

Local Government OPEB Webinar Questions & Answers

This is a list of responses to all questions submitted at the OPEB Webinars on November 27 and 30. Agencies that have questions about their specific OPEB reports can contact benefits.info@tn.gov.

With respect to all answers provided to these question, please be aware that

- 1. Benefits Administration cannot determine whether any Local Government Agency has a binding legal obligation to provide health insurance coverage to its retirees. The agencies bear all risk of determining whether or not such obligation exists. This is a legal determination. Agencies are urged to consult with their legal counsel before making any “opt-out” decisions.**
- 2. GASB is an independent organization that has established policies relating to the reporting of liabilities of government entities. Benefits Administration is interpreting these policies to the best of its knowledge, but its interpretations are not binding on GASB, and are not to be considered as legal or accounting advice.**

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1. If the OPEB liability is created by the implied discount is there a way to separate the retirees into another group that would be separate from the participating agencies?

Answer: Your agency has an OPEB liability because your employees are eligible for retiree health insurance under current Plan Document language even though you may not contribute toward the retiree health premium. We have looked at creating a separate risk pool and premium rate for the retirees in our plan as opposed to the single, blended rate. The challenge is that there are a small number of retiree members and the rate increase for them would not be affordable, stable or sustainable. If the retirees were placed into some group other than the local government agency they may not be eligible for our plan since we are limited by statute to providing plans for governmental entities. BA cannot provide an opinion on whether that sort of arrangement, with another carrier, would extinguish your agency’s OPEB liability.

2. My agency allows retirees who meet certain criteria to continue health coverage up to Medicare eligibility but at the full COBRA rate. With that, is the liability due to the self-funded status of the plan to the state? Therefore our agency will be liable for OPEB?

Answer: The OPEB liability is not due to the self-funded status of the Local Government Plan. Your agency has an OPEB liability because you are a governmental entity that is covered by the new GASB rule, and your employees are eligible for retiree health insurance under current Plan Document language.

3. To be clear, if we choose to "opt-out", we are stating that we not only want to opt-out of contributing towards retirement premiums, but we are choosing to not allow pre-65 eligible retirees coverage at all, correct?

Answer: That is correct. This proposed change would allow you to opt-out of offering retiree health insurance coverage and your active employees would no longer be eligible for the coverage under our plan. We will recommend to the Insurance Committee that agencies be allowed to opt-out for current and future employees but permitted to let their existing retirees remain in the plan until eligible for Medicare. Of course, if your entity has agreed to provide retiree coverage as a vested employee benefit, opting out of our plan will not eliminate any legal obligation to provide retiree coverage to your active employees or current retirees. You must seek legal counsel to determine whether you are obligated to continue retiree coverage.

4. Are you saying that if we don't offer any retirement benefits and do not make any contributions, we still have a "liability"?

Answer: Yes, under the current GASB rules your OPEB liability arises regardless of actual participants in retiree coverage because our plan gives active employees the option to participate in retiree coverage. This is why we are proposing to change our plan. The plan change that we propose would give your agency the option to continue to offer retiree coverage (and carry the liability) OR to opt-out of offering pre-65 retiree health coverage, which decision might extinguish OPEB liability in some instances. You must seek legal counsel to determine whether you are obligated to continue retiree coverage.

5. If the agency wants to continue to offer retiree health insurance benefits to pre-65 retirees that meet the local government service requirements, can the agency continue to use the 7/1/15 date to determine eligibility or will a new date have to be established?

Answer: No. The agency cannot continue to use the 7/1/15 hire date to determine eligibility, because the statute implementing the 7/15/2015 cutoff was repealed, and that limitation was removed from the plan document.

6. Opt-out would still allow for COBRA for all people who leave due to retirement or any reason, right?

Answer: Yes. COBRA would be available to individuals who have an eligible qualifying event.

7. If an agency opted out of offering pre-65 health insurance benefits, would the agency still have the liability for the current employees who would be eligible now?

