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Wednesday 16 November 2005

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Mercredi 16 novembre 2005

**Standing committee on
general government**

Ontario Municipal Employees
Retirement System Act, 2005

**Comité permanent des
affaires gouvernementales**

Loi de 2005
sur le régime de retraite
des employés municipaux
de l'Ontario

Chair: Linda Jeffrey
Clerk: Tonia Grannum

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Wednesday 16 November 2005

Mercredi 16 novembre 2005

The committee met at 1600 in committee room 151.

**ONTARIO MUNICIPAL EMPLOYEES
RETIREMENT SYSTEM ACT, 2005
LOI DE 2005
SUR LE RÉGIME DE RETRAITE
DES EMPLOYÉS MUNICIPAUX
DE L'ONTARIO**

Consideration of Bill 206, An Act to revise the Ontario Municipal Employees Retirement System Act / Projet de loi 206, Loi révisant la Loi sur le régime de retraite des employés municipaux de l'Ontario.

The Vice-Chair (Mr. Vic Dhillon): Good afternoon. The standing committee on general government is called to order. We're here today to continue the public hearings on Bill 206, An Act to revise the Ontario Municipal Employees Retirement System Act.

**ASSOCIATION OF MUNICIPALITIES
OF ONTARIO**

The Vice-Chair: The first presenter is the Association of Municipalities of Ontario. When you come up, I'd like you to state your name for the purpose of Hansard. You have 20 minutes. Any time remaining will be divided among the three sides.

Mr. Roger Anderson: Good afternoon, Mr. Chairman. My name is Roger Anderson. I'm the president of the Association of Municipalities of Ontario. To my right is Pat Vanini, our executive director, and to my left is Brian Rosborough, our director of policy. In case you don't know, I'm also the regional chair of the Regional Municipality of Durham. I'm pleased to be here today.

I'm here today to represent more than 380 of our municipal members who are OMERS employers. They are profoundly concerned about the impact of Bill 206 and the potential for significant costs to be funded by municipal taxpayers.

OMERS plays an important role in investing in public assets, from energy generation to hospitals to other infrastructure, and the government of Ontario acknowledged this in part of its 2005 budget speech: "This government is exploring ways to accelerate our infrastructure plan. We are looking at ways to encourage Ontario's pension plans to invest more in building Ontario's infrastructure rather than investing their money abroad."

Yet never once in the provincial budget did the speech mentioned OMERS' devolution or new benefit structures, and Bill 206 has seemingly never warranted specific reference in any throne speech. For the sake of Ontario taxpayers, our shared constituents, and to ensure the prosperity of Ontario's communities, the government—and dare I say this committee—must proceed, as far as we're concerned, very carefully.

We fully recognize that the province has goals that it wants to achieve. However, improving OMERS governance needn't require the radical restructuring of the plan. The status quo, with minor modifications, was the preferred solution back in 2002, as it should be now, because you just don't tinker with a \$36-billion pension plan affecting over 355,000 employees and over 900 employers without being very careful and exercising due diligence.

When devolution was originally put forward, the association's board recognized that there were some legitimate concerns that needed to be addressed within the organization; in particular, improvements to streamlining appointments and efficiencies in decision-making. However, today the ground has shifted.

When devolution was first proposed, the OMERS plan had a surplus and a contribution holiday. Today it has a \$2.5-billion deficit, necessitating a 9% increase in contribution rates or, more importantly, \$137 million in new municipal expenditures, with similar increases projected for future years. This is a new \$137-million burden on property taxpayers in the province of Ontario, and not one penny—not one single penny—will find its way into any service improvements.

AMO maintains that the province of Ontario is needlessly rushing in to reform one of Canada's most important pension funds. A wholesale restructuring of something as complex and as important as the OMERS plan ought to be carried out by qualified pension experts, who are few and very far between. We can verify that because we had to find them to prepare any credible analysis of this bill. It was AMO, as a matter of fact, that had to ask OMERS to undertake a financial analysis on matters contained in the proposed legislation. No one else seemed interested in this, including the government, and not even the unions.

As one elected official to a committee of others, all of whom in this room I respect tremendously, I would urge you to ask yourselves if you feel you have the experience and the knowledge needed to ensure that through a

clause-by-clause review of this bill you can serve the best interests of the thousands of Ontarians who depend on OMERS for their retirement. If the government is determined to proceed, we all owe it to the citizens throughout this province to take the time to get this bill correct.

However, I believe that the legacy of this bill as it reads today will be a legacy of skyrocketing property taxes, tax rates driven by arbitrated settlement decisions as opposed to negotiations, and unknown economic impacts that may be literally impossible to reverse. This legacy will be the legacy of the McGuinty government, the way downloading was the legacy of the Harris government. Bill 206, as it is currently constructed, fails on governance, fails on cost impact and fails on autonomy, with significant repercussions for all of us.

The government is fond of saying that OMERS is just like other pension plans and it should be devolved. Well, it is not. OMERS has an extremely diverse number of employees and employers, including municipal governments, school boards, libraries, police and fire services, children's aid societies and even electric companies. If devolved, OMERS would be the only pension plan in Ontario with such diverse employer and employee groups that has no provincial involvement whatsoever. To be fair, OMERS should be compared with similar municipal plans in other provinces, and not to other public sector plans in Ontario. I would refer you to the pension comparison chart attached to my notes as Appendix A.

Bill 206 proposes a sponsors corporation composed of equal employer and employee group memberships. Yet the proposed composition of this governance structure is not reflective of the group membership itself. Almost 20% of active memberships are management, union-exempt or non-unionized employees, yet these valuable plan members don't have a permanent seat on the sponsors corporation. Its representation equals more than 5% police and 10% employees combined, and about half of the CUPE component, at 45%.

The challenge of fair representation also calls into question the proposed decision-making structure of the sponsors corporation using a simple majority vote. Only one vote from a dissenting member of an employer or employee group could result in a decision being affirmed that is opposed by all other employee and employer members from that group.

Other devolved pension plans, such as the hospitals pension plan, the Ontario teachers' pension plan and the BC municipal plan, require unanimous agreement of the appointed parties to implement a fundamental change to the plan. If devolution is truly the desire of the government of Ontario, then AMO believes that unanimous agreement or total consensus must be required of the sponsors corporation for all key decisions.

The government has characterized Bill 206 as an autonomy bill, yet Bill 206 is not offering autonomy at all. It is dictating detailed requirements such as supplemental plans and a permanent prohibition against the introduction of defined contribution plans. In fact, it is

the province that will make direct appointments to the initial sponsors corporation and administration corporation.

The OMERS board itself has conducted a rigorous review of Bill 206 and strongly recommends that the bill be amended on several fronts.

I read recently that OMERS has agreed to invest \$4.25 billion in the Bruce Power plant, an important example of private investment in a major infrastructure project for Ontario. This is good news for a province where energy security is a daily concern. I challenge committee members to consider this important investment carefully and to ask themselves, "Would this investment actually have been approved if the Bill 206 governance structures were in place?" We sincerely doubt it. Submissions that the OMERS board has made to this committee validate our doubts.

1610

Municipal governments have a wealth of first-hand experience from when ambulance and social housing were devolved to the municipal sector. Neither came with transparent due diligence or consideration for adequate transition time. OMERS' devolution is absolutely no different. If it proceeds, the government must, at a minimum, give sponsors lead time of 12 months following royal assent to prepare to take on new sponsorship responsibilities.

With respect to dispute resolutions, it is worth questioning why the province would want to apply a collective bargaining tool to the management of a \$36-billion pension fund. Attempts to negotiate an environment that permits binding arbitration have not worked, and essentially put governance into the hands of an arbitrator. AMO cannot support such a dispute resolution model, and it is an appalling means to supposedly protect the public interest of Ontarians. I would be shocked if any arbitrator wants that degree of responsibility. In essence, an arbitrator could have a significant say in the municipal tax rate without any regard for tax increases, without any regard to the reduction of staffing and services required to accommodate the decision and without any accountability to the public, the taxpayers or the employees.

If an arbitration decision on supplemental benefits is rendered at the sponsor level, then the likelihood of arbitration at the local level will happen with great ease. Current arbitration decisions take decisions elsewhere and replicate them, as is the case in arbitrator Snow's decision. Even he gave up on the retention pay as a unique situation. His commentary is attached in appendix B, and I urge you to read it. If this bill is about quality negotiations, as Minister Gerretsen says, then there should be no arbitration scheme and this provision must be removed.

Supplemental benefits of Bill 206 would provide for additional pension benefits such as enhanced early retirement or an increased benefit accrual rate. It is even conceivable that an employee who changes employers over the course of their career would have, or could have,

access to several supplemental benefits under a number of collective agreements. Needless to say, the logistical challenges of supplemental plans are considerable and complex. All would have to be managed and administered by OMERS on behalf of approximately 900 employer groups, not to mention the anticipated significant increase in actuarial and technological costs. Early retirement benefits through supplementals will impact the base plan and will surely whipsaw across the province.

If the government is sincere about OMERS' autonomy, it must not impose any requirements on the sponsors corporation to consider supplemental plans. In a real autonomy model, these decisions would be left up to the sponsor corporation, not imposed in legislation. AMO asked for but was unable to receive from the province any financial analysis of the proposed changes in Bill 206. As a result, AMO did its own homework on these costs. First we asked OMERS, and they undertook at their cost a hypothetical analysis. We have since asked our members to do their own costing analysis based on the potential of supplemental plans. In most communities, it is estimated that such costs will result in a property tax increase of at least 3%. On a province-wide basis, that amounts to about \$380 million a year. Tax dollars directed to a devolved OMERS will sap municipal funds away from infrastructure and service improvements in every part of this province. Is it the desired intent of the bill to make \$380 million a year disappear out of the pockets of Ontario property taxpayers?

I can help you put that \$380 million into context. It is equal to half of the total new revenue that municipal governments in Ontario will receive when gas tax revenue sharing under Canada's new deal is fully annualized in 2009. It is more than the full amount of the annualized provincial gas tax revenue sharing for public transit.

Is it a clawback? No, it's not a clawback. It's not money to fund new provincial initiatives, and it's not money to fund new municipal initiatives. But it is \$380 million a year in new costs for municipal governments and property taxpayers to enrich retirement benefits in a system that is already the envy of public and private sector employees everywhere.

