

Pension Review Board TLFRA Governance Recommendations

Summary

Texas Local Fire Fighters Retirement Act (TLFFRA) governance has been a recent subject of legislative and board interest. In 2023, the Pension Review Board (PRB) formally directed staff to conduct a study and present recommendations on TLFRA governance issues.

Staff presented TLFRA governance recommendations multiple times to the Actuarial Committee and full board between January and September 2024, refining the issues and recommendations each time based on feedback from the committee and board members. The agency also worked closely with stakeholders to receive feedback on the various iterations of the recommendations, including a presentation at the TLFRA Peer Review conference in May. At the board's September 25, 2024, board meeting, the board voted to adopt several of the recommendations. This document shows the staff recommendations and board action for each.

The following is a summary of the recommendation options presented by staff and any subsequent board action.

TOPIC AREA 1: SYSTEM FUNDING AND DECISION-MAKING PRACTICES

Identified Issue
TLFFRA statutory decision-making processes may hinder progress toward resolving funding issues faced by many TLFRA systems and their sponsors.

Recommendations - Statutory/legislative

Option 1.1- *Adopted*

Require the governing body of the sponsoring entity to first approve any ballot options concerning benefit or contribution changes prior to a member vote.

Option 1.1a – *No Action*

Require the governing body of the sponsoring entity to first approve any ballot options concerning benefit or contribution changes prior to a member vote if the system and sponsor solely utilizes a closed actuarially determined contribution (ADC) rate.

Option 1.2 – *Adopted*

Authorize the system and the governing body of the sponsoring entity to enter into a separate agreement defining parameters for member contribution and benefit decisions. These agreements may be reflected in a jointly developed and adopted funding policy as required by [Section 802.2011, Texas Government Code](#).

Option 1.3 – *Adopted as modified*

Proposed benefit changes must be approved by a majority of the board plus one member.

Recommendations - PRB guidance/technical assistance

Option 1.4 – *Adopted*

The PRB may publish guidance based on experiences of multiple TLFFRA systems for improving overall plan governance.

Option 1.5 – Adopted

The PRB may create a continuing education (CE) course on successful system reforms, potentially featuring a panel of TLFFRA stakeholders.

TOPIC AREA 2. BOARD STRUCTURE AND MEMBERSHIP

Identified Issues
<ul style="list-style-type: none">• TLFFRA board structure may need updating to address identified concerns and ensure balanced representation.• TLFFRA boards occasionally struggle with disengaged and/or noncompliant trustees, but systems lack tools and policies to address these issues.

Recommendations - Statutory/legislative

Option 2.1–No Action

Consider changes to statutory TLFFRA board structure. A potential option could be to eliminate one citizen seat and make it a mayoral appointee and retain one citizen seat. Such a change would provide even representation between city and plan members but still retain one citizen member meant to represent taxpayers.

Option 2.1a – Adopted as modified

Provide statutory authorization for TLFFRA boards to adopt a policy that would allow for the conversion of one citizen seat to a city appointee position if either citizen seat is unable to be filled within 120 days. Authorize TLFFRA boards to adopt a policy that adjusts the number of days after which a position is deemed unfilled so long as the number is fewer than 120 days. The policy must include the length of time the agreement is effective and specify the term length for the converted city appointee seat. Additionally, remove the exclusion from the TLFFRA statute that prevents a city employee from participating as a citizen trustee.

Option 2.2 – Adopted

Allow for one active member seat to be filled by either an active or retired system member.

Option 2.3 – Adopted

Require citizen members be elected by a minimum of four members of the system board. Four members constitute a supermajority of the five board members that vote to select citizen members.

Option 2.4 – Adopted as modified

Update the citizen seat provision to specify that a retired member of the plan may not serve in a citizen position.

Option 2.5– Adopted

Formalize in statute that it is a ground for removal from the board when a member attends less than 75 percent of the regularly scheduled board meetings that the member is eligible to attend during a

**TLFFRA Governance Project
Recommendations Adopted by the Pension Review Board**

calendar year without an excuse approved by a majority vote of the board. If the member is an ex-officio member, then they may be requested by the board to select a designee to serve in their position.

Option 2.6 - Adopted

Provide statutory authorization for boards to adopt a policy for removing a board member noncompliant with Minimum Educational Training (MET) requirements.

Option 2.7 – Adopted as modified

Include statutory language specifying the mayor may appoint a designee from city council or city staff. Also specify for the CFO of the sponsoring entity, or the individual acting in that capacity, may appoint a designee from city council or city staff who has a financial background.

Recommendations - PRB guidance/technical assistance

Option 2.8 – Adopted

The PRB may compile information and guidance on processes used by TLFFRA systems for identifying citizen members with qualifications and example policies used by systems to set standards for engagement of their board members, including attendance policies and education policies.

TOPIC AREA 3. TRANSPARENCY AND COMMUNICATION

Identified Issues
<ul style="list-style-type: none">• Information may not be easily accessible by all parties, including sponsoring entity and membership.• Some TLFFRA systems have difficulty contacting their sponsoring entity to discuss plan issues.• Minutes and board meeting materials are sometimes incomplete or not comprehensive.

Recommendations - Statutory/legislative

Option 3.1– Adopted

Require the sponsoring entity of a TLFFRA system to make publicly available on their website reports submitted to the PRB by the system. The sponsoring entity may link to the report on the system’s website if the report is already posted by the system.

Recommendations - PRB guidance/technical assistance

Option 3.2 – Adopted

The PRB may issue guidance or conduct continuing education on transparency and communication topics. Such guidance or education may include recommending system boards provide regular updates to the governing body of the sponsoring entity, such as presentations regarding the system’s funding condition with each actuarial valuation report.

TOPIC AREA 4: ADDITIONAL AREAS FOR RESEARCH AND CONSIDERATION

Identified Issues
<ul style="list-style-type: none">• Statutory language is potentially outdated in some areas and may not reflect current practices.• Additional information-sharing mechanisms and resources may be helpful for TLFFRA systems.

Recommendations - Statutory/legislative

Option 4.1 – *Adopted.*

Propose language authorizing boards to adopt an education policy.