Answer: For the current fiscal year (FY 2019), the liability will be calculated as of 7/1/2018. If your agency opts out and you have no retirees in the plan and if your entity has not agreed to provide retiree coverage as a vested employee benefit, for both this fiscal year and going forward, your agency should consult with your legal counsel and accountants to determine if you have an OPEB liability. Opting out of our plan will not eliminate any obligation to provide retiree coverage to your active employees or current retirees if your agency has an existing binding commitment to do so. You would need to consult your legal counsel to determine if you

have any legal obligation to provide retiree coverage to your active employees or existing retirees. That will impact future OPEB liability.

8. If I opt-out does my OPEB liability go-away?

Answer: See answers 4 and 7 above.

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9. What are the service requirements? And if they do not meet the service requirements, will we have to include them in the liability?

Answer: There are several service requirements. You can find **Service Requirement** information in the [Continuing Service at Retirement Guide](#) for Local Government, under Eligibility and Enrollment on page 2. The State's actuaries make an assumption that some of your employees will meet the service requirements. It depends on factors such as their age, hire date, length of time in the plan. If the service requirements are changed by the Committee, we will provide notice to the agencies.

10. If the plan document gets changed to where we can choose not to offer the retiree coverage, then if we have an employee who will continue to be employed after the age of 65, can they choose to stay on our insurance plan?

Answer: Yes, as long as your employee is still an active employee, he/she can stay in active coverage on the plan. There is no requirement that an active employee who is Medicare eligible has to move to Medicare.

11. Is the slide deck going to be available? I want to share with leadership.

Answer: Yes. We attached a PDF of the PowerPoint to the survey email.

12. To clarify, the State sends our OPEB liability to us and it is our responsibility to report it in our financial statements? Correct?

Answer: The State sends reports of OPEB liability concerning the plan(s) that we administer to you. If you contribute to The Tennessee Plan (POMCO), then you are required to report that as well. The State does not provide any OPEB information on any plans or post-retirement defined contributions that we do not sponsor and your organization offers in addition to our plans.

13. How do we know if the GASB didn't make a mistake on our liability amounts?

Answer: GASB sets the rules; they do not set the amounts. The State's actuaries calculated and sent the liability amount to you. If you have any questions about your agency's liability, you can send them to benefits.info@tn.gov and we can follow up with you.

14. When will the (proposed) new rule take effect?

Answer: The GASB rule change is in effect now – FY2018 financial reports for the period ending June 30, 2018.

If we make a Plan Document rule change, it will need to be approved by the Insurance Committee, which will state its effective date. Our goal is to have the rule change in effect by 1/1/2019.

If the rule is approved by 1/1/2019, Benefits Administration will ask Local Government Agencies to, in writing, "opt-out" or "opt-in" by a certain date, expected to be no later than 4/1/2019. We will confirm this date in writing, along with the appropriate documentation in early January, if approved. Failure to respond in writing will be considered to be an "opt-in", retaining retiree coverage. The effective date of the agency's opt-in/out decision will be 6/30/2019.

15. Will you include what section in the Plan Document that addresses this issue in the notes?

Answer: Yes. In the survey we sent to participants, we included a link to the [2019 Local Government Plan Document](#) and information is found in section 4.06. The change will affect other sections in the plan document as indicated in the Committee materials.

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16. Will a copy of the presentation be emailed out or posted for later viewing?

Answer: Yes. A copy was sent to all webinar participants.

17. Will there be a "years of service" requirement for a pre-65 employee to retire and get health insurance? Or, are those details determined by each municipality?

Answer: The specific requirements are found in the [Continuing Insurance at Retirement Guide](#) you can find out on our website under [Publications](#). Agencies will be notified if the service requirements change.

18. Our agency has been reporting an OPEB Liability under GASB 68 and now under GASB 75. We've had actuarial calcs made to support what our policy currently allows for pre 65 retirees. How does this impact what we are already reporting?

