

**Report of the State Board of Education
Committee on School Finance/Permanent School Fund
October 16, 2009**

The State Board of Education Committee on School Finance/Permanent School Fund met at 9:00 a.m. on Friday, October 16, 2009, in Room #1-104 of the William B. Travis Building, 1701 N. Congress Avenue, Austin, Texas. The following members of the committee were present:

Presiding: David Bradley, chair; Rick Agosto, vice chair; Gail Lowe, Rene Nunez

Absent: Cynthia Dunbar

Non-Committee Members Present: Lawrence A. Allen, Jr., Don McLeroy, Pat Hardy

Public Testimony

This item provides an opportunity for the public to present testimony at the time the related item comes up for committee discussion or action. The procedures for registering and taking public testimony at State Board of Education committee meetings and general board meetings are provided at <http://www.tea.state.tx.us/index4.aspx?id=3958> or in the information section (yellow pages) of the agenda.

The Committee on School Finance/Permanent School Fund received one presentation of public testimony on agenda item #1. Information regarding the individuals who presented public testimony is included in the discussion of that item.

DISCUSSION ITEMS

1. Work Session on Proposed Amendment to 19 TAC Chapter 105, Foundation School Program, Subchapter B, Use of State Funds, §105.11, Maximum Allowable Indirect Cost

Invited public testimony was provided by the following individual:

NAME: Tom Canby

AFFILIATION: Texas Association of Business Officials.

Rita Chase, director of school financial audits, introduced the item. She explained that House Bill (HB) 3646 made a statutory change to the maximum allowable indirect cost rate for the compensatory education allotment and directed the State Board of Education to increase the indirect cost allotments for other special programs in a similar fashion. The other special program allotments affected include special education; bilingual/English-as-a-Second-Language; career and technology; and gifted and talented. Ms. Chase stated that the proposed amendment was currently posted in the Texas Register at the 35 percent rate adopted by the board at the last board meeting. She stated the agency would be receiving comments on the proposed amendment for 30 days. Mr. Bradley asked that copies of the comments be sent to board members on a weekly basis. The committee invited Tom Canby with the Texas Association of School Business Officials to do a presentation on the indirect cost rate. Mr. Tom Canby provided handout (Attachment A).

2. Discussion of Open-Enrollment Charter School Facilities Credit Enhancement Program
(Board agenda page I-9)

Lisa Dawn-Fisher, deputy associate commissioner for school finance, introduced the item and stated that the agency was in the process of developing rules for the administration of the charter credit enhancement program. The agency has conducted two stakeholder meetings and plans to publish rules for comment in December. Lisa Dawn-Fisher provided an outline of the Charter School Credit Enhancement Program (Attachment B).

The meeting recessed at 10:10 a.m. and reconvened at 10:30 a.m.

3. Discussion of 19 TAC Chapter 33, Statement of Investment Objectives, Policies, and Guidelines of the Texas Permanent School Fund, §33.5, Code of Ethics
(Board agenda page I-11)

David Anderson, general counsel, Chris Maska, ethics advisor, and Gary Lawson, fiduciary counsel, participated in the discussion of this item. Mr. Anderson introduced the discussion by distributing a handout of the ethics policy. Comments were solicited and discussed with the intent of having Mr. Lawson incorporate the suggested edits into a draft for discussion and action for the Committee of the Full Board at the November 2009 board meeting.

4. Discussion of the Permanent School Fund Investment Procedures Manual
(Board agenda page I-27)

Mr. Holland Timmins, Executive Administrator and Chief Investment Officer of the Permanent School Fund, introduced this item.

Mr. Bradley asked if the manual should be amended to clarify communications between board members and RFP respondents. Gary Lawson, fiduciary counsel, addressed the issue and suggested that it might be beneficial to clarify and further define the types and occasions of communication.

Mr. Lawson stated that the board might consider amending the manual to allow for certain discussions with current service providers also seeking an extension of their relationship via an RFP process. Mr. Bradley suggested the possibility of excluding social interaction from H.2, Step 8.

Mr. Bradley asked Mr. Lawson to address possible penalties and remedies to alleged violations of section H of the Investment Procedures Manual. Mr. Lawson stated that board members are currently subject to statutory guidelines. Mr. Anderson stated that the board's authority to impose sanctions or penalties on board members is extremely limited.

5. Review of the Permanent School Fund's Outstanding Request for Proposals and Requests for Qualifications as well as the Asset Allocation in General
(Board agenda page I-65)

Mr. Bradley noted that Mr. Humphreys, partner and senior consultant with NEPC, was ill and could not be present for the meeting. Mr. Timmins, referred the committee to their agenda noting the progress on the three outstanding procurements of the Permanent School Fund. For RFP 701-09-026, Investment Performance Measurement Services, Mr. Timmins noted that of the four respondents, two had been eliminated; one formally withdrew and one did not meet the minimum

qualifications. Interviews are scheduled for the November meeting. RFQ 701-09-027, Real Estate Managers, is in the secondary data intake stage to obtain additional information from the proposers. Review and acceptance of the list of qualified managers is scheduled for the November meeting. RFP 701-09-021, Private Equity Discretionary Separate Account Manager, is waiting to conduct on-site due diligence visits. Upon hearing this report, the committee concurred that RFP 701-09-026, Performance Measurement Services, should be postponed to a future meeting, RFQ 701-09-027, Real Estate Managers, should continue as planned and the due diligence visits for RFP 701-09-021, Private Equity, should be scheduled as soon as practical and NEPC should participate.

6. Consideration of Texas Attorney General Opinion GA-0707 Regarding Transfers from the Permanent School Fund to the Available School Fund and Consideration of Process to Make Required Determinations
(Board agenda page I-67)

Mr. Timmins stated that due to good Fund performance, it appears that a partial distribution will be made from the Permanent School Fund to the Available School fund in fiscal year 2010.

The meeting of the Committee on School Finance/Permanent School Fund adjourned at 2:25 p.m.