I would ask you to ask yourselves how many police officers we could hire with an additional \$380 million a year, or how many homeless people could be housed for that kind of money? What improvements could be made in Ontario's water and sewer infrastructure, roads and bridges or even transit? The city of London estimates that the potential tax impact would equate to almost \$50 more in taxes for the average resident. In London, a 1% tax increase alone is equivalent to hiring 30 more police officers. Imagine what else could be bought to improve the lives of taxpayers in London and elsewhere throughout this province.

Let me be clear: This 3% increase in costs does not include a pending 9% increase in contributions in 2006, estimated at a cost of \$137 million a year. It does not include potential increases in post-employment benefits associated with adopting supplemental plans. It does not

include sponsor start-up costs at an estimate of \$5 million to \$10 million. It does not include anticipated higher administrative costs, and it does not include the costs associated with the potential future extension of supplemental benefits to other emergency workers, such as our paramedics.

In its last budget speech, the province said, "We watched every penny. So the deficit is smaller. But it has not disappeared. Far from it. We are still working our way through a structural deficit that continues to threaten our ability to fund the public services that the people ... depend upon" The province may be watching its pennies, but according to this piece of legislation it is not helping municipal governments try to manage their pennies.

Bill 206 only adds more to the municipal structural deficit in a manner that is unaccountable and within a legislative framework that is terribly flawed and fundamentally wrong. Hasty implementation of such fundamental changes of this magnitude would be reckless and irresponsible. We implore the government of Ontario to accept the challenge of demonstrating that it has carefully completed and reviewed an independent and comprehensive analysis of these proposed changes with a view to unintended consequences.

Once again, I believe this government is about to decide what legacy it wants to create. The health premium will be easy to justify next to increased property taxes to enrich a pension system that is already the envy of most Ontarians.

This committee has given a bill that would fundamentally transform the \$36-billion OMERS plan only eight hours of public consultation. If the bill moves forward to third reading, as we anticipate, under these circumstances, without being returned to this committee for meaningful stakeholder consideration and input, this government and this committee may have a great deal to account for. I suggest that the onus is on you to get it right. The costs are staggering for municipalities.

The Vice-Chair: Thank you. There is a little less than two minutes, so I'm going to give all three sides about 30 seconds, if you can quickly ask your questions or make your comments, please.

1620

Mr. Ernie Hardeman (Oxford): We thank you, Mr. President, for the presentation. I just want to say this is very enlightening. When we started last Monday, the minister's comments indicated that the reason this is being brought forward is because there was so much request for it, that this had been asked for for a long time, and that everybody was going to be happy. So far, we haven't heard anyone who thinks that what is being done here will serve the purpose that it's intended to.

Again, I thank you for your presentation and hope that the government side is listening, particularly to make sure that we have more time to do it and that everything is ironed out much better than it is and we can get a piece of legislation that will work.

Ms. Andrea Horwath (Hamilton East): I have a question in regard to your presentation. You do append

the ruling by Mr. Snow. You don't append any of your assumptions, your evidence or your analysis as to what generates your figures in terms of the property tax increase. I'm wondering if I can get a copy of that analysis. It would be helpful.

Ms. Pat Vanini: We can provide that for you.

Ms. Horwath: Thank you.

The Vice-Chair: Any questions or comments?

Mr. Brad Duguid (Scarborough Centre): I just want to thank Mr. Anderson and AMO for their presentation. We have had discussions about this in the past. They put some thought into their presentation. There's a great deal of information here, and I thank them for that. I'm not going to quarrel with any of the numbers that they have at this time, but I would suggest that some of the numbers in here are speculative at best, given that they probably assume 100% take-up if this were to happen, which I think would be totally unrealistic.

The Vice-Chair: Thank you, Mr. Anderson, for the presentation.

Mr. John O'Toole (Durham): Chair, the report that was requested by the NDP would, I hope, be shared with all members of the committee on the background information on the tax implications?

Ms. Vanini: Shall we provide that with the report?

The Vice-Chair: Yes, that would be given to the clerk and shared with all three parties.

CANADIAN UNION OF PUBLIC EMPLOYEES, AMBULANCE COMMITTEE

The Vice-Chair: The next presentation is from the ambulance committee, Canadian Union of Public Employees.

Good afternoon. If I can ask you to state your names for the record, please.

Mr. Michael Dick: Michael Dick. I'm the chair of CUPE Ontario's ambulance committee. I'm also a paramedic working out of Durham region over the last 25 years. To my left is Mr. Joe Matasic, CUPE national representative assigned to the ambulance committee, and to my right is Antoni Shelton, EA to the president of CUPE Ontario.

The Vice-Chair: You have 20 minutes, and just like before, the time remaining will be shared among the three parties. You may begin your presentation.

Mr. Dick: First of all, I'd like to thank the committee for giving us this opportunity today to speak to you on Bill 206.

CUPE represents well over 2,000 paramedics in Ontario. From Windsor to the west, Kenora in the north and Cornwall to the east, CUPE paramedics provide service from one end of the province to the other, including right here in the city of Toronto. Our members are highly trained, dedicated professionals, many of whom have years of committed service to their communities.

Paramedics have some serious concerns with certain parts of Bill 206. First, we are concerned that the

proposed representation model is not truly representative. CUPE represents a large number of members, including paramedics throughout the province. The proposed representation structure would leave CUPE members, including paramedics, severely under-represented. We cannot accept that, as members of the largest stakeholder in the plan, we would be left with so little say on the future of our pensions.

We also have concerns regarding the proposed structure and administration of the plan. CUPE Ontario has presented these concerns to you in an earlier submission, so we will not repeat those concerns here today. Today, we'll be talking mainly about the portion of the bill specific to paramedics.

As some of you know, the federal government announced in its last budget that paramedics would be included in the public safety occupational group of the Income Tax Act. This designation is sometimes referred to as the PSO. Previously, the public safety occupation group consisted of police officers, correctional officers, commercial airline pilots, air traffic controllers and firefighters. The public safety designation is important because it permits pension plans to provide benefits that allow persons employed in public safety occupations to retire earlier without penalty. The purpose of the early retirement provisions for public safety occupations is to protect the safety of the public and the health and safety of the women and men in those occupational groups. The Canada Customs and Revenue Agency describes the reason for the provisions as follows:

"The more generous early retirement eligibility criteria for public safety occupations recognize work situations where the limitations associated with ageing are common and have the potential to significantly endanger the safety of the general public. These special rules are intended to assist employers who, out of concern for public safety, wish to encourage or require employees in these occupations to retire early."

It is well known that certain types of work becomes more difficult to perform as a person ages. Allowing people in public safety occupations to retire earlier is just good public policy. It protects the health and safety of the public while lessening the financial impact on those persons employed in public safety occupations.

Currently, OMERS has provisions that allow some members of the plan to retire earlier without penalty by virtue of the Income Tax Act PSO designation. These provisions are commonly referred to as "normal retirement age 60" or "NRA 60" rules. Up until the last federal budget, the only members of OMERS who were eligible for inclusion in the NRA 60 provisions were police officers and firefighters. However, with the change announced in the last federal budget, paramedics will now be eligible for inclusion in the NRA 60 provisions.

The need to include paramedics in the PSO occupational groups is widely recognized by those who are familiar with the work. The work that paramedics perform is of vital importance to the public and can sometimes have life-or-death consequences for people

who are in need of the service. However, the work can be extremely physically demanding and often requires a great deal of mental effort and concentration. From extricating patients in car accidents to starting intravenous lines and calculating drug dosages in the field, the work is both physically and mentally demanding.

As paramedics age, their ability to perform these duties can become diminished. This can be difficult for the men and women who perform the work, but more importantly, it can be dangerous for the public. This is why including paramedics in the public safety occupational group is good public policy and why paramedics should be included in the NRA 60 provisions of OMERS. This is also why paramedics deserve to have a voice on the supplementary benefits proposed in Bill 206.

In order to implement the Income Tax Act public safety occupational group changes, OMERS will need to be amended to include paramedics in the normal retirement age 60 group. We recommend that the plan be amended to include paramedics in the NRA 60 group.

Section 4 of Bill 206 permits the sponsors corporation to adopt supplemental plans for “either or both of those in the police and fire sectors, and for those in other sectors.” With paramedics included in the public safety occupational groups, there is no basis for separating paramedics from police and firefighters and there is no reason to exclude paramedics from section 4 of the proposed legislation. We recommend that paramedics be included in any section of the bill that addresses public safety occupation members.

Sections 40 and 41 provide for separate advisory committees—one for the police and fire sectors and the other for “other members.” One would presume that the need for a separate advisory committee stems from the separate rules as they relate to public safety occupation members. As with section 4, with paramedics included in the public safety occupational groups, there is no basis for excluding paramedics from the separate advisory committee. We recommend that paramedics be included on the advisory committee contemplated in sections 40 and 41 on the same basis as police and fire.

We’d like to thank the committee again for the opportunity to discuss our concerns, and we’d be available for any questions.

1630

The Vice-Chair: Thank you. Approximately four minutes for each side. We will begin with Ms. Horwath.

Ms. Horwath: Welcome. Thank you for your presentation. I’m wondering if you could tell me whether you’ve had discussions with the other safety occupations in regard to the comments that you have on the bill, and whether they’re in agreement with your position.

Mr. Dick: We haven’t actually approached those groups to get endorsement of our position at this time.

Ms. Horwath: You talked earlier about the fact that CUPE Ontario made their presentation a couple of days ago, that it’s your position that everything that they’ve raised, you are also in support of, and these are additional

issues that you want to see addressed in amendments to the bill.

Mr. Dick: Correct.

Ms. Horwath: OK. Were you here for the previous presentation?

Mr. Dick: Yes, I was.

Ms. Horwath: Has your organization discussed any of the issues that were raised by the municipal sector in regard to some of the concerns that they have in terms of supplemental agreements for safety occupations?

Mr. Dick: No, we haven’t.

Ms. Horwath: You have not—

Mr. Dick: With AMO?

Ms. Horwath: Yes.

Mr. Dick: Not at our level.

Mr. Antoni Shelton: Can I answer that? I just want to add that in terms of the supplementals, we have stated in CUPE Ontario that we do not object to supplementals as did AMO, but we do want to ensure that the basic plan does not pick up the cost of supplementals. In that sense, we are supportive of supplementals.