Answer: The State sends to our agencies a report of their OPEB liability for the plans that we administer. If you contribute to The Tennessee Plan (POMCO), then GASB would require you to report that OPEB liability as well. The State does not provide any OPEB information on any plans that we do not sponsor. You should consult with your accounting advisors about your OPEB liability for retiree plans not sponsored by the Local Government Plan

19. If our agency opts in to the retiree health insurance, do we go back and offer this benefit to everyone hired after the 2015 resolution?

Answer: Yes. The statutory prohibition to offer coverage to anyone hired on or after 7/1/2015 was eliminated this year by the General Assembly, resulting in the Local Government Plan Document being changed. The Committee has not chosen to institute the July 1, 2015 deadline under its own authority. Therefore, currently, all employees that meet other eligibility requirements for retiree health coverage can continue in the plan. If your agency passed a resolution that your employees are no longer eligible because they started work after 7/1/2015, then that resolution would have to be eliminated to be in compliance with our Plan Document.

20. I missed a lot of information presented at the beginning. How would you opt-out of OPEB, and is there a way to receive a lot of this information?

Answer: OPEB liability is determined according to GASB standards, and cannot be opted out of. If the Local Government Insurance Committee adopts the proposal to allow Local Government agencies to opt-out of retiree coverage, an agency may reduce or eliminate OPEB liability by choosing to opt-out of retiree coverage (i.e., no longer offer retiree coverage to retirees or current employees), not have any current retirees in our plan, and not have any legally binding commitment to offer such coverage to employees. The opt-out provision would take effect sometime in 2019 assuming the Local Government Insurance Committee approves the change in late December and Benefits Administration receives the appropriate documentation from each agency. Benefits Administration will send information to all the Local Government plan agencies about any Plan Document changes and the documentation you will need to complete and return to us to opt-in or opt-out. We will need this record of what each agency decides to do (i.e., decide to continue offering the coverage or decide to opt-out, or to opt-out only for active employees but continue to offer retiree coverage to current retirees on the plan). There will be a lot of follow up communication with you about this decision.

21. What is the proposed date for this to take effect?

Answer: We will send information about how to opt-in or opt-out to the agencies as soon as we have a response from the Insurance Committee on any proposed rule changes. This will likely be in early January.

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22. When do you anticipate the OPEB liability reports to be available?

Answer: The reports were sent out to agency finance directors in late September for the fiscal year that ended on 6/30/18. If you did not receive your report, you can send an email to benefits.info@tn.gov.

23. Our agency does not contribute to the premium for retirees, but if I understand correctly we still have a liability because we have active employees eligible for retiree coverage?

Answer: Correct. If the Insurance Committee permits a rule change, it would allow your agency to choose not have to offer retiree coverage. If you choose to opt-out, as long as you don't have retirees in the plan, are not contributing to retiree coverage or made binding commitments to offer your current employees or retirees regarding retiree coverage, then going forward your agency is likely not to have any OPEB liability due to state sponsored retiree health insurance.

24. Follow up question: And that will mean employees, when they retire, would not be covered. They would not have coverage and would have to obtain coverage someplace else?

Answer: This is correct. If you opt-out of offering retiree coverage, current employees will need to obtain coverage elsewhere when they retire. We are also proposing a third option to the insurance committee which would permit you to opt-out for active employees but continue to provide coverage for your existing retirees in the plan (this will not eliminate OPEB liability for those retirees that remain on the plan).

25. In the case where the agency has different criteria to get 'retiree coverage' than the state plan, should we just consider all criteria and make the employee meet the state criteria AND the agency criteria?

Answer: For eligibility in our pre-65 retiree plan, agencies have to follow the rules our Plan Document specifies. You may have criteria for additional coverage outside of our plan that you would have to report, but under our Plan Document requirements, your agency could not have additional eligibility rules for participation in our Plan. The Plan Document is a legal document that governs eligibility and coverage—essentially who is eligible and for what. If you have additional coverage outside of our plan then you may have liability for that coverage as well.