Recommendations - PRB guidance/technical assistance

Option 4.2 – *Adopted*

The PRB could create a new core or CE course on reporting requirements and the role of the PRB for new administrators and trustees. The PRB may also consider other topics based on TLFFRA stakeholder requests, including additional education on actuarial matters.

Option 4.3 – *Adopted*

The PRB could implement a process to collect, share, and regularly update example policies, requests for proposal, and other relevant resources.

TLFFRA Governance Issues and Options November 2024

Overview

In 2020, the Pension Review Board (PRB) directed staff to study Texas public retirement system governance structures and practices. Staff began the process of studying system governance of all 100 systems by completing reports on board structure, outlining each system's decision-making process, and providing data on board qualifications for some systems. Since that time, the PRB's focus on studying governance has shifted more specifically to the 42 systems that operate under the Texas Local Fire Fighters Retirement Act (TLFFRA).

The primary reason for focus on TLFFRA systems is that these systems tend to struggle more from a funding standpoint, accounting for 11 out of the 12 systems that have been subject to PRB intensive reviews, which typically prioritize poorly funded systems for review.¹ In addition, most of the systems currently subject to the Funding Soundness Restoration Plan (FSRP) requirement are TLFFRA systems.² While some TLFFRA systems are well-funded, on average, TLFFRA systems have the highest median expected return, highest median funding period, and lowest median funded ratio of all categories of Texas public retirement systems.³ In addition, TLFFRA systems have recently been in the legislative spotlight. In 2022, the Speaker's interim charges included a charge to the House Pensions, Investments, and Financial Services (PIFS) Committee to study governance of systems under TLFFRA.⁴ The PRB provided testimony during an interim committee hearing in August of 2022 and the PIFS committee issued a report in December of the same year.⁵

To complete preliminary research on TLFFRA governance, in the fall of 2022, PRB staff engaged a team of graduate students at the LBJ School of Public Affairs at the University of Texas at Austin to conduct a policy research project to study TLFFRA governance, develop research findings, and identify potential recommendations. The team completed their research and provided a report (LBJ student report) to the PRB in the spring of 2023.

In the fall of 2023, the PRB worked with TLFFRA stakeholders to form a workgroup comprised of stakeholders from multiple TLFFRA systems and sponsoring entities representing small, medium, and large systems. The PRB's goal in forming the TLFFRA Governance Work Group (Work Group) was to build on previous research and identify areas for improvement in TLFFRA governance by working directly with stakeholders. The intended outcome of this process was to help the PRB develop possible recommendations that can improve governance of these systems and ultimately help them succeed. Recommendations adopted by the board may include statutory changes, development of PRB guidance or other education/technical assistance, or direction for the PRB to engage in further studies.

To develop the initial draft recommendations, PRB staff used multiple sources and reports to identify

¹ Texas Pension Review Board, Intensive Reviews, accessed January 11, 2024, <https://www.prb.texas.gov/intensive-reviews/>.

² Texas Pension Review Board, *FSRP Updates* (Austin: Texas Pension Review Board, November 2023).

³ Pension Review Board November 2023 Actuarial Valuation Report.

⁴ Texas House of Representatives, Interim Charges for the 87th Legislature, 24, accessed January 3, 2024, <https://house.texas.gov/media/pdf/interim-charges-87th.pdf>.

⁵ House Committee on Pensions, Investments, and Financial Services, *Interim Report to the 88th Texas Legislature*, accessed January 12, 2024, <https://house.texas.gov/media/pdf/committees/reports/87interim/Pensions-Investments-and-Financial-Services-Committee-Interim-Report-2022.pdf>.

issues and possible recommendations, primarily the Work Group meetings, the LBJ student report, and previous experience working with TLFFRA systems and sponsoring entities. This document reflects PRB staff's analysis and synthesis of those sources of information and has been revised multiple times this year to reflect stakeholder and board feedback and deliberations, after three PRB public meetings and corresponding opportunities for comment.

Staff presented the first iteration of this document to the Actuarial Committee on January 25, 2024. Following the meeting, staff released the document for public comment from February 12 through March 29, 2024. The agency received a total of seven comments from the initial comment period. The comments were predominantly submitted on behalf of systems, with one comment from a sponsoring entity of a TLFFRA fund, one from a law firm, and one from trustees acting in their own capacity, not that of their board. While the document was out for comment, staff introduced the first draft document to the full board on March 6, 2024.

PRB staff was invited to attend and speak about the potential recommendations at the TLFFRA peer review conference in May 2024, where trustees provided feedback directly about the document. The feedback largely matched the comments received during the first public comment period.

The Actuarial Committee received updated recommendations based on stakeholder feedback at the May 9, 2024, meeting. Following the meeting, the updated document was released for a second round of stakeholder feedback. At this time, staff also organized one-on-one meetings with various types of stakeholders, including representatives from systems, sponsors, and actuaries. The information from the stakeholder meetings, as well as the one written comment received, was used to help further refine the recommendations into a third iteration presented to the full board as an update on July 25, 2024.

A third and final comment period occurred from August 7 through September 6, 2024. During this comment period, staff received an additional seven comments from systems, sponsors, and members. This document includes key themes in stakeholder comments.

For the September 25, 2024, board meeting, staff provided the board with a list of potential options and designated which options staff recommended. During the meeting, the board adopted recommendations after reviewing stakeholder feedback and receiving public comments. This document lists only those recommendations adopted by the board. The full list of options presented to the board and staff recommendations is included as an appendix item.

TOPIC AREA 1: SYSTEM FUNDING AND DECISION-MAKING PRACTICES

Background: The Texas Local Fire Fighters Retirement Act (TLFFRA) was originally created in 1937 by the 45th Legislature and named the Firemen's Relief and Retirement Fund. In 1989, the Act was restated under Article 6243e and renamed as the Texas Local Fire Fighters Retirement Act. The Act allows for paid and part-paid fire departments and volunteer fire departments in participating cities to administer their own local retirement systems.

The Act provides general guidelines for fund management, including some investment restrictions, but leaves administration, plan design, contributions, and specific investments to each system's local board. Systems operating under TLFFRA are entirely locally funded.