Ms. Horwath: OK. So in fact, the issue is the specific language around the cost of supplementals. I believe that the president of the union was indicating—I think he said that we could drive a Mack truck through the loopholes in the language that describe what it costs to prepare and administer supplementals. If I’m not mistaken, that was the position. That’s something that your group is quite comfortable with and understands the issue around that?

Mr. Dick: Correct.

Ms. Horwath: So at this point you’re not, in any way, in a position to remark or comment on the assertion of the previous group that municipal taxes will be increasing by 3% across Ontario as a result of this bill. Would you support that position?

Mr. Joe Matasic: Maybe I could answer that. I think we agree with the member that the AMO assumption is based on the worst-case scenario and is based on the presumption that the municipalities will not be able to negotiate effectively with their employee groups, and the outcome of those negotiations will be that the municipalities will totally capitulate to the bargaining agents and the total potential cost will be realized through that negotiation process.

The Vice-Chair: The government side.

Mr. Duguid: I want to thank the Ontario Paramedic Association for being here today and making this deputation—

Mr. Dick: If I can just correct you: We’re not associated with the Ontario Paramedic Association; it’s CUPE’s ambulance committee.

Mr. Duguid: Oh, you’re CUPE’s—my apologies. I want to just express to you that I think all members of committee respect the hard work that our paramedics do. We respect all the work that our front-line workers do—firefighters and police. There’s no question that the work of our paramedics is every bit as difficult, if not more so. Having had the opportunity to take a number of rides with paramedics in the past in my previous duties at the

city of Toronto, I know how difficult a job it is. I don't know if people realize how paramedics often don't even get a lunch. They're going constantly, not even getting a break. I just want you to know at the outset that we have a great deal of respect for your profession and the people you represent.

The second thing I want to mention as well is that the federal income tax changes have been made, my understanding is, after the legislation had actually been introduced, so this is an issue that I can assure you we are looking at. I know the minister has an interest in this as well. I don't know, and ultimately I can't presume what's going to happen here, but I can tell you that we certainly are going to take seriously the presentation that you've made and the input that you've given us, and we'll move forward on that basis.

I thank you for the input. I thank you for the presentation.

The Vice-Chair: The official opposition.

Mr. Tim Hudak (Erie-Lincoln): Gentlemen, thank you very much for the presentation. You may have seen the Hansard from the original day. I had asked a question about why paramedics were excluded, and it sounded like it's an open question, so hopefully this committee will hear from the other paramedic associations. I think you made a very strong presentation today.

If I followed your arguments correctly, you mentioned those of the PSO groups under the Income Tax Act: police officers, correctional officers, commercial airline pilots, air traffic controllers, firefighters and now paramedics; customs officers, I imagine, would be included under that.

Interjection.

Mr. Hudak: They're not included? OK.

So of those who are OMERS beneficiaries, the only ones who don't have access to supplemental plans under the legislation would be paramedics?

Mr. Dick: Right.

Mr. Hudak: And your view—to make sure I'm clear on your presentation—is that paramedics should actually be explicitly listed in the legislation, like firefighters and police are, as opposed to other groups.

Mr. Dick: Exactly, yes.

Mr. Hudak: In your presentation you said there are 2,000 paramedics that CUPE represents in the province of Ontario. How many paramedics who are part of OMERS are there altogether—a ballpark.

Mr. Dick: Close to 5,000. We represent probably close to 2,500, and there would probably be 5,000 in the province who would be in OMERS.

Mr. Hudak: You mentioned that everywhere firefighters or police are mentioned, paramedics should be as well. One of those areas that's a very important position is guaranteed membership on the sponsors corporation and on the administration corporation. Is it your view that paramedics should have a separate seat equal to the police and fire on those two corporations?

Mr. Dick: It would be nice, but I don't really think the numbers would dictate that. But we definitely should be named in the legislation and have part of that discussion.

Mr. Hudak: Do you see yourself, then, more so than under CUPE—I guess CUPE seeks separate paramedic representation on those two committees.

Mr. Dick: Yes, but like I say, CUPE is a big organization. There's a bunch of different classifications. If we were going to go through and have every classification have a seat, I don't think that's doable. It would be nice, but—

Mr. Matasic: Our view in general is that CUPE, as an organization and as the largest stakeholder in OMERS, is generally under-represented, and that definitely needs to be corrected in the legislation.

Mr. Hudak: In terms of the paramedic argument, the paramedic presentation that you're making, CUPE aside, what's the ideal structure of the sponsors corporation, if you see yourself being eligible for supplemental benefits like police and fire? Are you satisfied with the way the sponsors corporation is currently delineated, or would you like to see substantial changes to that?

Mr. Matasic: I think we would refer to the CUPE position in general. In terms of the representation, if I could just elaborate on that, we're very comfortable that if CUPE is given proper representation on the board, CUPE paramedics will be adequately or properly represented within that organizational structure. Our concern, as with CUPE Ontario's concern, is that CUPE is generally under-represented.

Mr. Hudak: How about the advisory committee for supplemental benefits? What's your view on how that should be structured?

Mr. Shelton: Mr. Hudak, that's what I was going to emphasize. Our presentation here today is unequivocally saying that the paramedics should have a seat on the supplemental advisory committee for the NRA 60. The principle in terms of CUPE overall with regard to the membership on the sponsors corporation is one of representation by population.

1640

Mr. Hudak: Have you heard any convincing arguments to the contrary? If you're all registered as PSO under the Income Tax Act, why the dividing line, with police and fire on one side and paramedics on the other? What's the counter-argument to yours?

Mr. Matasic: The addition of paramedics to the PSO designation under the Income Tax Act is actually very recent. It was announced in the last budget, and my understanding is that it was implemented in the Income Tax Act regulations just a couple of weeks ago, so it is very new. But we're very concerned that this legislation not be moved forward without actually having the OMERS regulations dealing with the NRA 60 provisions amended to ensure that paramedics are included in the NRA 60 group prior to this legislation being passed and prior to the change in the actual—

Mr. Hudak: So you've not heard any counter-arguments from government contrary to simply its timing on the Income Tax Act.

Mr. Matasic: I think an argument could be made that the change could have been anticipated prior to the actual

writing of this legislation, because the changes were actually announced in the last budget, but to be fair, the actual changes weren't implemented in the Income Tax Act regulations until just two weeks ago.

The Vice-Chair: You're time is up. Thank you, gentlemen, for your presentation.

ONTARIO PUBLIC SERVICE
EMPLOYEES UNION

The Vice-Chair: The next presenter is the Ontario Public Service Employees Union. Good afternoon. If I could get your name for the record, please.

Ms. Shirley McVittie: I'm Shirley McVittie.

The Vice-Chair: You have 20 minutes, and any time remaining after your presentation will be divided up among the three parties. You may begin.

Ms. McVittie: First of all, I'd like to thank you for allowing us to make this presentation. We've been very interested in autonomy for OMERS for a long time. As you may know, OPSEU has worked very hard in the area of joint trusteeship in the OPSEU pension trust with the Hospitals of Ontario Pension Board and also the community colleges, so we think we have a lot of experience in joint trusteeship and working with other unions in multi-employer pension plans.

We have members in OMERS who participate in a number of different worksites. We have paramedics, similar to CUPE; we have members who work in children's aid societies, municipalities, property tax assessment, school boards and others. We're very interested in the new governance model that is being proposed for OMERS and that it be set up in the same way as the other major public sector plans in Ontario and governed by the same pension laws and regulations.

Under the proposed model, the sponsors corporation will have the responsibility that's currently performed by the government. It's our position that this new sponsors corporation must have an explicit oversight role over the administration corporation, similar to other pension plans, and that the two bodies that will be governing OMERS be subject to the same statutory and fiduciary requirements of the Pension Benefits Act and trust law.

A major concern for OPSEU is the proposals in the bill that deal with benefit limitations. We believe that in the new governance structure, in order to meet the needs of both the employers and the employees, the plan should be flexible and not have arbitrary limits set from the outset as to what can be negotiated. Although it might be hard to imagine right now, there will be a day in the foreseeable future when pension plans will have surpluses again, and we don't see the need to limit the actual benefit formula in the legislation so that it would be impossible in the future to increase the benefits, particularly the benefit formula for members who earn under the YMPE—year's maximum pensionable earnings—formula. Having that kind of limit would actually set OMERS behind the hospitals pension plan or the teachers' pension plan.

Another funding restriction that we'd ask you to look at is the fact that this legislation would require a funding excess of 5% of the going concern liabilities. Not that we're opposed to having a contingency fund or margins in the pension plan, but we don't see the reason to have it actually set out as a funding policy.

A third restriction on the ability of the sponsors corporation to meet the needs of both the plan members and the employer is in the constraints placed on an arbitrator, so that even if the members of the sponsors corporation could not come to an agreement on a benefit improvement, if it goes to arbitration there are limits on what the arbitrator is actually permitted to take into account.

Similar to the presentation prior to mine, we are also concerned about the paramedics and the fact that OPSEU has a couple of thousand paramedics who seem to have been neglected in this bill. We would like to see paramedics represented on the advisory committee or the sponsors corporation with respect to their benefits, and that they be eligible for the same early retirement rules and any supplemental plans, similar to the police and firefighters.

We also have a number of recommendations with respect to the composition of the sponsors corporation. One of the issues for OPSEU is the actual members of both boards, in that a principle for us is representation by population. The limit that has been set with respect to who has a permanent seat and who is in the other seat, we think, has an unfair impact on OPSEU. We have about 8,000 members and we are ranked with "others," some of which have six members or 22 members. We don't think that makes good sense in this new governance structure, so we are asking that there be a dedicated seat for OPSEU on both the sponsors corporation and the administration corporation.

We also think that the way the legislation is structured right now with respect to the other employers and the other employee groups is very cumbersome and complex and is not likely to work very well. We would rather see a new method whereby the groups could meet together and select their own appointees.

We also think that having a two-year maximum on the term of appointments will actually distract board members and be counterintuitive to this new governance structure. Because individual sponsors will be able to appoint their own appointees, they should be in charge of whether or not they will be reappointed or removed.

