

Submission by the
**Ontario Public Service
Employees Union**

to the

Department of Finance

*on the legislative and regulatory framework for
private pension plans subject to the Pension Benefits
Standards Act, 1985.*



March 17, 2009

Diane Lafleur
Financial Sector Policy Branch
Department of Finance
L'Esplanade Laurier
20th Floor, East Tower
140 O'Connor Street
Ottawa, Canada K1A 0G5

Dear Ms. Lafleur:

It is with pleasure that I forward you OPSEU's brief in response to the discussion paper issued by the Department of Finance of the Government of Canada.

OPSEU has had pensions at the top of our reform agenda since the early days of our Association – the Civil Service Association of Ontario. Indeed, we have always played an active role in government consultation on pensions: we submitted briefs to the Royal Commission on the Status of Pensions in 1981, the Parliamentary Task Force on Pensions in 1983, the Friedland Task Force in 1987 as well as Ontario's more recent Expert Commission on Pensions.

We appreciate the opportunity to join these hearings and look forward to continuing pension discussions.

Yours truly,

A handwritten signature in black ink that reads "Patty Rout". The signature is written in a cursive style with a large initial "P" and a stylized "R".

Patty Rout
Vice-President/Treasurer, OPSEU

WT/ic
c: Executive Board, Pension Liaison Committee, OPSEU Pension Trustees

Introduction

The Ontario Public Service Employees Union represents over 125,000 workers in Ontario's direct and broader public service. OPSEU's members work in the Ontario Public Service; in Ontario's community colleges, universities and boards of education; in Ontario's liquor stores; in Ontario hospitals, ambulance services, community care and home care agencies, community health centres and public health units, community addiction services, long term care facilities, community mental health agencies, and laboratories and blood services; children's aid societies, developmental services, child treatment centres, child and family services, childcare centres and other community agencies.

We have many decades of pension plan activism and have had pensions at the top of our reform agenda since the early days of our Association – the Civil Service Association of Ontario. Indeed, OPSEU submitted briefs to the Royal Commission on the Status of Pensions in 1981, the Parliamentary Task Force on Pensions in 1983 and the Friedland Task Force in 1987. More recently we played an active role in stakeholder meetings of the Ontario Expert Commission on Pensions.

OPSEU has achieved joint sponsorship of three of the larger plans in Ontario – the Hospitals of Ontario Pension Plan (HOOPP), the OPSEU Pension Trust (OPTrust) and the Colleges of Applied Arts and Technology (CAAT) Pension Plan. In addition, we act as a sponsor on the Sponsors Corporation of OMERS. We are also a joint sponsor of two smaller JSPPs – the Canadian Blood Services (CBS) Pension Plan and the OPSEU Staff Pension Plan. All are defined benefit pension plans and all have delivered the pension promise to our members without fail since their inception.

OPSEU is a component union of the National Union of Public and General Employees and is also affiliated with the Canadian Labour Congress. We endorse the views of both the National Union and the CLC. While we have no members with pensions that are federally regulated, our members' pensions are registered under the Income Tax Act as your discussion paper points out; more broadly, the regulation of pension plans both federally and provincially share considerable similarity. We therefore have a strong interest in a coherent retirement system for all Canadian working people to provide us with the benefit security to retire with dignity.

Support for defined benefit pension plans

We welcome the national debate on pensions that both your review and that of the provincial commissions have afforded working people in Canada. It is time that we all brought pension debates in to the open after many decades of government acquiescence and neglect. Both governments and working people have an interest in a vital and functioning retirement system.

Any expansion of the present system must be developed based on the wealth of expertise generated by our large, Canadian, defined benefit pension plans where governance is diverse and transparent and where benefits are financed by contributions from employers and employees. This plan design is one of success as opposed to the demonstrated failure of defined contribution plans – which are now unfortunately strewn on the rocks of the present economic and financial crisis.

<p>We urge the federal government to amend the Pension Benefits Standards Act to maintain, enhance and promote defined benefit pension plans.</p>

Modernize an ailing retirement system

It is our belief that the existing Canadian retirement system – the three-legged stool of private voluntary pensions, registered savings programs and public programs – is no longer working in the interests of Canadians.