Local retirement systems established under TLFFRA have authority to determine member contribution rates, benefit levels, and other plan provisions locally through procedures outlined in TLFFRA. However,

the composition of TLFFRA boards of trustees is set in statute. The composition of the TLFFRA board represents the interests of the member, governing entity, and taxpayers. Sponsoring entities of TLFFRA systems must meet a statutory minimum contribution rate but may adopt by ordinance a higher contribution rate than that set in statute.⁶

Identified Issue: TLFFRA statutory decision-making processes may hinder progress toward resolving funding issues faced by many TLFFRA systems and their sponsors.

TLFFRA systems must adhere to certain operational and funding guidelines set in statute, including minimum contribution rates and a pre-determined board structure. While sponsoring entities control their employer contribution levels, typically through city budget processes, changes to benefits and member contributions occur through board-initiated action rather than a statutory change or change to city charter, as is common with many non-TLFFRA systems. Prior to a benefit or contribution change being finalized, the changes must be first approved by the system's actuary, as well as by a majority vote of participating members of the system. At least 50 percent of all participating members must participate in the vote.⁷ Use of a membership vote to decide member contribution and benefit changes is mostly unique to TLFFRA when comparing these systems to others in Texas. While decision-making mechanisms vary from system to system, the PRB identified only two municipal systems that include a vote of members for certain decisions. El Paso Police and Fire Pension Fund has a member vote for making benefit and member contribution changes. However, the system's board must first submit any proposed benefit or member contribution changes to the city's governing body for approval before the board is able to adopt a change.⁸ Fort Worth Employees Retirement Fund (FWERF) utilizes a member vote for changes to member contributions. Unlike El Paso Fire and Police, FWERF does not require proposed member contribution changes to first be approved by both the board and the system.⁹

The TLFFRA member vote mechanism allows for individual plan members to have influence over the management of their pension plan. Some Work Group members characterized the member vote requirement as a helpful and necessary check and balance; however, the goals of the system administration, sponsoring governmental entity, and plan membership may not always be in alignment, potentially preventing necessary changes from occurring. For example, some sponsoring entities may hesitate to provide increased contributions, or implement an actuarially determined contribution (ADC), out of the belief that plan members will vote to increase their own benefits and, in turn, increase the sponsor's financial burden since the sponsoring entity does not have a specific role in approving benefit changes, other than the two seats they hold on the seven-member system board. Conversely, plan members may be hesitant to vote for changes that would reduce their own benefits, even in cases where those changes are needed to address funding gaps.

The LBJ student report noted that system representatives interviewed were generally in favor of shifting to an ADC contribution structure that would allow for the system's contribution levels to adequately address the unfunded liability. The report's analysis also showed a correlation between high-performing TLFFRA systems and actual contribution rates above the ADC. However, the analysis also found that some

⁶ TLFFRA Peer Review Committee et. al, *Texas Local Fire Fighters Retirement Act Trustee Manual*, 2022.

⁷ Section 7(b), Article 6243e, Vernon's Texas Civil Statutes.

⁸ El Paso Firemen and Policemen's Pension Fund, *Statement of Funding Policy*, January 2019, <https://www.elpasofireandpolice.org/index.php/about/board-documents-2/board-policies/961-epfppf-statement-of-funding-policy/file>.

⁹ Section 5.07, Article 6243i, Vernon's Texas Civil Statutes.

sponsors are wary of moving towards an ADC structure because there are concerns that systems will raise benefits.¹⁰

Due to the current statutory decision-making structure, sponsors are not required to be directly involved in setting benefit levels unless more specific working agreements are developed between systems and sponsors, as discussed below. During Work Group meetings, members noted that there is often not a formalized communication or agreement structure between the system and sponsor, and the quality of the working relationship may vary depending on the specific people involved and their willingness to work together on pension issues. Without such an agreement, the system, sponsor, and plan members may not be able to effectively work together to resolve any existing funding issues or address issues in a timely manner when they arise. While nearly all TLFFRA systems have a funding policy as required under legislation passed in 2019, policies submitted initially were not required to be jointly developed and adopted by the system and sponsor. With amendments to the funding policy requirement passed by the legislature in 2021, funding policies now require involvement from both parties.¹¹

Through research and the Work Group meetings, PRB staff identified a trend of more sponsors and systems creating their own agreements or memorandums of understanding (MOUs) to outline parameters surrounding contributions and benefits changes. Some of these agreements are summarized in the chart, *Examples of Agreements*. These parameters, often referred to as “guardrails,” allow for the sponsor to have peace of mind that no unfunded benefit increases will occur, while allowing the system to obtain additional needed funding to resolve funding issues and ensure that members will ultimately receive the benefits they are promised. Such agreements can lead to improved funding and potentially allow for additional benefits when the plan is well-funded; for example, Denton Fire and the City of Denton agreed to an ad-hoc cost-of-living adjustment in 2022 while maintaining a funding period below 10 years. Joint working agreements may occasionally occur more informally, but the PRB recommends that any jointly agreed upon terms regarding contribution and benefit levels are eventually incorporated into a funding policy, particularly since the statute now provides a foundation for jointly developed and adopted funding policies.

Examples of Agreements	
Denton Fire	The system and the city use a Meet and Confer Agreement to establish certain responsibilities and funding goals shared by both parties. For example, the system agrees to not raise benefits during the term of the agreement and the city agrees to only adjust contributions based upon an actuarial valuation. ¹²
Longview Fire	The system and city entered into a memorandum of understanding that the city would provide the system a lump-sum contribution from the proceeds of a pension obligation bond and the system would not enhance benefits unless the funding period was less than five years and the enhancement would not increase the system’s funding period above 10 years. ¹³

¹⁰ Ryan Hurt, Richard Guzman, Noah Jones, *Putting Out the Fire: Pension Governance of TLFFRA Plans* (Austin: The Lyndon B. Johnson School of Public Affairs), 69.

¹¹ Section 802.2011, Texas Government Code.

¹² Meet and Confer Agreement Between the City of Denton and the Denton Firefighters Association, *Denton Firemen’s Relief and Retirement Fund*. 24 September 2019, <https://www.prb.texas.gov/wp-content/uploads/2023/12/Denton-Funding-Policy.pdf>.

¹³ Longview Firemen’s Relief and Retirement Fund and the City of Longview, *Agreement Regarding City of Longview Pension Obligation Bonds*, 23 June 2022.