The administration corporation does not have a dispute resolution process, which we see in other pension plans, and we believe that there ought to be a similar one written into this new structure. We would also like to see a list of mediators and arbitrators established from the outset, because right now the suggestion is that if the parties couldn't agree on an arbitrator, it would be the CEO of the corporation who would make that decision, and that represents a conflict of interest in our minds.

As I said before, we would like to see the constraints on the arbitrator with respect to increasing contributions

be removed. We don't think it's necessary. There are a number of other items that the arbitrator has to consider, including prevailing economic conditions in Ontario and the overall financial state of the employers. We think there are good enough safeguards in there for municipalities and other employers such that it's not necessary to seriously limit the possibility of any future negotiations from the outset.

We would also like to see that the plan sponsors and employers appoint the members of both corporations from the outset. As I said, we would like a permanent seat on both boards for OPSEU.

Just a couple of other issues. We would like the bill to include a provision for future growth so that the sponsors would be able to determine whether related employers could join OMERS. Similar to CUPE before me, we also want to ensure that any supplemental plans not be subsidized by the basic plan. Thank you.

1650

The Vice-Chair: Again, there's about four minutes left for each side, starting with the government side.

Mr. Duguid: Maybe Mr. Lalonde, if there's time.

The Vice-Chair: Mr. Lalonde.

Mr. Duguid: Mr. Leal first.

Mr. Jeff Leal (Peterborough): Ms. McVittie, I want to thank you for your presentation. As a former municipal politician, do you believe that arbitrators, when they make decisions, should take into account a municipality's ability to pay?

Ms. McVittie: I do. I also think they should take into account the members' ability to pay. It's not necessarily so that any benefit improvement would cause a contribution increase, but other plans have managed to negotiate these types of situations without having an arbitrary limit.

Mr. Leal: We've all witnessed—we'll take the municipality of Havelock-Belmont-Methuen in my riding of Peterborough, which has a relatively poor assessment base, but arbitrators would come in and make decisions of 19%, 20% and 25% and then expect that municipality to try to pay that. That leads ultimately to huge property tax increases. I just want to get your comment on that situation, which crops up all through Ontario.

Ms. McVittie: I understand, but we're not suggesting removing the provision here that the arbitrator would take into account the ability of the employer to pay. We're just suggesting removing the 0.5 limit on the contributions.

Mr. Leal: But historically, no arbitrators in Ontario have ever taken into account the ability of a municipality to pay.

I'll leave it at that, Mr. Chairman.

The Vice-Chair: Mr. Lalonde.

Mr. Jean-Marc Lalonde (Glengarry-Prescott-Russell): Thank you again for appearing in front of the committee. I'd just like to have a clarification. The previous group that made a presentation were saying that they were representing paramedics. I notice that you represent a group of paramedics also.

Ms. McVittie: Yes.

Mr. Lalonde: Can you tell us which groups are part of OPSEU and those that are not part of OPSEU? Is the municipal employees?

Ms. McVittie: We have a number of ambulance units. I'm not sure which ones CUPE has, but OPSEU has a number of different ambulance employers across the province.

Mr. Lalonde: So it would depend on—

Ms. McVittie: It depends on which region or which county.

Mr. Lalonde: And they would have the choice to either take OPSEU or CUPE as their rep?

Ms. McVittie: If they had a vote, yes.

The Vice-Chair: The official opposition.

Mr. Hudak: Thank you very much for the presentation on behalf of OPSEU this afternoon. One of the points you made was a dedicated seat for OPSEU on the sponsors corporation. The administration corporation as well, or just on the sponsors corporation?

Ms. McVittie: Preferably both, but specifically we're asking for the sponsors corporation, because they're going to be the ones determining the benefits.

Mr. Hudak: OPSEU has 8,000 members who are part of the OMERS pension. Do you have any idea how that stacks up with respect to the other employee groups that are on the sponsors corporation? Are you close in number to the next lowest?

Ms. McVittie: The one we're closest to is the firefighters. I'm not sure; I think they have—well, they're here—9,500, something like that.

Mr. Hudak: OK. Maybe through you, Chair, we could request from the ministry a better understanding of the different employee groups that exist under OMERS, as well as employer groups, and the number of members in each. This will help us with the sponsors corporation and help us understand OPSEU's point with respect to a dedicated seat. If I do have the material, I apologize; I haven't seen it. But I'd like to request that through the Chair.

You have championed the paramedics as being listed in the legislation along with police and fire, and you also recommend that a paramedic member be on the advisory committee for supplemental benefits. With some paramedics represented by CUPE, others by OPSEU and others by municipalities or the private sector, how do you think that paramedic representative should be chosen?

Ms. McVittie: We'd be fine with rep by pop.

Mr. Hudak: How am I doing for time, Chair?

The Vice-Chair: Two minutes.

Mr. Hudak: The current mechanism for rotating seats on the sponsors corporation is rather unwieldy, and Sid Ryan of CUPE had very strong comments about that in his presentation on Monday, where you would basically rotate through according to the population of members and that sort of thing. How do you think we'd best remedy that to make sure that all employee groups have fair representation on the sponsors corp? What would be a better model?

Ms. McVittie: What we're recommending is that, probably through the auspices of OMERS, they call a meeting or arrange for all of the smaller groups to meet or to put in nominations and to somehow come to an agreement that way rather than rotating through, because you could end up with somebody who represents hardly anyone on such an important board. We don't see that as a good way to go.

Mr. Hudak: This is a very general question to you. You've made a lot of strong points and you have a list of recommendations. The committee will consider this in clause-by-clause and refer it back to the House. What's your advice to the committee: If substantial changes are not made to the bill, should it be defeated or should it still continue because of the principle of OMERS autonomy?

Ms. McVittie: We feel that the limits on the benefits are so substantial that we would rather it was defeated than go through as it is.

The Vice-Chair: To the third party.

Ms. Horwath: Good afternoon. I wanted to explore with you a little bit further what I think you were trying to get at with the previous question, and that is, is there a natural kind of way that the contributions would be kept in check if the cap was taken off? I think the government was trying to get at the point that municipalities can't afford to pay, but I think what you were trying to say was that the members can't afford that either. Could you expand on that a little bit?

Ms. McVittie: That's correct. Like I said, I do deal with a number of pension plans, and members are generally not interested in paying more pension contributions either. But also, if there was a particular need for—I don't know—an early retirement program that isn't in place right now, there's no reason why the parties couldn't negotiate a lesser salary increase or some other benefit, and it doesn't necessarily mean that contributions have to go up. If contributions have to go up, we're assuming that we're never going to get back into days when we're going to be having significant surpluses either.

Ms. Horwath: So it's fair to say that you believe there are ways, in a responsible manner, to make sure that all parties can negotiate appropriate levels and that the 0.5 is just not required.

Ms. McVittie: Absolutely, yes.

Ms. Horwath: I wanted to ask you a little bit about your criticisms of the governance model, in particular your comments around the relationship between the administration corporation and the sponsors corporation. I asked this of the minister on the first day of discussion of the bill. I wondered if you would go through that a little bit for me, where your concerns are in that regard.

Ms. McVittie: The sponsors corporation essentially is going to be in charge of the benefits and the funding, but at the same time the administration corporation is doing the administration and the investment. We believe they should be accountable not just to themselves but back to the sponsors who are actually paying the freight. That's the point we're trying to make, that the sponsors

corporation should have an oversight role, because right now the government in fact is fulfilling that role of overseeing OMERS.

Ms. Horwath: In your documents you say "similar to the role provided by settlors to a trust." That was kind of the issue that I was raising with the minister, that the government decided to bring forward a bill that reflects more of a corporate model than a trustee model. So it would be the opinion of OPSEU that it would be best if it were more a trustee model as opposed to—

Ms. McVittie: Absolutely, yes.

The Vice-Chair: Thank you, Ms. McVittie, for your presentation.

1700

Mr. Hudak: On a point of order, Chair: I don't mean to cause any undue delay, and I do want to hear from the professional firefighters next. This is only to the committee members.

I asked Ms. McVittie, on behalf of OPSEU, if they would rather see the bill go down than not have the amendments made. I didn't have a chance to ask that of others, but I would expect that CUPE yesterday, CUPE ambulance workers today and AMO, among others who have already been here, would probably have a similar viewpoint. Roger Anderson made a comment that eight hours of hearings on such a complex bill is rather limited, and I think committee members know that pretty well every day we're getting more and more submissions.

On Monday, Minister Gerretsen indicated that we're having hearings for four days and there'll be a day of clause-by-clause. We do appreciate the fact that this is going to first reading hearings. He then indicated that there will be debate in the House on second and third readings. I worry, with the number of groups that want to present and the complexity and the dissatisfaction that we've seen to date on the province's approach, that eight hours won't be enough.

I won't do this today, because I want to hear from the other groups, but the Conservative caucus will bring forward a motion to extend the hearings, because I think there's a lot that needs to be said and considered by this committee. I just want to give members notice of that, and hopefully they will consider that by the time that motion is brought forward.

The Vice-Chair: That's not a point of order.

ONTARIO PROFESSIONAL FIRE FIGHTERS ASSOCIATION

The Vice-Chair: The next presentation is from the Ontario Professional Fire Fighters Association. You have 20 minutes. As before, any time you don't use will be divided amongst the parties. You may begin now.

Mr. Fred LeBlanc: Good afternoon, Mr. Chairman and members of the committee. My name is Fred LeBlanc. I'm the president of the Ontario Professional Fire Fighters Association. I'm joined today by Brian George, our executive vice-president.

Both Brian and I are full-time firefighters, and we are members of the Ontario municipal employees retirement system, or OMERS, as it is more commonly referred to.

I'm pleased to make this presentation on behalf of the OPFFA with respect to Bill 206, which was introduced on June 1 of this year by the Honourable John Gerretsen.

The OPFFA represents over 9,700 professional full-time firefighters across Ontario. Our members include the front-line emergency responders, training officers, fire prevention and education officials, emergency communications and maintenance personnel within the fire service. All, by virtue of being municipal employees, are enrolled within the OMERS plan.

The OPFFA has been consistent in our support of an autonomous governance model for OMERS that will provide both stability in maintaining the long-term pension promise and flexibility to meet the varying needs of its multiple stakeholders.

As you will see from my brief, we have 10 recommendations with respect to this piece of legislation. However, given the time restrictions applied today I will focus my remarks on our priority concerns.

