conflict-of-interest would preclude someone from doing the evaluation. Mr. Zook said it does not necessarily preclude them, but it would need to be disclosed so outside observers are aware and know that it was determined that the system's governing body decided it did not preclude them.

Ms. Dush asked if members had access to these performance evaluations to check if their systems were adopting any recommendations. Ms. Kumar explained there is a requirement for the PRB to make the summary available on its website and another requirement for systems to post information they submit to the PRB on their own websites, so staff would check if the IPPEs were included in existing requirements. Ms. Dush highlighted the importance of letting members and stakeholders have access to these documents to know if systems act or fail to act on the recommendations they are given.

Mr. Munter presented the *Draft Investment Performance Report*. Mr. Herbold pointed out that the report included summaries of all the individual evaluations to highlight major takeaways. The draft report was included with the board meeting packet.

Mr. Zook requested public comments since an individual registered to speak on this item, but no public comments were made at this time.

Chair Leibe entertained a motion to approve the *Draft Investment Performance Report* and adopt the recommendations to the legislature concerning the investment practices and performance evaluation requirement, incorporating any changes agreed upon by the board, and further direct staff to work with the board and committee chair to finalize the report for publication in the agency's 2019-2020 Biennial Report.

The motion was made by Mr. Zook and seconded by Mr. Brainard.

**The motion passed unanimously.**

## **7. Education and Research Committee matters (1:57:05)**

### **a. MET compliance reporting (1:57:28)**

This was taken up in item 7b.

### **b. MET sponsor update (1:57:36)**

Bryan Burnham noted demand for online education and continuing education opportunities have been very high since many in-person events were cancelled and budget constraints tightened due to the pandemic. He stated three new sponsors for core and continuing education courses had been accredited. TEXPERS has also added continuing education webinars.



**8. Possible Texas public pension governance study (2:00:21)**

Mr. Brainard presented his prepared remarks. He noted that at the September 29 Actuarial Committee meeting, the PRB received critical feedback, and he stated that he heard and understood the frustration that was expressed. He stated that he felt although there are some financial and economic reasons underlying problems facing public pension plans, the biggest problem by far is that the legal arrangement that regulates public pensions in Texas is exceedingly poor.

He noted state statutes are not designed to foster public pension funding success, providing examples such as how some systems require legislative action to adjust benefits or financing arrangements while others can make those decisions locally, and that benefit levels vary widely. He stated that there is no statutory requirement for promised benefits to align with what can be paid for. Depending on the system, the entity responsible for setting benefits may be different from the one that sets funding levels, and those entities may not be required to consult with one another.

The current regulatory and legal landscape does not encourage accountability and consensus, so something needs to change. Good public policy should be consistent and include input from all stakeholders. He felt that since the PRB is responsible for making recommendations for improving policies, practices, and legislation, the board should direct the staff to produce a governance study.

Chair Leibe entertained a motion to direct staff to perform a study of the public pension governance in Texas and to recommend improvements.

Motion made by Mr. Brainard and seconded by Ms. Dush.

**The motion passed unanimously.**

**9. Legislative committee matters (2:13:01)**

**a. 2019-2020 Biennial Report (2:13:10)**

Ms. Kumar explained that the *Biennial Report* is a statutorily required report in which the agency explains its work and findings over the course of the biennium. She noted that it is a key report for the agency as it includes any legislative recommendations relating to public retirement systems.

**b. 2021 Guide to Public Retirement Systems in Texas (2:14:25)**

Ms. Kumar noted that this publication is a compendium of current public pension data and would be submitted to the legislature when considering pension bills. She noted the publication was streamlined because it was very long, and the online data center now includes most of the information previously in the guide.

**c. 87<sup>th</sup> Legislative Session Update (2:15:28)**

Ms. Kumar stated that the agency had its joint budget hearing with staff from the Legislative Budget Board and Office of the Governor the previous week. The PRB had one exceptional item request to avoid the five percent cut that would affect agency services. The request for funding for IT upgrades would be deferred until the next budget cycle.

Staff would provide updates to the board about the format of the 87<sup>th</sup> Session since the Capitol was still closed due to COVID-19.

**10. Executive Director's Report (2:18:50)**

**a. Updated Fiscal Year 2021 Operating Budget (2:18:56)**

Ms. Kumar stated that the legislature had asked agencies to return five percent of their operating budgets, and the current budget was on track with that request.

**b. Staff update (2:19:19)**

Ms. Kumar noted that two employees had left since the June board meeting, and the agency is trying to fill those. However, the thirteenth FTE position will be held vacant until the budget situation is clearer, since staff salaries are such a large portion of the budget.

**11. Call for future PRB agenda items (2:20:24)**

Mr. Zook recommended adding an agenda item to perform the investment fee benchmarking study, but it would likely need to wait until after legislative session when the budget is determined.

**12. Date and location of future PRB meetings-TBD (2:21:31)**

Chair Leibe stated that the next board meeting will be in 2021. There were currently no committee meetings set, but staff would reach out to schedule them soon. The next board meeting will most likely be in June after the legislative session.

**13. Invitation for public comment (2:23:00)**

There were no public comments.

**14. Adjournment (2:23:36)**

Chair Leibe adjourned the meeting at 12:26 pm.

**In Attendance:**

**PRB Staff Present**

Anumeha Kumar	Michelle Downie Kranes
Kenneth J. Herbold	Bryan Burnham
James King	Robert Munter
Ashley Rendon	Mariah Miller
Wes Allen	



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Chair Stephanie Leibe