Irving Fire	The system and the city entered into a formal agreement surrounding a pension obligation bond. The bond will pay down a portion of the system’s UAAL and as a result, the system agrees that any benefit enhancement submitted for a membership vote will require that the member contributions solely cover the increase to the ADC. It further states that both the members and city will equally split the ADC if it is lower than 26 percent of pay, but if it goes above 26 percent, the members will only be responsible for a maximum of 13 percent. ¹⁴
Corpus Christi Fire	The city informally agreed to increase contributions, with the understanding by the system that they could not use the additional contributions to increase benefits.

Sometimes the system and sponsor may be in alignment about needed changes, but as previously mentioned, changes to benefits and member contributions require approval from plan members as a final step. During Work Group meetings, group members discussed past difficulties some systems have experienced in convincing members to support needed reforms; however, they identified proactive, robust education efforts as a key to success. Some of the Work Group members represent systems that have recently implemented significant reforms to address funding issues, and they discussed the measures that they have taken in the past to help ensure that their members are well informed about on the proposed changes, including conveying the potential repercussions of having an inadequately funded plan. They explained how they educated members prior to votes, including bringing the system actuary in to talk to the members directly, offering multiple options, and holding votes immediately following the discussion. The members noted that when systems take proactive measures to educate the plan members, the overall process to obtain support from the membership tends to go smoothly and systems are able to make the changes needed to address funding challenges.

Topic Area 1 Recommendations	
<u>Statutory/legislative</u>	
<p>1.1 Require the governing body of the sponsoring entity to first approve any ballot options concerning benefit or contribution changes prior to a member vote. This recommendation would ensure sponsors and systems work collaboratively on potential changes before going to a member vote and could change the incentive structure to make it more likely sponsors would be less hesitant to provide necessary employer contributions.</p>	
<p>1.2 Authorize the system and the governing body of the sponsoring entity to enter into a separate agreement defining parameters for member contribution and benefit decisions. These agreements may be reflected in a jointly developed and adopted funding policy as required by Section 802.2011, Texas Government Code. This recommendation would allow for both parties to proactively define conditions in which contribution and benefit changes could be made, ensuring mutual agreement especially for those systems for which the sponsoring entity pays an ADC.</p>	
<p>1.3 Proposed benefit changes must be approved by a majority of the board plus one member.</p>	
<u>PRB guidance/technical assistance</u>	
<p>1.4 The PRB may publish guidance based on experiences of multiple TLFFRA systems for improving overall plan governance. This may take the form of best practices for creating a joint working</p>	

¹⁴ Irving Firemen’s Relief and Retirement Fund and the City of Irving, Texas, *Agreement Regarding City Pension Obligations Bonds*, 21 March 2022.

agreement (and ultimately jointly adopted funding policies) between the system and sponsor, encouraging the use of guardrails to limit the system's ability to enact benefit increases or contribution decreases without consideration of factors which may include sponsor agreement and the plan's actuarial health. Such guidance could also highlight methods for effectively educating members in preparation for a vote on plan changes. Included in this effort could be compiling actual agreements and funding policies as examples and making them publicly available.

1.5 The PRB may create a continuing education (CE) course on successful system reforms, potentially featuring a panel of TLFFRA stakeholders.

Stakeholder Feedback and Staff Response: Throughout the several rounds of stakeholder feedback, a common theme was finding a reasonable balance of sponsor input on potential ballot options. Several versions of option 1.1 were proposed by agency staff. One such option included having a comment period where the sponsoring entity could provide written input on a ballot option. All iterations of this potential option have been removed from the final recommendations based on feedback.

- **Role of sponsor.** Some stakeholders raised concerns that sponsors are not fiduciaries, and that sponsors' willingness to make changes or provide comments on ballots could be affected by political motivations. Sponsors have reported concern over increasing contributions because of the potential for the board and system members to raise benefits, which could increase costs down the line. System stakeholders told PRB staff that boards are generally lowering, not increasing, benefits; however, sponsors still express concern that benefit increases could occur.
- **ADC.** Generally speaking, there are only a few TLFFRA systems where both the system and the sponsoring entity solely utilize an ADC. ADC structures come with more potential direct risk for sponsors due to the potential for significant fluctuations in contribution rates each year, and the resulting lack of predictability for city budgeting purposes. In those cases, it may make sense to allow sponsors to have more input. Staff has received feedback showing interest in requiring systems and their sponsors to move to an ADC. The PRB has not proposed any options to mandate an ADC, but instead option 1.1a was created as a compromise between increased contribution risk and increased sponsor involvement. While some stakeholders remain concerned that option 1.1a provides the sponsor with too much direct control, systems were generally more amenable to this option.
- **Votes for benefit changes.** Another option staff has added for consideration based on feedback from the board at the July 25, 2024, board meeting includes requiring that any proposed benefit changes be approved by a supermajority of five members of a TLFFRA board. This would increase the likelihood that at least one sponsor representative on the board is also in agreement with the increased benefit change, allowing for the sponsoring entity to have indirect input. Stakeholders raised concerns that requiring a supermajority of five members could lead to problems because a quorum is only four members, so there may be meetings where fewer than five members are present.

TOPIC AREA 2. BOARD STRUCTURE AND MEMBERSHIP

Background: TLFFRA boards are comprised of seven members:

- the mayor of the municipality or the mayor’s designated representative
- the chief financial officer (CFO) of the municipality, the person who performs the functions of a CFO, or the CFO’s designated representative
- three members of the retirement system elected by participating members
- two citizens of the state who are not officers or employees of the municipality and are elected by participating members.¹⁵

The distribution of trustee seats is set in statute.

Identified Issue: TLFFRA board structure may need updating to address identified concerns and ensure balanced representation.

The LBJ student report noted that filling citizen trustee positions is challenging for many TLFFRA systems regardless of overall system performance.¹⁶ The Work Group members echoed this concern. During Work Group sessions, members noted that excluding the statutory residency requirement – the citizen seat for any TLFFRA system must be filled by a Texas resident – there is currently no guidance available to systems about what qualifications they should look for when filling the citizen seat. However, filling citizen seats with individuals with relevant and helpful expertise—such as financial or legal expertise—can also be difficult, especially for smaller TLFFRA systems. As a result of the difficulties associated with filling citizen seats, they are often filled by retired firefighters, many times retired firefighters who formerly served on the TLFFRA board. While this expertise and institutional knowledge can be useful, citizen seats filled by retired firefighters can also mean that firefighter/plan member perspectives outnumber others, especially sponsor perspectives.