Probably to no one's surprise, I'll start off with supplemental plans. There has been much discussion around the concept of supplemental plans; however, it is truly unfortunate that many of those discussions occurred within the media and did not take place where it mattered: in the consultation process facilitated by Minister Gerretsen this past summer. The OPFFA, along with our police counterparts, participated in all of the meetings called for this purpose despite the lack of employer participation.

Supplemental plans were introduced as a manner to respond to the need to have flexibility within OMERS. These plans, if adopted, would identify pension benefits that cannot be offered within the basic or primary plan yet would be subject to local agreement through negotiations.

The critical element that everyone needs to understand with supplemental plans is that they are only permissive in nature. They do not automatically grant or extend enhanced pension benefits to any stakeholder; thereby they do not automatically increase costs. Bill 206 could have multiple supplemental plans listing a variety of benefits within each plan, and the fact remains that there are no additional costs to anyone, despite the creative spin sponsored by the employer organizations.

Despite failing to mention the billions returned to both employers and employees recently through the contribution holiday, the employers have attempted to have you believe that supplemental plans will cost taxpayers millions of dollars. They have accomplished this by including or adding a number of possible benefits together—albeit the most expensive ones—as well as assuming that all police and firefighters will receive these benefits on the same day. This is a totally unacceptable illustration, as the reality remains that benefits offered under a supplemental plan must be locally negotiated, and any additional costs are only applied when these

benefits are agreed to between the parties within the larger context of collective bargaining.

As well, it is important to note that all costs are shared 50-50 between the employers and employees. If I can draw an analogy to this, it's no different than negotiating a rider to our existing health plan or dental plan.

As I previously stated, one of our main objectives is to introduce flexibility within the OMERS plan. Firefighters, as you've heard previously, are eligible, along with other public safety occupations, to attain a higher pension accrual rate, to a maximum of 2.33%. This in accordance with the federal government's Income Tax Act. Currently, that benefit is not available to us under the OMERS plan. Firefighters in other jurisdictions across this country have attained better benefits, such as three-year final averaging and better retirement factors. Ontario firefighters cannot seek similar pension benefits under the current OMERS plan.

When you combine this inequity with the employers' aggressive opposition toward the concept and introduction of supplemental plans, it would be impossible to accept that these same employers would participate in good faith at a sponsors corporation level following the enactment of Bill 206 as it is currently written. This would result in a legislative void for our members who, given their occupation, require this opportunity to negotiate the benefits to allow for a financially sound and dignified retirement.

Therefore, we are recommending that Bill 206 be amended to enshrine within the legislation a supplemental plan that includes, at a minimum, the following optional benefits: the highest three-year final average earnings, an accrual rate up to a maximum of 2.33% and early retirement factors of 75 or 80 for NRA 60 members and 80 or 85 for NRA 65 members. You'll find this at recommendation 1, beginning on page 6 within our brief.

With respect to the 2.33% benefit, Bill 206 does not allow any past service to be applied. While I can appreciate the reason for this restriction, we would recommend an amendment that would allow the individual to purchase the past service in a similar manner that employees can purchase past service under optional service agreements currently within OMERS. This allows the recruit firefighter who may have started their career slightly older, which prevents them from working through for a maximum pension, to enhance their current service, at their cost, to complement their shortened careers. You'll find the language within recommendation 5, beginning on page 9 of our brief.

With respect to the CPP offset, paragraph 2 of subsection 12(1) of Bill 206 describes the mathematical calculation with respect to the integration of OMERS with the Canada pension plan. It restricts the offset calculation to 0.6%, where OMERS retirees are currently subject to an offset of 0.675%. The problem with this restriction, although it may be considered even a slight improvement to the current status, is that maintaining a ceiling to the offset at this level places OMERS retirees at a distinct disadvantage in comparison to other retirees

under other public pension plans here in Ontario. Currently, the teachers' and hospital workers' pension plans offer a 0.45% and 0.5% CPP offset respectively, thereby giving their retirees a greater portion of their pension. By deleting this section, we are simply asking for OMERS retirees to be given the same opportunity without requiring future legislative amendments. This is recommendation 4, and it can be found on page 9 of our brief as well.

With respect to the composition of the corporations, there are a number of sections that deal with the composition of both the sponsors corporation and the administration corporation. While we recognize the need for transition and the continuance of the operations of the plan, it is our position that the composition makeup needs to be changed. The rotating appointments for organizations not already identified appear as an attempt to be fair but have the likelihood to be problematic both from a practical and an administrative standpoint. Other stakeholders have promoted a representation-by-population method. While we do not have an alternative to provide the committee at this point, we cannot blindly support the premise of rep by pop.

Professional firefighters represent the third-largest employee stakeholder within the OMERS plan. Currently, Bill 206 provides a position for the OPFFA on the sponsors corporation and the administration corporation. It is our position that a structure for each corporation should be established that identifies the major stakeholders while, at a minimum, maintaining one seat on each corporation for the OPFFA. You will find this at recommendation 6, beginning at page 10 of our brief.

As well as establishing two corporations, Bill 206 also enables the creation of two advisory committees under sections 40 and 41. This is to provide sector-specific advice with respect to benefits that could or should be offered under a supplemental plan arrangement. Inexplicably, though, subsections 40(3) and 41(3) discontinue these committees upon the passing of the sponsors corporation first bylaw under subsection 23(1). More than theoretically, but practically, these advisory committees will never truly be established or meet, as subsection 23(1) states, "The composition of the sponsors corporation and the method of choosing its members is as specified by bylaw."

1710

This bylaw may not even reference the advisory committees, yet currently under Bill 206 they would automatically be discontinued. It is our position that these committees will provide a proper forum for focused debate on areas affecting specific sectors and stakeholders within OMERS, and the legislative authority to establish these committees should be maintained. These matters are not practically associated and should not be legislatively linked. You'll find this recommendation identified as number 8 at page 12 of our brief.

The last issue I'd like to touch on is solvency. Currently, the Minister of Finance is reviewing regulation 909 under the Pension Benefits Act. The OPFFA

supported the OMERS position to remove OMERS from the solvency funding rules found within this regulation. Ontario is the only jurisdiction across Canada that does not exempt public sector pension plans from funding solvency valuations. Although solvency is a justifiable requirement in a pension application, whereby the opportunity realistically exists for the windup of the plan, for example, in the private sector, it appears to be an unnecessary financial burden on the stakeholders of a public plan, where a windup scenario is improbable.

This is especially true with the introduction of supplemental plans. These plans are separately funded, and because they are in a start-up phase, they will face extraordinary additional costs for the first five years. There is simply no reason for this added fiscal pressure when there is no risk of the employers who are participating in these plans going bankrupt. You will find this as our final recommendation, number 10, beginning at page 13 in our brief.

To conclude, the OPFFA appreciates the opportunity to make this presentation. As illustrated in the brief, the OPFFA has long supported self-governance for OMERS. Bill 206 provides a much-needed framework for the stakeholders to debate and provide comment. We applaud Minister Gerretsen and his government for its introduction, but we believe that with our recommendations, this legislation will greatly assist a self-governing OMERS to meet its pension promise to all stakeholders.

Mr. Chair, subject to any questions, that will conclude my presentation.

The Vice-Chair: Thank you very much. There are about nine minutes left. That's three minutes each, beginning with the opposition.

Mr. Hudak: Mr. LeBlanc and Mr. George, thank you very much for the presentation, and a very detailed presentation at that.

To reinforce my point of order earlier, Chair, it's hard to think of three presentations more different than the three we've seen today—AMO, the firefighters and OPSEU—which all come from a series of different questions and very different approaches. So I do want to again emphasize to my fellow members on the committee the importance of giving due consideration and extending the hearings more than the four days that currently are determined under the motion.

I have a couple of quick questions. Defined benefit versus defined contribution: You want it enshrined in the legislation that it would remain a defined benefit. Under the principle of autonomy, it would be up to OMERS to determine whether that is appropriate on a go-forward basis. Why do you think it's important to enshrine in legislation that that wouldn't be an option for a future OMERS board?

Mr. LeBlanc: I think the issue is that it's a defined benefit plan now, and to provide the level of confidence and comfort for both our retired and active members on a go-forward basis, we should establish that one of the basic principles of this plan is that it shall remain a defined benefit plan.

Mr. Hudak: Regardless if a future board has a majority vote that would say a combined defined benefit/defined contribution plan?

Mr. LeBlanc: It's a staple in this pension plan, and I think it should remain. I feel it's an important enough issue that it should be enshrined within the legislation.

Mr. Hudak: One of the aspects of the ministry's presentation was the rebound effect, to ensure that under supplemental plans for firefighters and police, those in the other employee groups would not have any rebound effect on them. Do you think that's an important principle?

Mr. LeBlanc: Yes, and that's something that we have supported in our discussions with the other groups, CUPE specifically. I know there was concern with respect to the current wording under the bill. We said we would support amendments in that respect. I haven't seen any new language being proposed as of yet, but just for the record, certainly the OPFFA supports protection against a rebound effect under the basic plan.

Mr. Hudak: The paramedics just made a presentation—in fact, both OPSEU and CUPE on behalf of paramedics—that they should also be included under supplemental plans. What's your feeling, as firefighters, about the paramedic issue?

Mr. LeBlanc: I encourage that they should be included. They were recognized, rightly so, by the federal government as a public safety occupation. That does enable them to gain the higher accrual rate, 2.33%. It doesn't restrict them from being eligible for supplemental plans the way the bill is currently written, but moving them over into the police-fire group or advisory committee, we would have no opposition to that.

The Vice-Chair: Ms. Horwath.

Ms. Horwath: I'm wondering if you could tell me whether you think the government has achieved the goal that you indicated at the beginning, that this was going to be devolved into an autonomous corporation. Do you think this bill achieves that?

Mr. LeBlanc: The bill may achieve some of the basic principles of autonomy, but I think the structure and certainly our goals for the OPFFA were not entirely met on first reading of this bill. That's why we're obviously recommending at least 10 amendments to the bill.

Ms. Horwath: Just in the same vein—I don't think Mr. Hudak asked you this question, but he has asked others, and so I'll ask it this time around—do you think that at the end of the day, if these amendments or if many of the changes that are being recommended in this process are not made, the bill should be thrown out and started all over again? What would be your perspective on that?

