
**Teacher Retirement System
of Texas**



1000 Red River Street
Austin, Texas 78701-2698

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December 5, 2011

William M. "Bill" Holda, Ed.D.
Reynaldo R. Garcia, Ph.D.
Texas Association of Community Colleges
1304 San Antonio, Suite 201
Austin, TX 78701

Dear Dr. Holda and Dr. Garcia

I am in receipt of your letter concerning my recent communications to all public community colleges in Texas regarding the submission of employer retirement contributions relating to their employees. As indicated in the original notice, the provisions of H.B. 1, 82nd Legislature, Regular Session (the General Appropriations Act) were the impetus for requesting institutions to remit funds to TRS.

Should you have questions about these provisions, your inquiry would be better directed to the Legislature.

We look forward to working with your member institutions and the State's Legislative Leadership to resolve any issues concerning this matter and ensure that the appropriate contributions are timely paid to TRS.

Respectfully,

A handwritten signature in black ink that reads "Ken Welch".

Ken Welch
Deputy Director

KW:mg

cc by email: Texas Community College Reporting Officials

December 5, 2011

TEXAS ASSOCIATION OF
COMMUNITY COLLEGES

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Mr. Ken Welch
Deputy Director
Teacher Retirement System of Texas
1000 Red River Street
Austin Texas 78701-2698

Dear Mr. Welch:

On behalf of the 50 public community college districts in Texas (the Colleges), the Texas Association of Community Colleges (TACC) acknowledges that the Colleges have received your letter dated December 1, 2011. You state in the letter that TRS is requesting that the Colleges remit monthly the difference between the usual 6% matching contribution to employee TRS accounts and a one-twelfth portion of the General Revenue Funds appropriated by the Legislature in the last Regular Session for TRS retirement match funding. As you know, that legislative appropriation was, for community and junior colleges but not other educational institutions, less than the full 6% of "aggregate compensation paid" that is required to have been appropriated by the Legislature under Texas Constitution article 16, section 67(b)(3). Under this unambiguous provision of the Texas Constitution, the Legislature has the responsibility to appropriate the full 6% minimum amount for TRS (and ORP) employee retirement matching funding.

Your letter indicates TRS' position is that, due to the appropriations shortfall, "it is necessary for each [community college] institution to remit monthly to TRS such amounts as may be required to fully fund the 6.0% retirement match for your employees who are participants in the Teacher Retirement System." But, as in previous discussions, you identify no legal basis for this position. What is the legal authority on which TRS bases its conclusion that the colleges should make-up the shortfall?

TACC and its member colleges are not aware of any legal requirement that they make up the appropriations shortfall. Moreover, various provisions in the Texas Constitution prohibit public bodies from donating public monies or making gratuitous payments, even to other government institutions. Thus, absent legal authority requiring the Colleges to make such payments to cure the Legislature's failure to have appropriated what is constitutionally required, TACC and the Colleges conclude that it would be illegal for them to do so.

Letter to Ken Welch
December 5, 2011
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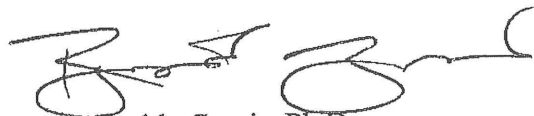
If TRS is aware of legal authority that imposes such a requirement on the Colleges, please identify it for us. Unless that legal responsibility is clearly identified, however, the Colleges maintain the position that they are not required to make such payments and, further, that the Texas Constitution does not permit them.

We look forward to your response. We are available to discuss this matter at your convenience.

Sincerely,

A handwritten signature in cursive script, appearing to read "William R. Holda".

William R. Holda, Ed.D.
Board Chair

A handwritten signature in cursive script, appearing to read "Reynaldo Garcia".

Reynaldo Garcia, Ph.D.
President and CEO