Outside of TLFFRA systems, recent legislative reforms of some municipal public pension boards have resulted in shifting the balance towards having more representation from the sponsoring entity and adding required qualifications for certain trustees, as described in the table, *Examples of Recently Changed Board Structures and Qualifications*.¹⁷

Examples of Recent Legislative Changes to Board Structures and Qualifications		
	Board Structure	Required Qualifications
Galveston Police (2019)	Increased board from seven to eight total members, additional member designated by city representatives.	To be designated or elected a trustee, a person must have 1) demonstrated financial, accounting, business, investment, budgeting, or actuarial experience; 2) a bachelor’s degree from an accredited institution of higher education; or 3) been vetted to verify that the person is capable of performing the duties and responsibilities of a trustee. ¹⁸

¹⁵ Section 19, Article 6243e, Vernon’s Texas Civil Statutes

¹⁶ Ryan Hurt, Richard Guzman, Noah Jones, *Putting Out the Fire: Pension Governance of TLFFRA Plans* (Austin: The Lyndon B. Johnson School of Public Affairs), 57.

¹⁷ For example, Section 2.021, Article 6243p, Vernon’s Texas Civil Statutes, Section 3.02, Article 6243n-1, Vernon’s Texas Civil Statutes, and Section 4, Article 6243n, Vernon’s Texas Civil Statutes.

¹⁸ Section 2.021, Article 6243p, Vernon’s Texas Civil Statutes.

Austin Police (2021)	One active member seat replaced with a citizen appointed by the city council.	The citizen trustee member must have demonstrated financial or investment experience. ¹⁹
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Some Work Group members indicated their systems voluntarily try to find candidates for citizen seats that have expertise/qualifications, such financial or investment industry backgrounds. This became a discussion point amongst the members which indicated further guidance or sharing of best practices would be beneficial.

Identified Issue: TLFFRA boards occasionally struggle with disengaged and/or noncompliant trustees, but systems lack tools and policies to address these issues.

Work Group participants noted that some TLFFRA systems struggle with low engagement particularly from sponsor representatives sitting on the board, such as not attending board meetings. They further noted that typically sponsor representatives on the board are responsible for bringing pertinent information from the TLFFRA board to the attention of the sponsoring entity as a whole, making their role on the board and level of engagement critical to the overall working relationship between the system and the sponsor.

Members also raised the concern that there are some TLFFRA trustees who are not compliant with the PRB’s Minimum Educational Training (MET) program requirements. They noted that system administrators make attempts but are still sometimes unable to get their trustees compliant. The PRB is currently pursuing a project working with all systems with trustees out of compliance, with core education specifically, to understand reasons for noncompliance and assist where possible.

A suggestion offered by Work Group members was adding statutory authority allowing TLFFRA systems to remove inactive or noncompliant members. The chart below, *Examples of Statutory Removal of Members*, provides some examples of mechanisms in current law for several Texas municipal systems.

Examples of Statutory Removal of Members	
Removal by elector/appointer	
San Antonio Fire and Police	Allows firefighter or police officers to vote to remove their appointed representatives. Subsection (b) allows retiree members to vote to remove elected retiree representatives. ²⁰
Attendance requirement	
Austin Police	Provides that trustees who are absent from five consecutive regular board meetings will be removed. ²¹
Board member vote, with hearing	
Houston Police	The board may vote to remove a board member, with agreement from a hearing examiner. ²²

¹⁹ Section 3.02(a)(5), Article 6243(n-1), Vernon’s Texas Civil Statutes.

²⁰ Section 2.03(a), Article 6243o, Vernon’s Texas Civil Statutes.

²¹ Section 3.06(c), Article 6243n-1, Vernon’s Texas Civil Statutes.

²² Section 7(a), Article 6243g-4, Vernon’s Texas Civil Statutes.

Through the Work Group discussions, PRB staff also learned that some systems have developed their own policies and procedures to promote board member engagement and education. In general, members indicated these policies are helpful in promoting engagement and compliance. The policies are as follows:

- **Education policy.** Odessa Firemen's Relief & Retirement Fund created an education policy which requires board members to complete 15 to 30 hours of MET training annually. If a board member does not complete their requirement, they must share their reason for noncompliance with the board chair and the board will decide what actions to take regarding the trustee's position on the board.
- **Attendance policy.** Irving Firemen's Relief and Retirement Fund created an attendance policy requiring trustees to attend at least 75 percent of regular board meetings each year. The board of trustees may excuse absences in the case of unusual circumstances, but otherwise a trustee who is noncompliant with the policy will be asked to consider resigning from the board.

Topic Area 2 Recommendations
<u>Statutory/legislative</u>
<p>2.1a Provide statutory authorization for TLFFRA boards to adopt a policy that would allow for the conversion of one citizen seat to a city appointee position if both citizen seats are unable to be filled within 120 days. Authorize TLFFRA board to adopt a policy that adjusts the number of days after which a position is deemed unfilled so long as that number is fewer than 120 days. The policy must include the length of time the agreement is effective and specify the term length for the converted city appointee seat. Additionally, remove the exclusion from the TLFFRA statute that prevents a city employee from participating as a citizen trustee.</p> <p>2.2 Allow for one active member seat to be filled by either an active or retired system member.</p> <p>2.3 Require citizen members be elected by a minimum of four members of the system board. Four members constitute a supermajority of the five board members that vote to select citizen members.</p> <p>2.4 Update the citizen seat provision to specify that a retired member of the plan may not serve in a citizen position. This recommendation would not prohibit retired members of other systems from serving on a particular TLFFRA board.</p> <p>2.5 Formalize in statute that it is a ground for removal from the board when a member attends less than 75 percent of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board. If the member is an ex-officio member, then they may be requested by the board to select a designee to serve in their position.</p> <p>2.6 Provide statutory authorization for boards to adopt a policy for removing a board member noncompliant with Minimum Educational Training (MET) requirements.</p> <p>2.7 Include statutory language specifying the mayor may appoint a designee from city council or city staff. Also specify that the CFO of the sponsoring entity, or the individual acting in that capacity, may appoint a designee from city council or city staff who has a financial background.</p>
<u>PRB guidance/technical assistance</u>
<p>2.8 The PRB may compile information and guidance on processes used by TLFFRA systems for identifying citizen members with qualifications and example policies used by systems to set standards</p>

for engagement of their board members, including attendance policies and education policies. This recommendation would provide information and assistance to TLFFRA systems while not mandating specific qualifications for citizen members, which may be difficult for some systems to comply with.