Mr. LeBlanc: I guess the best way to put it, at the end of the day, if I'm looking at Bill 206 as it's currently written and there are no changes, then I would hope it would be defeated.

Ms. Horwath: One of the things that I had the pleasure of doing last week was meeting with my old municipal council; I used to be a member of the muni-

cipal council in Hamilton. Of course, the meeting that I had with them had just come on the heels of a resolution that the council did, falling in line with the AMO recommendation. In our discussion, I asked them whether or not their experience had been that they actually did come up with negotiated settlements with their firefighter union; of course, I knew that they had. I'm just wondering, can you tell me, is it your experience that generally speaking there are opportunities to come to negotiated settlements with municipalities?

Mr. LeBlanc: It does go in peaks and valleys where we seem to find issues that might drive local areas to arbitration. Typically, it might be predicated on newer issues. In general, I would say for the most part there are negotiated settlements. We're looking at multi-year deals more so than the single-year deals that used to be more common in our sector.

Ms. Horwath: That's great. Then, can I just ask if you believe that there is a natural likelihood that the system of negotiating these supplemental agreements would be affected by the ability of members to pay for supplemental agreements as well?

Mr. LeBlanc: I hope I'm understanding your question correctly. Yes, there's definitely a concern, I think, from our members with respect to how deep they'll dig into their own pockets to pay their 50%. That's why I say the employer's numbers are very unrealistic, because it's combining the benefits. I'm a 20-year firefighter and I fully expect, if supplemental plans and benefits were offered up for local negotiations, that my particular bargaining unit would seek to get one benefit. That would probably meet the tolerance level of our members.

The Vice-Chair: The government. Mr. Duguid.

Mr. Duguid: We'll make these questions as fast as possible, because there are a few of us who have questions. The first is, if there were to be more hearings and this were to be delayed, which could have the impact of delaying the legislation and impacting our ability to try to get this done, if possible, even by the end of the year, would you have concerns about that?

Mr. LeBlanc: I guess I do have concerns with respect to the delay. We've been talking about this issue since 1995. The stakeholders have been involved through three parties of government. They were initially started in 1995, and we had a very aggressive go-round in 2001 and 2002 for about 18 months. Positions were thoroughly put forward. This bill finally brought something forward that we could actually debate about a specific model, so I certainly applaud the government for bringing that forward. I just found it unfortunate, when the opportunity was there this summer, that it turned out to be a bit of a wasted opportunity for further debate.

1720

Mr. Duguid: You heard AMO's cost estimates today. I'd be interested in hearing your views on that particular item, whether you think those are realistic cost estimates or not.

Mr. LeBlanc: I think they're basing their cost estimates on some OMERS costings that were provided

to all stakeholders, but again, I fully believe that they've added up the total number of benefits, which is cost-prohibitive. It's cost-prohibitive to the employees as well. So it's easy to make a worst-case scenario.

As I said in my earlier answer to Ms. Horwath, I think the members' tolerance is going to be there and is going to be a big factor when it comes to negotiations. When you're looking at either extra hundreds of dollars or maybe in excess of \$1,000 per year for an additional benefit, you're going to reach a tolerance level with your own members. It was identified that the basic plan costs are increasing. All that factors in, and that's going to be the reality we'll hopefully face at the bargaining table. So I just can't support what AMO's figures are trying to purport to this committee.

Mr. Lou Rinaldi (Northumberland): Do you know of any other jurisdictions in Canada or in North America where supplemental plans are in place to deal with a situation like the firefighters or police?

Mr. LeBlanc: Yes. In Alberta they have a supplemental plan arrangement where local negotiations occur. The Calgary firefighters have negotiated a supplemental plan arrangement that would—I guess the easiest similarity would be that it doesn't mirror 2.33%, but it's very similar, and the Edmonton firefighters just recently negotiated from best five consecutive years down to the best-four consecutive years.

The Vice-Chair: Mr. Hudak.

Mr. Hudak: Just another request for information that I think will benefit all committee members. Mr. LeBlanc makes a point about solvency on page 13 of his report and makes an interesting point that it's improbable, a windup of public sector employers, be it the municipalities or other employers, public school boards. I think teachers and HOOPP are also in the same situation; OSSTF is presenting shortly.

Could I ask, through you, Chair, if we could get some perspective on that from the Ministry of Finance, maybe a briefing note that helps us understand why solvency—I think it's under the Pension Benefits Act, regulation 909, according to Mr. LeBlanc. I could be wrong, but Mr. LeBlanc's presentation discusses regulation 909 in the PBA, which falls under the Ministry of Finance. It's just to help us better understand why solvency is necessary. Is it an open question or not? It'd be helpful.

The Vice-Chair: Thank you.

ASSOCIATION OF MUNICIPAL MANAGERS, CLERKS AND TREASURERS OF ONTARIO

The Vice-Chair: The next presenter is the Association of Municipal Managers, Clerks and Treasurers of Ontario. Good afternoon. You have 20 minutes, and any time remaining will be used among the three parties. You may begin any time.

Mr. John Craig: Thank you, and good afternoon to the committee. My name is John Craig. I'm president of AMCTO, which is the Association of Municipal Man-

agers, Clerks and Treasurers of Ontario. I work for the city of Barrie, where I'm commissioner of corporate services. With me today is Andy Koopmans, who is our executive director.

AMCTO is Ontario's largest province-wide association of local government professionals. We came into being in 1938. Our more than 2,100 members are to be found working in 92% of municipalities in Ontario, from the city of Toronto to the village of Thornloe. Our members include chief administrative officers, municipal clerks, finance officers and department heads, along with supervisory, policy and administrative staff at various levels. Most of our members participate in OMERS, and an estimated 90% fall into the unaffiliated/management group of employees—those not occupying unionized positions.

AMCTO's mission is the promotion of excellence in local government administration. In addition to the quality education and professional development activities that we offer, we are proud of our highly regarded certified municipal officer, or CMO, professional designation. We also advocate on behalf of our members for legislation and regulations that promote healthy local democracy and efficient delivery of municipal services.

We are here today to express our support in principle for the devolution of OMERS to the employees and employers, but also our concern about a serious shortcoming in the proposed legislation; namely, the lack of a voice for the unaffiliated management group of employees in the new governance structure.

AMCTO has been actively engaged in the discussions about the future of OMERS for many years. Most recently, we participated in the consultation on governance that the OMERS board of directors carried out in 2002 at the request of the Minister of Municipal Affairs and Housing. In a response submitted at that time, we indicated that we supported most of OMERS' proposals and that we were pleased to see that many of the recommendations made previously had been accepted. We noted, however, our concern about the lack of specific representation in the proposed governance structure for employees falling into the unaffiliated management group. We recommended that a specific seat be assigned to this group on both the sponsors committee and the plan administration board that were envisaged at that time.

Our analysis of Bill 206 indicates that this point has not yet been addressed. Sections 39 and 45 of the bill provide that three and two members of the sponsors corporation and the administration corporation, respectively, will be chosen by a grouping of trade unions—not including CUPE, the OPA and the OPFFA—and professional associations on a rotating basis. Because of their larger size relative to associations, only unions will qualify for representation during the initial term of the new structure, leaving the unaffiliated management group without a voice during this critical period. Section 56 of the bill then repeals sections 39 and 45 as of December 31, 2009, preventing the rotation system from ever coming into operation.

The unaffiliated management group of employees represents a major proportion of the OMERS plan membership. According to statistics released by OMERS on November 4, 2005, the members of the management/union-exempt/non-union group, as it is called in that report, are 19.8% of the total active OMERS plan members. By comparison, the firefighters' group represents 4.8% and the police group represents 10.4%, yet Bill 206 guarantees both the Ontario Professional Fire Fighters Association and the Police Association of Ontario a seat on both the sponsors corporation and the administration corporation, while making no such provision for the unaffiliated management group.

The bill should be amended to create a separate seat for this group on both the sponsors corporation and the administration corporation. This can be done by adding a seat to each corporation, which is the approach we recommend. However, if the Legislature does not want to change the size of these bodies, it can set aside one of the three seats on the sponsors corporation already authorized by section 39 for the other plan members and make a similar amendment to section 45 in respect of the administration corporation. Whichever approach is taken, section 56 of the act should be deleted to ensure that the composition of the two corporations has a clear basis after December 31, 2009. Doing this will not limit the ability of the sponsors corporation to establish an alternative composition through a bylaw under section 23 of the act.

If our recommendations are accepted, the Legislature will need to decide how the seats for the unaffiliated management group should be filled. We do not believe that a rotation system is workable for this group because of the vastly differing sizes, mandates and definitions of membership among the associations. Accordingly, we recommend that Bill 206 stipulate that the seats be filled by the largest province-wide organization representing a broad cross-section of the unaffiliated management group: by AMCTO, the Association of Municipal Managers, Clerks and Treasurers of Ontario. If we are entrusted with this responsibility, we will work with the other associations to establish a process to ensure effective representation for the entire unaffiliated management group of plan members.

AMCTO knows the importance of such representation. Within our organization, over half of our board members are elected at local zone meetings across the province, with the rest being elected at our annual general meeting. We maintain an extensive system of standing committees to provide input to the board and we survey the membership directly to ascertain their priorities.

We also have long experience in collaborating with other associations and organizations in joint projects. For example, this year we joined with the Municipal Law Enforcement Officers' Association of Ontario, the Association of Animal Shelter Administrators of Ontario, the Ontario Society for the Prevention of Cruelty to Animals and the Ministry of the Attorney General to

deliver training to over 500 municipal officials across Ontario on the new dangerous dogs legislation.

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In preparing today's presentation, we consulted with more than two dozen professional associations affected by Bill 206. While some indicated that they are not interested in being involved, most indicated that they share our concern about the lack of representation for the unaffiliated management class in OMERS governance.

This is the co-operative and inclusive approach that AMCTO will bring to the task if Bill 206 is amended as we have recommended. We will invite the other interested professional associations to a table where we can collectively discuss the issues, develop input and pursue consensus, enabling the various associations to report back to their respective members on a regular basis.

All this can only happen if the Legislature fills the gap that we have identified in Bill 206 with respect to representation for the unaffiliated management group in the new OMERS governance structure. We urge the committee to make the necessary amendments before the bill is reported back to the House.

