



OKLAHOMA STATE PENSION COMMISSION

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September 19, 2011

Mr. David Bean
Director of Research and Technical Activities
Governmental Accounting Standards Board
401 Merrit 7
Norwalk, CT 06856-5116

Dear Mr. Bean:

On behalf of the Oklahoma Pension Commission we appreciate the opportunity to respond to the Governmental Accounting Standards Board (GASB) Exposure Drafts, *Accounting and Financial Reporting for Pensions and Financial Reporting for Pension Plans*.

We agree with much of the theory and premise of the exposure drafts as they relate to GASB Concept statements and previously issued statements. We do have concerns related to these exposure drafts and their implementation. The most significant concern is the proposal to have local employers in Oklahoma's state-sponsored pension plans report a portion of the pension liability on their own financial statements. In Oklahoma, the law clearly keeps pension liability for the state-sponsored pension systems with the State of Oklahoma. The second chief concern is the proposed change in methodology for discounting pension liabilities. We believe that the use of tax-exempt municipal bond interest rates for the blended rate proposed in the draft is artificially low and inappropriate.

Suggestion 1: Recognition of Net Pension Liability, Deferred Inflows/Outflows of Resources, and Pension Expense by Cost-Sharing Employers

We agree with GASB that these components should be recognized in the financial statements of the State of Oklahoma. We also agree with the current language and the accounting treatment of those cost-sharing plans (or entities providing unconditional funding) in which the employers remain liable for the

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net pension liability. However, we feel that GASB should provide for an exception in jurisdictions, like Oklahoma, for state-sponsored plans where the legal liability to pay the actual pension obligations is retained by the State. The exception should distinguish between cost-sharing plans whose responsibility for any net pension liability rest solely with the employers and cost-sharing plans in which the legal liability rests with a state government.

It should also be noted that breaking down this liability information will be time consuming and costly given the fact that local government participants will never actually incur the real liability.

In Oklahoma and perhaps other state jurisdictions, the long-standing case law clearly makes pension obligations the legal obligation of the State. There is no legal or factual way in Oklahoma for a local employer to pay for any portion of the ultimate pension. While it is true that local participating employers and employees must make contributions under state law to help fund the state pension systems, the State of Oklahoma provides ear-marked state taxes to help with the financing burden in most cases. So the burden of financing the cost does not reside solely with the local governmental entity.

It is very difficult for local governments in Oklahoma to issue general obligation debt. The amount of total debt is capped based on real estate valuations. Property taxes are really the only source to pay such debt. To create a recognized multi-year debt a local governmental entity in Oklahoma must submit the question to a vote of the people. The Oklahoma Supreme Court has specifically held that a local government's required participation in a state-sponsored pension plan was not considered an unlawful long-term debt beyond a fiscal year.

Additional language should be added to account for those instances in which clear legal precedent has been established where all or part of the liability has been transferred from the employers to another entity. In these circumstances we feel a more accurate presentation of the net position would rest with the entity in which the legal precedent has placed the liability. The inclusion of the proportionate share of net pension liability, deferred inflows/outflows of resources and pension expense as part of the employers financial statements would force local governments in Oklahoma to show that they have liability that does not legally exist. It could also force each legal entity to report one amount in its financial debt as a liability and a completely different amount as its debt for constitutional debt limitation purposes. It could potentially mislead the actual net position of the employers. So if one of the aims of GASB is to provide better clarity for the users of financial statements, the application of this rule in Oklahoma will have precisely the

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opposite effect. We urge the GASB to adopt an exception applicable to jurisdictions like Oklahoma where the employer would not recognize a liability until 1) there is an indication that it is probable the employer will incur the liability and the amount of the loss can be reasonably estimated or 2) previous legal precedence has been modified or changed to which at that time transfers all or portion of the liability to the employer.

Suggestion 2: Determining the Employer's Proportionate Share

The exposure draft states that the proportionate share should be a measure of the employer's projected long-term contribution effort to the plan. We would suggest that under no circumstance would the ongoing cost of participation by a local governmental entity in a state-sponsored plan be reflected as a current, long-term liability. Under Oklahoma law there is a new obligation created each fiscal year. It is factually and legally no different than the local government's obligation to pay FICA taxes or any other known and recurring expense paid by the local governmental entity.

Suggestion 3: Discount Rate Information

We agree that the expected rate of return is the proper rate to use in deriving the discount rate when resources are available due to the ability of the plan to invest in the long term. We also agree with the theory of using another rate when the expected available resources would not be available to be invested in the long term. But the GASB exposure draft will permit systems to use this rate only to the extent that assets are reasonably expected to be available to pay for the liabilities. In order to come up with these figures, systems will have to look at the historical funding patterns of the employers and the State. The net result is that if a system has historically not received its actuarially required contributions ("ARC"), it will most likely have to use a blended discount rate. This rate will be a combination of the expected rate of return on assets that are reasonably expected to be available, and a long-term tax-exempt AA rate.

The only comment to be made here is that this appears to be an arbitrarily low rate. Corporations can use discount rates on long-term corporate bonds. The theory is that the pension liability should be similar to a comparable corporate liability or bond. In other words the company uses a rate on an instrument as if it had to incur an actual liability in real circumstances. If the same logic is used for public pensions, the closest type of comparable debt would be a pension obligation bond issue. While these bonds are issued by governments, they can only be issued on a taxable basis. The IRS generally prohibits governments from issuing debt at low, tax-exempt rates and then reinvesting the proceeds in higher yielding investments (arbitrage). Rather than using artificially low tax-exempt rates, it would be more reasonable to use a long-term taxable AA interest rate. This approach would make the discount rate more similar to what corporate plans use.

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Moreover, the information required to be disclosed about the calculations to derive to the blended discount rate could lead to misinformation in the comparison of different pension plans. An incorrect assessment could be made when comparing plans especially if comparing plans that have blended discount rates to those that do not to use a blended discount rate.

With the additional information required in the exposure draft related to discount rate disclosures, more information will be available in regards to the assumptions made and the rates used. We also believe that disclosing the information related to the effects of a +/- 1 percentage point in the discount rate would have on net pension liability is key in helping show the effects the discount rate has on the liability. However, with the blended approach there could be an apples-to-oranges affect in the comparison of pension plans. The new approach could potentially lead to manipulation of the expected rate of return in order to modify the blended rate and ultimately the net pension liability. We would suggest that GASB also include, with the current suggested 10 year trend information, a comparison of the rate of return of investments to the expected rate of return used in the determination of the discount rate. We feel this would be valuable information in examining the rate of return and the rate the plan has adopted.

We appreciate the opportunity to provide our comments. If you have any questions in regards to our response, please contact the Oklahoma State Pension Commission at (405) 522-2732.

Sincerely,

A handwritten signature in black ink, appearing to read "Ken Miller". The signature is fluid and cursive, with a small dot above the letter 'i' in Miller.

Ken Miller, Chairman
Oklahoma State Pension Commission