Stakeholder Feedback and Staff Response: Stakeholders report varied experiences in how citizen positions are filled and difficulty filling seats. Many systems have no trouble filling their citizen seats whereas others have reported having difficulty doing so. The feedback has led to staff proposing several options to assist the systems that are having difficulty while not impeding systems that are doing well with the existing statutory board composition.

- **Citizen trustee seat conversion.** Staff’s original recommendation addressing board composition included an option to alter the board structure to eliminate one citizen seat position, making it a mayoral appointee position. Upon feedback that this would potentially lead to several boards losing valuable trustees, staff proposed an alternative recommendation that would allow boards to adopt a policy that would allow for the conversion of one citizen seat to a city appointee seat should a seat be unfilled. This option would not require boards to change their policies, so systems that are not struggling to fill their citizen seats would not need to make a change, but rather it would allow for the systems that need assistance to have more options for filling a vacant seat.
- **Retired members as trustees.** Stakeholders also raised concerns about retired system members participating on the board in the citizen seat position. Specifically, there was concern that this could tip the balance of power towards the members. Staff received feedback from system representatives noting that retired members have a different perspective than active members, and many of their benefits are already secured. It was also noted that as a trustee, regardless of background, the individual serving in the citizen seat position is ultimately a fiduciary and carries a responsibility beyond their potential personal interests.

Several systems currently have retirees in their citizen seat positions who are active and engaged trustees that the boards would like to retain. Staff proposed option 2.2 as a potential compromise for balancing representation. Staff received feedback requesting more information about the implementation of such an option. Under this option, if a retiree was elected in lieu of an active member, the retiree would be elected by the active members, not other retirees.

- **Trustee attendance and MET noncompliance.** There was also discussion around removal mechanisms for disengaged, absentee, or noncompliant board members. While many stakeholders recognized the need and potential benefit for having a removal mechanism, there was concern raised about the potential subjectivity of a removal. Staff included a suggested meeting attendance threshold as a potential legislative recommendation, and then revised it based on feedback from the board and other stakeholders to ensure that any extenuating circumstances would not disqualify a potential engaged member.

Stakeholders submitted concern about the removal of ex-officio trustees specifically, and called attention to the lack of potential avenues to address low attendance rates or noncompliance.

While ex-officio trustees are unable to be removed directly, staff updated option 2.5 to specify that the board of trustees may request a designee if the ex officio trustees are frequently absent from meetings. This provision may also be included in any policy developed and adopted by the systems under option 2.6.

- **Ex-Officio Designees.** Statute currently allows for ex-officio members to designate someone to act as a trustee in their place. Staff proposed option 2.7, which would restrict the potential designee to be either from city council or city staff, and for the CFO designee to also have a financial background. Stakeholders brought up concerns that this option could be redundant, but option 2.7 would ensure that specific expertise and viewpoints are still represented on the board.

TOPIC AREA 3. TRANSPARENCY AND COMMUNICATION

Background: In general, good communication practices and overall transparency help mitigate issues and help ensure stakeholders of any organization are all on the same page and have the information needed to effectively make decisions. The LBJ student report states that representatives of high-performing TLFFRA systems interviewed by the team described having consistent and reliable communications with plan members specifically as a key governance success factor.²³ In other words, improving communication and transparency could ultimately lead to improved overall performance of the system.

Through the Work Group meetings, communication among the systems, their sponsors, their members, and the PRB was a topic discussed at length. PRB staff aimed to understand current methods of communication and identify issues and found systems use a variety of methods to communicate with their members, which helps improve the member vote process and helps the plan members understand their benefits overall. Generally, TLFFRA systems have very few staff members, so most day-to-day communication occurs through the administrator and occasionally the board members themselves, particularly when systems are contemplating major reforms.

Identified Issue: Information may not be easily accessible by all parties, including sponsoring entity and membership.

Some existing statutory requirements already exist that are meant to promote transparency for all Texas retirement systems, such as the requirement for all reports submitted to the PRB to also be published on a website.²⁴ Examples of required reports include actuarial valuations, annual financial reports, and funding policies. This statute does not require each system to have a website; instead, it allows for the information and reports to be posted on any public website, such as that of the sponsoring entity. The LBJ student report noted that many TLFFRA systems currently lack a website, or the website is missing information. The team arrived at this conclusion after conducting a search for and review of websites of all 42 TLFFRA systems.²⁵ In addition, the need for increased transparency was addressed in the most

²³ Ryan Hurt, Richard Guzman, Noah Jones, *Putting Out the Fire: Pension Governance of TLFFRA Plans* (Austin: The Lyndon B. Johnson School of Public Affairs), 62.

²⁴ Section 802.107, Texas Government Code.

²⁵ Ryan Hurt, Richard Guzman, Noah Jones, *Putting Out the Fire: Pension Governance of TLFFRA Plans* (Austin: The Lyndon B. Johnson School of Public Affairs), 70.

recent PRB intensive review; the system reviewed (Abilene Fire) has since made improvements to address the deficiencies highlighted in the report, such as missing and outdated reports on the system website.²⁶

For systems without their own website, the information required to be posted may be unavailable on any public website, including required reports. Sponsoring entities – a majority of which are cities – already have websites and post other publicly available documents online. It is an intuitive location for members of the public to go when looking for financial and actuarial information, and many cities' websites already include this information for local retirement systems. Work Group members noted that administering a website is difficult for systems because they do not typically have the in-house knowledge or bandwidth needed to manage it themselves and third-party administrators can be expensive.

Identified Issue: Some TLFFRA systems have difficulty contacting their sponsoring entity to discuss plan issues.