To sum up, AMCTO, the Association of Municipal Managers, Clerks and Treasurers of Ontario, supports OMERS devolution in principle but urges that the proposed legislation be amended to ensure representation for the one in five OMERS plan members who fall into the unaffiliated management group.

That concludes my presentation. I'd be pleased to answer any questions.

The Vice-Chair: Thank you very much. We have about four minutes for each side, beginning with Ms. Horwath.

Ms. Horwath: Thank you very much, and welcome. I guess my question is, do you support everything else in the bill, or are you not prepared to say that but what you are prepared to say is that your primary issue at this point is representation on the sponsors corporation and the administration corporation?

Mr. Craig: I wouldn't say that we support everything that's in the bill. We support the bill in principle, the devolution in principle. I think our association would like to, if we were asked that question, have the opportunity to review some of the comments of the other associations, some of which made presentations today, to be able to make our own judgment and suggestions in that regard.

Ms. Horwath: Have you taken any time to review some of the controversial issues that have come up thus far; for example, the costs of the supplemental plans being borne by the groups that will be affected by supplemental plans, the removal of caps or any of those issues?

Mr. Craig: We haven't considered them specifically, no.

Ms. Horwath: If the bill were to go forward and your concerns around representation weren't addressed, would you then hope for the bill to not go forward or would you just live with the decision to not address your representation issues? Which would you prefer: the bill gets killed or we go forward without your issue being addressed?

Mr. Craig: Andy Koopmans is going to try that one.

Mr. Andy Koopmans: Given that our members are involved in legislation on a daily basis, the nature of their position and our position always with any government bill, whether it's this bill or any other, is, if there are legislative flaws or items that would make a bill unworkable, it's always our position that the bill shouldn't go forward if there are unworkable provisions.

Ms. Horwath: Excellent. It's awkward because I don't want to put you in a position of asking you questions that are not your priority right now. I could ask you a lot of questions, considering where you come from, in terms of other issues that have been raised, but I think I'll respect the position that you've taken and say that I think that's probably one of the most controversial issues that we're going to have in front of us: how we come to terms with the desire of various plan members to have a voice on the various corporations.

Maybe I could ask you one general question about the model that was chosen, and I've asked it of others as well. The devolution occurred in such a way that people would describe it as a corporate model versus a trustee model in terms of what we have in Bill 206. Any comments on that? Any comments on preference in terms of the type of model that was chosen by the government?

Mr. Koopmans: We have not had a particular issue with this model as it stands. It's not, in our view, dramatically different from what was discussed in 2002, when we were last asked to make comments. The names of the boards changed, but the general principles remained the same, so we don't have a particular issue with the corporate structure.

The Vice-Chair: Mr. Rinaldi.

Mr. Rinaldi: Thank you very much for the presentation. I must say that Ms. Horwath stole all my thunder, because I basically had the same questions.

I respect your position. It's unfortunate that you cannot elaborate in your submission on other issues within the bill, because ultimately it impacts the whole sector under the OMERS umbrella, but I do respect that. I really don't have a lot of questions, except that we certainly appreciate the input, your concerns about the non-union-represented folks or the non-group-represented, which were sort of left stranded. I think that's certainly something that we really could look at closely. Thank you very much—unless somebody's got a question.

Mr. Duguid: Just one further question. I thank you for taking the time. Last week, I think, we had an opportunity to chat a little bit. Could you just outline your plan for representation on the new committee and let me know whether you think you could get agreement on the sponsors committee with your fellow employee representative groups, or whether you think it would be impossible to do that?

Mr. Koopmans: Where we have an issue with the bill as it currently stands is this principle of a rotation system, where every organization would rotate. As we mentioned, we consulted with 25 different associations that we felt were involved in the unaffiliated and management

group, and we probably haven't captured them all. There is certainly some crossover between the associations as well.

What we're proposing is an attempt to be as inclusive as possible, rather than saying that AMCTO would be the one to represent all management and unaffiliated employees, because we don't feel that we can fairly say that we would. Our model suggests that we would collaborate with the other associations, as many as of them as have indicated they would be interested in pursuing this discussion, to jointly work together on identifying who the single appointee would be. We're suggesting a single appointee on both the sponsors corporation and the admin corporation for a management and unaffiliated representative. AMCTO would be given the responsibility of naming the person, but the decision on who the person would be would be based on consultation with the other associations. It wouldn't necessarily have to be an AMCTO member.

The Vice-Chair: Thank you. The official opposition.

Mr. Hudak: Thank you, gentlemen, for the presentation. If there were a member of your group, it would be Andy Koopmans. He seems very smooth with his responses.

I just wanted to make sure I understood the presentation. On page 2, you talked about the 2002 consultations, and you recommended that "a specific seat be assigned to this group"—meaning your group, the large grouping of unaffiliated—"on both the sponsors committee and the plan administration board that were envisaged at that time." At that time, was there a particular committee structure that was specified that you were on, or were you just talking about the submission you made in 2002, without conclusion?

Mr. Craig: It was just the submission that we made, yes.

Mr. Hudak: On pages 5 and 6 you talk about—and congratulations on doing this—consulting with more than two dozen other professional associations affected by the bill and not with guaranteed representation on either of the corporations. You said that "some indicated that they are not interested in being involved." Does that mean not participating at all on the sponsors corporation or admin corporation, or not participating in your umbrella group?

Mr. Koopmans: The associations we consulted that said they weren't interested were those that felt they weren't really organizations that represented employees specifically. In some cases they were a separate association and a majority of their members were also members of a particular union, so they felt that they would be covered that way. Others felt it just wasn't within their mandate to say that they were representing the employer interest.

Mr. Hudak: You made the point that that represents about 19% of OMERS beneficiaries. AMO made a similar point on your behalf about an hour or so ago. Is it plausible that you could hang together as one group and fairly represent all the members of that umbrella organization? I appreciate the concept. Is it realistic?

Mr. Koopmans: From our perspective, it is realistic. While it's a broad range of individuals in that group, generally speaking, their interests are still the same. They are still interested in pension benefits; they are interested in the general structure. They would, I think, have an advantage, in that they would bring forward perspectives from a number of different positions within an organization as well, right from senior administration to more junior positions, so you'd get a broad range. Whether or not every association would agree with the position, that's somewhat questionable.

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Mr. Hudak: There's a great philosophical divide that we're hearing at this committee about what autonomy means. This bill is far from truly being autonomous, right? It's very prescriptive, in fact, in a number of the topics my colleagues had asked you about. On the principle of true autonomy, it will be up to the sponsors corporation to determine whether they want to pursue supplemental benefits or not. This legislation is prescriptive. The two philosophies of true autonomy versus actually having supplemental benefits in the legislation—what's your preferred route?

Mr. Craig: Coming from the municipal sector, we're used to the confusion between autonomy and non-autonomy, and I would say that we haven't taken a position on that.

The Vice-Chair: Thank you, gentlemen, for your presentation.

ONTARIO SECONDARY SCHOOL TEACHERS' FEDERATION

The Vice-Chair: The last presenters are from the Ontario Secondary School Teachers' Federation. Good afternoon.

Ms. Rhonda Kimberley-Young: Good afternoon.

The Vice-Chair: You have 20 minutes. Any time remaining will be divided amongst the three parties. You may begin your presentation.

Ms. Kimberley-Young: OK. Thank you. I believe our packages are being handed out. My name is Rhonda Kimberley-Young, and I'm president of the Ontario Secondary School Teachers' Federation. With me is Gerald Armstrong, who is our pensions and benefits officer on staff with OSSTF. The submission is being handed out. I won't walk you through everything in it, but I do want to make some highlights. First of all, we do want to thank you for the opportunity to make this presentation and this submission.

I would say that OSSTF brings the experience and expertise of a union member of the pension partnership that governs the Ontario teachers' pension plan, which is Canada's largest funded employee pension plan. We participated in the formation and the evolution of that partnership. That partnership has stood the test of time and has operated successfully in the best and worst of financial times. The plan has assets of about \$87 billion. The partnership ensures the pension entitlements of

almost 260,000 active and retired members. We believe that the TPP's governance model really does offer a good starting point for an OMERS governance model that is autonomous and democratic.

OSSTF represents about 56,000 members in the education sector, and almost 10,000 of our members contribute to OMERS. These members work in school boards as educational assistants, custodians, secretaries and as professional service providers, social workers, psychologists, psychometrists and so on.

In terms of our pension partnership history, we have a long history of providing pension services and acting as a pension advocate for our members. We have a long history as an active participant in the management of the TPP. You can see on page 4 a bit of the history in terms of the evolution of the TPP. Before 1990, OSSTF held a permanent seat on the board of the Teachers' Superannuation Commission. Between 1990 and 1992, we took a leadership role in negotiations between government and teachers that resulted in the TPP becoming a jointly sponsored pension plan. The terms and conditions of that partnership are clearly established in the detailed partnership agreement. I refer to the partnership agreement because you'll see that mentioned throughout our presentation.

Since 1992, we've held a permanent seat on the teachers' sponsor committee. We've gone through three rounds of pension negotiations and one arbitration, and have participated in negotiating billions of dollars of plan surplus. Today we're working with our partner to find ways to address the funding shortfall in the teachers' pension plan.

For the last 15 years, while we have represented members who contribute to OMERS, we've lobbied for a governance model that gives OMERS members the same pension rights and voice in determining their pension future as our teacher members have. Bill 206, in its current form, does not meet our pension partnership goals. What it does do is provide a framework for the plan's stakeholders, employee and employer representatives, to negotiate a partnership agreement.

We recognize that Bill 206 has incorporated a number of the provisions and concepts from the Teachers' Pension Act, so some of the revisions and amendments that we are suggesting will be borrowed from the TPP model. Frankly, we believe that the TPP model, with some minor adjustments, could establish a pension partnership between the 35 unions and associations representing plan members and the over 900 employer representatives. We outline our submission on the basis of a pension partnership agreement that could be used to amend Bill 206, but we would suggest that this is only the first step toward OMERS becoming a jointly sponsored plan. The second step is to bring the stakeholders together to negotiate the pension partnership agreement that would meet the needs and accommodate the diversity of the membership.