First, the public program which in the past has lowered the rates of elder poverty – particularly the rates at which older women have fallen into poverty – now provides benefits which are no longer sufficient to achieve this goal. Today, a single 65 year old who relies on public sources alone will receive no more than \$14,000 a year. According to any measure, this person will live in poverty. As baby boomers retire, elder poverty will increase substantially unless benefit rates of the public programs are raised.

As the data show us, it is now the private pension system and private savings that enable Canadians to retire with dignity. Unfortunately, only 38% of Canadians have a private pension plan at work. And most of those who have private pensions also buy RRSPs. Thirty per cent of households in Canada have neither a private pension nor retirement savings.

The registered retirement savings program – another leg of the three-legged retirement stool – is also beset with problems. First, it provides a retirement

program for very few people who do not already have the option of a private pension. But most particularly, the program promotes an approach to investing that favours investment in stocks and bonds; this means that for most working Canadians their savings must be managed commercially. Canadians pay among the highest management fees in the world. This necessarily reduces their savings. The financial crisis has further devastated the savings of Canadian workers and consequently reduced national consumption and led to a lack of confidence in the financial industry. Any new retirement system must be publicly managed.

Defined contribution plans carry the same risks. Now, of all times, it must be clear to those who ever doubted, that DC plans cannot provide the benefit security that working people need. Indeed, any government encouraging the growth of DC plans is playing with fire: the potential costs to the provincial and federal governments are likely to be high both in lost revenues and higher social security benefits of those retirees whose DC plans have failed to produce the funds necessary for retirement. DC plan designs are not in the public interest.

We strongly urge the federal government to:

- limit conversions to DC plans; and
- not encourage employers to offer DC plans through safe harbour legislation and lower standards of care; and, finally,
- prevent models of hybrid plan that allow DB surpluses to be applied to a DC plan

Universal pension coverage

This raises the issue of what is to be done about the lack of pension coverage for working people. All provincial commissions have now recommended that there be provincial agencies that may function as pension depositories so that people no longer suffer from the adverse financial effects of split pensions; a further suggestion is that such agencies provide Canadians with pension services where there is no available pension coverage at work.

We endorse these options in the short term, although our endorsement is contingent upon the structure of these new agencies and the design of the pensions they will offer. Defined contribution or RRSP models will do nothing to protect Canadians from the excesses of the financial markets and ultimately from severely reduced savings. We hope that the trade union movement will be a participant in all these provincial discussions.

In any event, OPSEU endorses the call for a National Pension Reform Summit. It should be attended by all Ministers who have authority for pensions in their respective jurisdictions. At the top of the agenda must be the crisis in Canadian pension coverage. Central to the discussion must be an expansion of our present system. Any amended legislative and regulatory framework must be capable of enabling a re-energized retirement system which can guarantee benefit security to Canada's retired workers in the twenty first century.

We urge the federal government to join the provinces in a National Pension Summit to ensure a broad-based and informed discussion on the future of pensions and to develop a new model for universal pension coverage

We hope that out of such discussion will emerge plans for an expanded CPP which could fulfill a similar function on the national stage as provincial agencies, presently suggested by pension commissions across the country. These agencies might be amalgamated into an expanded CPP. The CPP is well respected internationally and has an excellent record as a pension administrator. It also has the economy of scale to offer a defined benefit to all those Canadians not presently covered by a pension. It is well placed to offer supplementary benefits so that all working people have access to a decent standard of living in retirement whether or not they have a pension plan at work.

We urge the federal government to work with the provinces to raise the benefits of all public programs so that Canadian working people can retire in dignity. Furthermore, we urge the federal government and provinces to consider a supplementary pension, administered by the CPP, for those Canadians without access to a private pension plan at work.

Nevertheless, there are plan designs that offer both benefit security and plan affordability. We encourage the federal government to hold the public interest in mind when supporting, facilitating and encouraging the development of new designs of pension plan. Some principles that should be taken into account are economies of scale, collectivity and plan democracy such that plan members and retirees have a say in the management of their pensions. Such principles are well recognized as providing more affordable as well as more secure pensions.