Work Group members noted that they are often dependent on the level of engagement from the sponsor representative on the system's board. Getting information in front of the sponsor has been a challenge for some TLFFRA systems, but a few who have completed an FSRP or been part of an intensive review by the PRB did mention that having to complete those processes improved communication and working relationships overall. During the Work Group sessions, it became apparent that there may also be a lack of understanding surrounding certain reporting cycles. In particular, actuarial valuations and experience studies are typically not completed on the same timeline as city budgeting cycles. This mismatch has led to some sponsors hesitating to make contribution decisions until they have a more recent report, which can increase the overall amount of time it takes to address funding issues. As a result, at least one system represented on the Work Group has moved to annual actuarial valuations to ensure stakeholders have updated actuarial information on a more frequent basis.

Identified Issue: Minutes and board meeting materials are sometimes incomplete or not comprehensive.

Governmental entities are required to keep minutes or a recording of their public meetings, but they are currently not required to keep detailed records of discussions or other information that may be pertinent to system status.²⁷ Beyond statutory compliance, the use of detailed and easily obtainable meeting minutes helps keep both the membership aware of the system's decisions, as well as provides a resource for the sponsor.

The LBJ student report found that high-performing TLFFRA systems were more likely to have detailed minutes and scored higher on various transparency measures than low- and medium-performing systems. However, the report found that TLFFRA board meeting minutes and materials were often unavailable for many systems. During their analysis, the student team discovered that they were unable to locate minutes for 19 of the 42 TLFFRA systems. They noted that it was often due to being unable to find system websites overall.²⁸

²⁶ Texas Pension Review Board, *Intensive Review: Abilene Firemen's Relief and Retirement Fund*, September 2023, 25.

²⁷ Section 551.021, Texas Government Code.

²⁸ Ryan Hurt, Richard Guzman, Noah Jones, *Putting Out the Fire: Pension Governance of TLFFRA Plans* (Austin: The Lyndon B. Johnson School of Public Affairs), 53, 70.

Topic Area 3 Recommendations
<u>Statutory/legislative</u>
<p>3.1 Require the sponsoring entity of a TLFFRA system to make publicly available on their website reports submitted to the PRB by the system. The sponsoring entity may link to the report on the system’s website if the report is already posted by the system. This change would facilitate access to information about TLFFRA systems even in situations where the system is unable to maintain an independent website.</p>
<u>PRB guidance/technical assistance</u>
<p>3.2 The PRB may issue guidance or conduct continuing education on transparency and communication topics. Such guidance or education may include recommending system boards provide regular updates to the governing body of the sponsoring entity, such as presentations regarding the system’s funding condition with each actuarial valuation report.</p>

Stakeholder Feedback and Staff Response: Overall, stakeholders have been in favor of staff’s recommendation for a sponsoring entity of a TLFFRA system to make the system’s reports available on their website. Many sponsors already do something similar, and several sponsors have indicated that it would not be difficult to implement. There have been some questions raised by stakeholders about potential redundancies if a system already posts this information on its own website, and staff modified option 3.1 to clarify that linking to a report already posted elsewhere would be acceptable.

TOPIC AREA 4. ADDITIONAL AREAS FOR RESEARCH AND CONSIDERATION

Identified Issue: Statutory language is potentially outdated in some areas and may not reflect current practices.

The Work Group members made PRB staff aware that TLFFRA statute contains some outdated language that needs revising to reflect current trends and practices. They noted that the statute was created in the 1930s and some sections have not been updated since then. For example, in various provisions, the statute still addresses volunteer systems within systems that have no volunteers. Not only does the current statute not always align with current system structures, but it has also historically made it more difficult for struggling TLFFRA systems to close their plan to new members and join statewide systems. The Texas Municipal Retirement System (TMRS) statute allows for local systems to join TMRS through city ordinance; however, TLFFRA systems may still lack clarity on this process.²⁹

Identified Issue: Additional information-sharing mechanisms and resources may be helpful for TLFFRA systems.

The PRB often fields questions from TLFFRA systems about reporting requirements and Minimum Educational Training (MET) requirements. This has primarily occurred via technical assistance requests but was briefly brought up during Work Group meetings. Work Group members noted that when first joining the board, it is difficult to learn certain PRB reporting requirements, such as the MET reporting, especially when there is high turnover on the board or when a system has a new administrator. It was also

²⁹ Section 852.005, Texas Government Code.

noted that the sponsor representatives may need more information about how defined benefit plans work overall.

Work Group meetings often led to the participating systems sharing information about how they handle certain topics and issues. While PRB staff moderated the meetings, Work Group members chimed in asking questions of each other and sharing their own system’s unique practices. One of the benefits of the Work Group sessions beyond information gathering for the PRB was providing an avenue for Work Group members to share resources and information amongst themselves. For example, when filling citizen seat positions, some Work Group members shared that they ask the prior citizen seat member to provide a list of recommendations. Systems would benefit from having access to examples and templates to help them conduct daily operations without starting from scratch. TLFFRA systems in particular could benefit from such assistance because they tend to have few staff and resources to administer their plans.

Stakeholder Feedback and Staff Response: The original recommendation under this section was a call for stakeholders to provide examples of additional recommendations they would like to see the PRB propose, or a way for them to identify potential sections of statute that they felt were outdated, as noted in the Work Group meetings. The agency received several suggestions for potential recommendations, which may be found in the attached feedback summaries. Ultimately, PRB staff propose the recommendation to authorize boards to adopt an education policy.

Topic Area 4 Recommendations
<u>Statutory/legislative</u>
4.1 Propose language authorizing boards to adopt an education policy.
<u>PRB guidance/technical assistance</u>
4.2 The PRB could create a new core or CE course on reporting requirements and the role of the PRB for new administrators and trustees. The PRB may also consider other topics based on TLFFRA stakeholder requests, including additional education on actuarial matters. Such a course could help trustees and administrators more easily learn statutory reporting and education requirements and make compliance easier.
4.3 The PRB could implement a process to collect, share and regularly update example polices, requests for proposal and other relevant resources. This process would ultimately make it easier for systems to access useful examples since they would just have to go to one place. Making such materials available could be incorporated into other efforts outlined in this document to develop best practices and guidance.