The current OMERS governance model excludes the plan sponsors from any decision-making about the plan

that they're responsible for funding. Bill 206 gives the partners a say in determining the plan's future, but it doesn't go far enough. The bill restricts the authority and decision-making powers of the partners, it assigns too much autonomy and authority to the administration corporation, and it prevents many of the unions and associations representing plan members from participating in a pension partnership that affects all aspects of their pension rights and entitlements.

At the conclusion of these hearings, we would recommend that the government bring the stakeholders together to negotiate a partnership agreement. Bill 206 and the stakeholder responses to the bill could form a starting point for those negotiations. While government has no role in the decision-making process, government should take responsibility for keeping the parties at the table until they reach an agreement. The OMERS staff and the plan actuary should be available if the partners need technical advice, but the current OMERS board has no role in these discussions.

The paper is broken into several sections, so I will refer to the section on page 6 talking about incorporation of the sponsors and administration corporations. What I do want to point out is that we believe these bodies should be renamed. If you look at the rationale we've provided here, calling it a sponsors corporation is really a misnomer for a variety of reasons. It is not a corporation in the sense of various pieces of legislation. We would argue that the sponsors corporation should simply be called the OMERS sponsors committee. We would make a similar argument around the administration corporation. Again, the obligations of that body are no different than they are in any other Ontario pension board of directors. The board is subject to statutory fiduciary requirements of the Pension Benefits Act and common-law fiduciary obligations, and in carrying out its administrative duties, the administration corporation would also be subject to the Income Tax Act and the Pension Benefits Act. We would suggest that the administration corporation should simply be renamed the OMERS board. So throughout the rest of our submission, we will refer to the sponsors committee and the OMERS board on that basis, not that it isn't all confusing enough anyway. We also have schematic diagrams that will help later.

In terms of an OMERS governance model, we would suggest that Bill 206 establish the three components that we believe are the basic foundation for a partnership agreement, because the bill creates a new OMERS operating structure, codifies the duties and responsibilities of the sponsors committee, and prescribes the representation rights of unions and organizations representing plan members and their employers. But as I've said earlier, we don't believe the bill goes far enough. Our submission would build on this foundation in a number of ways. We believe we're presenting the terms and conditions necessary to create the kind of partnership agreement that would be needed for the purpose of designing and administering the OMERS pension plan and managing the fund.

We also have in our brief a presentation of an operating structure in which we believe the partners could fulfill their sponsorship requirements. Under the operating structure, we have some appendices that outline things, which I will go through at the end. If we look at the schematic diagram we have at the back, what we are suggesting is that it is the organizational chart based on the operating structure used by the TPP that we believe would be of benefit to OMERS in terms of a structure. We believe the OMERS partners should use a similar structure to fulfill their sponsorship responsibilities. In this structure, the partners delegate authority or they assign duties to three entities: the OMERS board, the partners committee and the pension negotiations committee. The responsibilities and duties of each entity should be codified in the partners agreement.

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In that structure, which is presented in the appendix in the back, appendix B, the partners committee would provide ongoing interaction between the partners. The partners committee would not have decision-making power; the committee is the partners' agent. The partners committee is responsible for the plan's non-cost amendments and legislative maintenance between rounds of negotiations. Before each evaluation, the partners committee would meet with plan representatives. That would allow the board to consult with the partners during the preparation of an valuation.

An OMERS partnership agreement should require the board to make its best effort to respond to comments and recommendations the partners make, but obviously the content of the final valuation would be the decision of the board. We recommend that the members of the members sponsor committee be appointed to the partners committee and that, on a rotational basis, the TPP partners each appoint representatives to our partners committee. OMERS sponsors would do a similar thing, but would need to appoint more, given the broad range of groups represented. We believe that Bill 206 should be amended to establish a partners committee with equal representation from each partner.

We believe there should also be a pension negotiations committee. Again, you can look through the schematic and the explanation on page 9 of how that body would work and how it would be struck.

We recommend also that any of the costs of negotiation, the costs related to the actuaries preparing information as well as the cost of any mediation and arbitration should be paid for from the fund. We believe Bill 206 should be amended so that the cost of the board's actuary, in preparing any other information that the partners might need in discussing changes to the plan, be paid out of the fund.

Under "Technical Committee," we do not believe the OMERS partnership agreement should include a technical advisory committee, because we believe each partner would likely establish an advisory committee in its bylaws. We've included an advisory committee in the proposed structure to show by example how it would work if the TPP model were used. In the explanation

you'll find there, we have a rationale for the partners each having their own technical committees.

If you flip to page 11, where we talk about the authority of the sponsors committee, this is, I think, very important. OMERS is a workplace pension plan, and its only purpose is to provide retirement wages to plan members and beneficiaries. Ultimately, it's the partners who are responsible for the plan. They should establish a partnership for the purpose of designing and administering the plan and managing the fund. The terms and conditions they establish in a partnership agreement should govern all aspects of the plan and the fund. No aspect or component of the plan, including the OMERS board, has the authority or responsibility unless that authority or responsibility is delegated or assigned to it by the partners through an agreement.

Section 25 of Bill 206 establishes the power of the sponsors committee. This section does not provide the partners with the authority needed to carry out the sponsorship responsibilities. It should be amended to codify the full scope of the partners' authority. If we look at the TPP model, the partners should be responsible for designing the plan structure; setting the benefits of the plan; developing new policy; deciding what the contribution rate will be and what the funding levels, margins and contingency reserves will be; making changes to the plan, to the partnership agreement or to any other plan documents; deciding whether or not to file a valuation more frequently than required by the act; and appointing the board and defining the role of the board.

Subsection 42 (2) of Bill 206 requires that the partners meet every three years following the triennial valuation. OSSTF believes the sponsors' partnership agreement should contain a commitment that either partner may ask the other to meet to discuss changes for any matter for which they carry responsibility.

The next section talks about delegation of responsibilities to the board, and I would point you toward the bottom of page 12. These are suggestions we're making in terms of responsibilities and authority that we think should be established in a partners' agreement. In effect, we believe a memorandum of understanding should be set out with the board, setting out what the board is responsible for. I won't go through that list of items, but reaching by agreement between the partners what responsibilities the board has is, we believe, the appropriate course. We've outlined what we think those responsibilities should be.

Bill 206, as it's written, gives the board more authority than it ought to have, and it's not as specific as the TPP partnership agreement in codifying the responsibilities of the board. On page 13 you see a list of responsibilities that we believe the OMERS board should have. Again, we've been very specific in terms of requirements and obligations that the board should have.

Obviously, a key issue is representation. Bill 206 establishes a method for appointing employee representatives to the sponsors committee and the OMERS board. We believe the method that is included in Bill 206 is unfair and capricious. It prevents most unions and asso-

ciations from representing the pension rights and entitlements of their members. Sections 23(2) and 39 set out the composition of the sponsors committee, effective on the first anniversary of the OMERS act. The appointing process does not adequately reflect the size and composition of the plan's membership. For example, CUPE police and firefighters have a permanent seat on the sponsors committee, and they have a permanent right to appoint members to the board.

When we look at the data from the OMERS board as of November 4, and that's included for your information, we can see that the actual difference in membership between some of the unions and associations is very small. For example, the firefighters represent 4.75% of the plan's active membership. OSSTF represents 4.38% of the plan's active membership status. That's a difference of about 834 members, which could obviously fluctuate as circumstances change. We would argue that if we're placed in a rotation pool with 31 other unions and associations representing employee contributors, it will be a fairly arbitrary cut-off in terms of the unions and associations included in this act.

If we look at the board's updated data, it identifies that of the 35 unions and associations representing OMERS contributors, there are only 10 that represent more than 1% of the plan's total active membership. We would recommend that Bill 206 be amended so that unions or associations that represent 1% or more of active members have permanent seats on the sponsors committee. Employee representatives on the sponsors committee would make all their decisions, including their appointments to the OMERS board, on a representation-by-population basis. That would still address the needs of larger unions to adequately represent their membership base.

In terms of appointments to the OMERS board, again I will make a comparison to the teachers pension plan. Prior to establishment of the partnership, each teacher union had the authority to appoint board members to the Teachers' Superannuation Commission. When the commission was replaced by the TPP board of directors, that meant that we no longer had those individual rights as unions, but that the teacher sponsors collectively appoint TPP directors. It wasn't easy for the teacher federations at the time to relinquish their authority to make those direct appointments, but soon after we became pension partners with government and the partnership agreement was negotiated, the teachers developed a very good process of selecting board members. When a seat becomes vacant, we have a thorough process to help us identify the skills and expertise that the board needs. We solicit candidates. A selection committee shortlists, we interview and we collectively decide who to appoint to the board.

Subsection 33(1) establishes the process by which employee representatives will appoint board members. We would argue that this is probably the sponsors' most important responsibility. OSSTF believes the member sponsors committee, rather than individual unions and associations, should appoint representatives to the OMERS board.

The federation's amendment is based on the premise that once directors are appointed to a pension plan board, those directors, by law, are required to act in the best interests of all plan members. The members sponsor committee, representing the majority of plan members, should appoint directors to the board. Again, if you look at the bottom of page 16, we would argue that there should be at least a 75% weighted vote from the appointing sponsors committee, which again would address the different representation numbers of the various unions.

I won't walk you through all of the detailed other changes that we would recommend to the bill, but you can see on page 17 our comments on supplementary benefit plans. We would argue that any liability incurred as a result of those should be the responsibility of the parties who negotiate those improvements.

We do take umbrage at the use of the words "former members" to refer to retired members of the OMERS plan and would argue that that language should be changed.

In terms of the funding management policy, subsection 15(1) of the bill suggests an assets-to-liabilities ratio of 1.05; in other words, setting aside a 5% contingency reserve before a plan's surpluses can be negotiated. We would support a 5% contingency reserve because it allows the plan actuary to use less conservative margins for adverse deviation if the actuary knows that the partners can't spend the first dollar of surplus.

We believe Bill 206 should be amended to have a funding management policy in its entirety, with perhaps a contribution corridor so that when the plan is funded between 90% and 105%, there are no changes to either benefits or contribution rates.

The Vice-Chair: Thank you very much, Ms. Kimberley-Young. Your time is up.

I want to thank everyone for participating. I want to thank the ministry, ministry staff and everyone else.

This committee now stands adjourned until 4 p.m. on Monday, November 21.

The committee adjourned at 1801.

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