Plan democracy, governance and funding

The federal discussion paper made little mention of the joint trusteeship of pension funds although did support plan member decision-making. Such plan member involvement must be meaningful through the provision of full information and transparency as well as a regular forum for discussion and exchange of views. Across Canada and internationally, the most effectively managed funds are those where decision-making with respect to the administration and investment of the funds is jointly managed by boards of trustees representing the interests of all stakeholders.

Indeed, the report of the Ontario Expert Commission on Pensions went so far as to say that where there is meaningful stakeholder representation, there is the need for less regulation since there is more varied oversight, more effective decision-making and more transparency such that plan members and retirees know how their plan is operating and are able to intervene either as a group or through their union in a timely manner. The federal review discussion paper intimates a similar approach.

However, more effective governance processes do not entail a weakening of the duties of plan administrators and trustees. It is critical that the fiduciary duties to plan members remain for the benefit of plan members as well as well as maintaining the highest standards of care.

We urge the federal government to:

- facilitate the meaningful involvement of plan members and retirees through regulatory support of alternative, fairer and more democratic forms of plan governance; and
- encourage employers to engage in joint governance of pension plans.

With less democratic forms of governance, funding regulation is absolutely critical. There must be iron clad rules to ensure that plans remain solvent, or be brought to solvency as soon as possible to ensure benefit security. We would oppose relaxed funding rules permanently unless plan members are able to vote or otherwise have a meaningful, informed say through their union in extensions of amortization periods or a delay in solvency payments. Contribution holidays must be stringently controlled, but again could be subject to plan member votes or negotiation with the union. Valuations need to be undertaken regularly every three years and freely available to plan members.

Finally, we remind the federal government that there is a pension benefit guarantee in the event of plan wind up only in Ontario. All Canadian workers

need the protection of a pension guarantee fund. And federal bankruptcy laws remain a barrier to the protection of pension benefits when a company fails. Workers' pensions must have secured creditor status in the event of bankruptcy.

The federal government has already indicated its intention to review the level of pension surplus threshold of 110% in the Income Tax Act. We join many other pension stakeholders in believing that this rule has hindered plan solvency over the long term. The pension community needs long term rules that contribute to benefit security and plan solvency over the long term. We feel strongly that responsible pension management necessitates the use of contingency reserves or 'rainy day funds' to mitigate volatility and protect pension funds during downturns in the economy. If this is not the case, plans should be required to have a substantially higher limit above which surplus can be withdrawn.

We urge the federal government to:

- contribution holidays must be stringently controlled
- no relaxation of funding rules on a permanent basis unless plan members are able to vote or otherwise have a meaningful, informed say through their union in extensions of amortization periods or a delay in solvency payments
- apply secured creditor status to workers' pensions in the event of bankruptcy
- raise the pension surplus threshold
- institute a national, public, pension guarantee fund

We welcome your review of the investment rules, which, incidentally, are in the Ontario Pension Benefits Act by reference. These rules are considered to be restrictive and paternalistic by the large Ontario plans and, as trustees of some major Ontario pension plans, we agree with this position. However, we feel that they are essential for smaller plans and particularly those where there is no joint governance and therefore restricted oversight.

Finally, we are disappointed that you failed to consider the disclosure in pension statements of investment policy of socially responsible investment approaches. There is daily research emerging to suggest that an understanding of investee corporate governance, labour relations, environmental and social practices all contribute to wiser investor decisions and longer term investment practices. Given the financial crisis, it is critical to ensure the highest level of investment research taking into account both financial and non-financial criteria.

We urge the federal government to:

- raise the pension surplus threshold; and
- relax investment rules for those plans which are large and include plan members meaningfully in decision-making. Maintain the rules for smaller and all employer sponsored plans where there is no meaningful plan member involvement.
- disclosure of social investment practices in Statements of Investment Policies

Thank you for the opportunity to present our views. We look forward to further pension discussions as well as the results of your deliberations.

March 16, 2009