Appendix: September 2024 TLFFRA Governance Staff Recommendations and Board Action



TEXAS PENSION
REVIEW BOARD

TLFFRA Governance Recommendations
September 2024

Type	Option	Recommendation	Staff Rec	Board Action
Topic Area 1: System Funding and Decision-Making Practices				
Legislative	1.1	Require the governing body of the sponsoring entity to first approve any ballot options concerning benefit or contribution changes prior to a member vote. This recommendation would ensure sponsors and systems work collaboratively on potential changes before going to a member vote and could change the incentive structure to make it more likely sponsors would be less hesitant to provide necessary employer contributions.	No action	Adopted
Legislative	1.1a	Require the governing body of the sponsoring entity to first approve any ballot options concerning benefit or contribution changes prior to a member vote if the system and sponsor solely utilizes a closed actuarially determined contribution (ADC) rate. This recommendation would allow for sponsors paying an ADC, who experience higher levels of risk associated with changes to plan provisions, to have direct input on benefit and member contribution changes.	Adopt	No action
Legislative	1.2	Authorize the system and the governing body of the sponsoring entity to enter into a separate agreement defining parameters for member contribution and benefit decisions. These agreements may be reflected in a jointly developed and adopted funding policy as required by Section 802.2011, Texas Government Code . This recommendation would allow for both parties to proactively define conditions in which contribution and benefit changes could be made, ensuring mutual agreement especially for those systems for which the sponsoring entity pays an ADC.	Adopt	Adopted
Legislative	1.3	Proposed benefit changes must be approved by a majority of the board plus one member.	Adopt	Adopted
Guidance/ Technical Assistance	1.4	The PRB may publish guidance based on experiences of multiple TLFFRA systems for improving overall plan governance. This may take the form of best practices for creating a joint working agreement (and ultimately jointly adopted funding policies) between the system and sponsor, encouraging the use of guardrails to limit the system’s ability to enact benefit increases or contribution decreases without consideration of factors which may include sponsor agreement and the plan’s actuarial health. Such guidance could also highlight methods for effectively educating members in preparation for a vote on plan changes. Included in this effort could be compiling actual agreements and funding policies as examples and making them publicly available.	Adopt	Adopted
Guidance/ Technical Assistance	1.5	The PRB may create a continuing education (CE) course on successful system reforms, potentially featuring a panel of TLFFRA stakeholders.	Adopt	Adopted
Topic Area 2: Board Structure and Membership				

Legislative	2.1	Consider changes to statutory TLFFRA board structure. A potential option could be to eliminate one citizen seat and make it a mayoral appointee and retain one citizen seat. Such a change would provide even representation between city and plan members but still retain one citizen member meant to represent taxpayers.	No action	No action
Legislative	2.1a	Provide statutory authorization for TLFFRA boards to adopt a policy that would allow for the conversion of one citizen seat to a city appointee position if both citizen seats are unable to be filled within 120 days. Authorize TLFFRA boards to adopt a policy that adjusts the number of days after which a position is deemed unfilled so long as the number is fewer than 120 days. The policy must include the length of time the agreement is effective and specify the term length for the converted city appointee seat. Additionally, remove the exclusion from the TLFFRA statute that prevents a city employee from participating as a citizen trustee.	Adopt	Adopted
Legislative	2.2	Allow for one active member seat to be filled by either an active or retired system member.	No action	Adopted
Legislative	2.3	Require citizen members be elected by a minimum of four members of the system board. Four members constitute a supermajority of the five board members that vote to select citizen members	Adopt	Adopted
Legislative	2.4	Update the citizen seat provision to specify that a retired member of the plan may not serve in a citizen position. This recommendation would not prohibit retired members of other systems from serving on a particular TLFFRA board.	Adopt	Adopted
Legislative	2.5	Formalize in statute that it is a ground for removal from the board when a member attends less than 75 percent of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board. If the member is an ex-officio member, then they may be requested by the board to select a designee to serve in their position.	Adopt	Adopted
Legislative	2.6	Provide statutory authorization for boards to adopt a policy for removing a board member noncompliant with Minimum Educational Training (MET) requirements.	Adopt	Adopted
Legislative	2.7	Include statutory language specifying the mayor may appoint a designee from city council or city staff. Also specify that the CFO of the sponsoring entity, or the individual acting in that capacity, may appoint a designee from city council or city staff who has a financial background.	Adopt	Adopted
Guidance/ Technical Assistance	2.8	The PRB may compile information and guidance on processes used by TLFFRA systems for identifying citizen members with qualifications and example policies used by systems to set standards for engagement of their board members, including attendance policies and education policies. This recommendation would provide information and assistance to TLFFRA systems while not mandating specific qualifications for citizen members, which may be difficult for some systems to comply with.	Adopt	Adopted
Topic Area 3: Transparency and Communication				
Legislative	3.1	Require the sponsoring entity of a TLFFRA system to make publicly available on their website reports submitted to the PRB by the system. The sponsoring entity may link to the report on the system’s website if the report is already posted by the system. This change would facilitate access to information about TLFFRA systems even in situations where the system is unable to maintain an independent website.	Adopt	Adopted

Guidance/ Technical Assistance	3.2	The PRB may issue guidance or conduct continuing education on transparency and communication topics. Such guidance or education may include recommending system boards provide regular updates to the governing body of the sponsoring entity, such as presentations regarding the system’s funding condition with each actuarial valuation report.	Adopt	Adopted
Topic Area 4: Additional Areas for Consideration and Research				
Legislative	4.1	Propose language authorizing boards to adopt an education policy.	Adopt	Adopted
Guidance/ Technical Assistance	4.2	The PRB could create a new core or CE course on reporting requirements and the role of the PRB for new administrators and trustees. The PRB may also consider other topics based on TLFFRA stakeholder requests, including additional education on actuarial matters. Such a course could help trustees and administrators more easily learn statutory reporting and education requirements and make compliance easier.	Adopt	Adopted
Guidance/ Technical Assistance	4.3	The PRB could implement a process to collect, share and regularly update example polices, requests for proposal, and other relevant resources. This process would ultimately make it easier for systems to access useful examples since they would just have to go to one place. Making such materials available could be incorporated into other efforts outlined in this document to develop best practices and guidance.	Adopt	Adopted