26. The service criteria are 10 years of service and 55 years of age?

Answer: With the survey we sent to everyone, we included the [Continuing Insurance at Retirement Guide](#) which includes all of the service requirements. Generally, for a person with 10 years of service with your agency he/she must have three years of continuous coverage in our plan to be eligible. If they have more years of service, then it is one year of continuous service. If a person has less than 30 years of service then he/she has to be 55 years old to be eligible. For a complete discussion of current eligibility criteria please see this link to the current Guide to Continuing Insurance at Retirement for Local Government https://www.tn.gov/content/dam/tn/finance/fa-benefits/documents/retirement_guide_lg.pdf [If the service requirements are changed, we will provide notice to the agencies.](#)

27. How/when must an agency opt-in or out?

Answer: The first step is for BA to propose a rule change to the Insurance Committee for their consideration (expected in late December). We intend to get information out as soon as possible to agencies about the Committee's decision and, if approved, when they can opt-in or opt-out and what is required for our documentation collection and retention. We will be in touch with much more details following the Insurance Committee meeting. We will provide information and instructions to our agencies in January.

28. Does liability include active employees and retirees, even when retirees pay their full premium currently?

Answer: Yes, that is correct.

29. You mentioned eligibility requirements; our agency has only been in the plan for a short amount of time. How does it work if the agency has not been in the plan for three years for an employee to meet being in the plan for three years to be eligible?

Answer: That requirement is waived for a newly-joining agency because there is no practical way that an employee could meet that requirement. This requirement is waived if your retiree has not been in the plan for three years when you have a retiree that enrolls in retiree coverage. This information is found in the [Continuing Insurance at Retirement Guide](#).

30. Our agency has one employee who retired four years ago. This employee does not contribute to her premium, but does get a discount based on service. If we opt-out, how would this affect her?

Answer: If you opt-out, you would have the option of continuing coverage for existing retirees until they are eligible for Medicare, but your agency would still have an OPEB liability associated with these retirees as long as they are in the plan.

31. About the liability, if we step away from the plan and if we opt-out, that person would not have insurance? They would lose coverage - that is the liability? The liability is tied to whether or not we are in the plan (active coverage)?

Answer: Under GASB standards applied to our current Plan Document, the OPEB liability is associated with both the retirees currently enrolled in pre-65 retiree coverage and with your active employees who are **eligible** for retiree coverage with the plan. Under the proposed rule change, if your agency stayed in the pre-65 retiree plan and did not opt-out of offering the coverage to your employees, you will have an OPEB liability. But if you don't have any retirees in our pre-65 retiree plan, and you were to opt-out of offering pre-65 retiree coverage and have no other binding commitments to your active employees to offer retiree coverage, your OPEB liability will be eliminated for the state sponsored retiree coverage. However, if your agency leaves our local government plan altogether, your agency must take your retirees with you-- any retiree on the pre-65 retiree plan cannot stay in our plan if the agency leaves with their active employees. If your agency left our plan and provided separate retiree coverage you would still have an OPEB liability for those retirees.

32. If we choose to opt-out of the pre-65 health insurance plan, can our current retirees who are in the plan be grandfathered in?

Answer: Yes

33. Our agency is a private non-profit entity, do we need to book an OPEB liability?

Answer: You need to consult with your agency's legal and accounting staff and independent auditors to determine the applicability to your agency of both the FASB and GASB standards related to OPEB accounting.

34. Our agency does not provide for retirement status or health insurance benefits prior to age 65, how can we have pre-65 retirees?

Answer: Even if your agency does not provide for retirement status or health insurance benefits prior to age 65, our eligibility rules allow for employees who meet the eligibility rules to enroll in pre-65 retiree coverage. Under our current plan document, an employee could contact Benefits Administration directly and if they meet the pre-65 eligibility rules enroll in retiree coverage, regardless of the agency rules.