

Alert

To the immediate attention of the Clerk and Council

November 8, 2005 – Alert 05/083

AMO'S COMMENTS ON OMERS – BILL 206 STANDING COMMITTEE

*(All 382 Municipal Governments that are OMERS Employers
should read this Alert immediately)*

This Alert contains:

1. Information on the Standing Committee process and the need for strong municipal employer representation; and,
2. The thrust of AMO's submission to The Standing Committee on General Government

1. STANDING COMMITTEE PROCESS:

Roger Anderson, AMO President, has requested the opportunity to make an oral presentation to The Standing Committee on General Government to consider Bill 206, *An Act to revise the Ontario Municipal Employees Retirement System Act*.

The Bill is proceeding to hearings as a First Reading Bill, which gives the government added flexibility to making amendments or introducing a new Bill. AMO strongly encourages members to meet with their local Provincial MPPs and ratepayers to inform them about our shared concerns regarding this Bill as it currently reads. As well, members should insist that if there are any future modifications of Bill 206, the Bill must be referred to the Standing Committee process for line-by-line analysis by all those interested and before the Bill is reported to the House. Open, transparent and accountable process is demanded by a Bill that in essence represents 8% of Ontario's Gross Domestic Product.

AMO strongly encourages members to request the opportunity to make an oral submission to the Standing Committee on General Government at one of the public hearing dates scheduled on November 14, 16, 21, and 23, 2005, in Toronto. The deadline to request Committee time to make an oral presentation is **Wednesday November 9, 2005**.

Alternatively, members who do not wish to make an oral presentation but wish to comment on the Bill may send written submissions to the Committee Clerk as follows:

Tonia Grannum, Clerk
Room 1405, Whitney Block, Queen's Park
Toronto, ON M7A 1A2
Phone: 416-325-3519
Fax: 416-325-3505

Any written submissions must be forwarded to the Committee Clerk by **Thursday November 24, 2005**.

2. THRUST OF AMO'S SUBMISSION:

A. Understanding the Bill and its Implications:

The AMO Working Group on Bill 206 maintains that the Province is rushing to reform one of Canada's most important pension funds without a reasonable understanding of the potential repercussions and without sufficient regard to the best interests of employees, retirees, employers, communities, taxpayers or Ontario's economy.

AMO's view is that the 382 municipal employers participating in OMERS and their employees deserve all the facts about the government's proposed changes to the OMERS plan – yet, any substantive detailed analysis of costs related to the changes has not been provided by the Province. The Province has not issued a white paper or any other provincial consultative document.

The OMERS Board, not the Province, provided the financial analysis. This analysis confirms that proposed changes will significantly increase labour costs - changes municipalities cannot afford - that will create pressure to increase property taxes throughout Ontario. These anticipated increased cost estimates for the Basic Plan and Supplemental Plans did not capture: a pending increase in contributions in 2006 (9%); potential increases in post employment benefits associated with adopting supplemental plans; sponsor costs that will be recovered from employers to support the work of the Sponsors Corporation (estimated at \$5 - 10 million start-up costs); anticipated higher administrative costs associated with the increased complexity of administering the primary plan and various locally bargained supplemental plans; and, other costs associated with the potential future extension of supplemental benefits to other emergency workers (e.g., paramedics).

AMO strongly upholds that the Province has not been diligent to ensure that with these proposed changes the plan remains viable, that benefits are affordable, and that the public's best interests are protected. AMO contends that there is no enhancement to public services notwithstanding the cost of devolution. Funds directed to a "devolved" OMERS will take funds away from infrastructure and service improvement. Municipalities are strongly urged to identify their specific impacts of the proposed legislation, including supplementary plans, on both taxpayers and employees given their own local profiles and to provide this information to the Standing

Committee. This will allow the Committee to get a true reflection of what proposed changes in this Bill may cost at the local level.

B. Key Highlights:

AMO's submission to the Standing Committee will highlight significant municipal concerns about proposed changes identified in Bill 206 across key areas, including:

Governance:

- The government is fond of saying that OMERS is just another pension plan. Yet, unlike other pension plans (e.g., for teachers or hospital workers), OMERS has an extremely diverse number of employer and employee groups (e.g., municipal government, school boards, libraries, police and fire, children's aid societies, electricity companies, etc.) and would be the only plan in Ontario with diverse employer groups that has no Provincial involvement. To be fair, OMERS should be compared to municipal employee plans in other provinces, not to other public plans in Ontario.
- The Bill proposes a Sponsors Corporation with equal employer and employee group membership. If only a simple majority of the Sponsors Corporation is required for decision-making, as set out in Bill 206, 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 or employer members from that group. In other words, a minority interest could easily impose an outcome on the majority. It seems reckless to allow key plan changes to be approved without total consensus. Other devolved pension plans (e.g., Hospitals of Ontario Pension Plan, Ontario Teachers' Pension Plan, B.C. Municipal Plan) require unanimous agreement of the appointed parties to implement a fundamental change to the plan.
- Originally, OMERS devolution discussions in 2002 were about increasing efficiencies in decision-making and streamlining OMERS Board appointments. Bill 206, however, has been drafted to ensure that employers will be required to provide additional (i.e., supplemental) benefits and which will lead to higher contributions for both employers (representing taxpayers) and employees. It is also designed to devolve governance to an arbitrator with a governance structure designed for deadlock.
- Funding to enable stakeholders to adequately prepare for devolution is not addressed under Bill 206 - funding that the government provided in the devolution of the Ontario Teachers' Pension Plan and OPSEU Pension Trust. Start-up costs for the Sponsors Corporation estimated between \$5 - 10 million will be downloaded to OMERS members as a result.
- Ultimately, Bill 206 is fundamentally at odds with basic notions of devolution or autonomy. The government has characterized Bill 206 as an "autonomy Bill" while controlling through legislation detailed requirements on matters such as supplemental plans and a permanent prohibition against the introduction of defined contribution plans. The Bill goes as far as to have the Province provide for direct appointment rather than the plan sponsors to the initial Sponsors Corporation or Administrative Corporation.

Dispute Resolution:

- Bill 206's simple majority scheme essentially devolves governance of the \$36 billion OMERS plan into the hands of an arbitrator.
- Bill 206's decision making process favours binding mediation/arbitration over negotiation/bargaining. For example, if an interested party wanted an issue addressed by the Sponsors Corporation, it would have to be resolved through this process if an agreement among the Sponsors could not be reached. Easy and speedy access to a binding dispute resolution process may only serve to discourage parties from taking more reasonable positions in bargaining.
- Without imposing clear limits on the powers of the arbitrator, Bill 206 could allow for decisions to be approved that would set the stage for an increase in contributions or establish additional/supplemental benefits for certain plan members. In essence, an arbitrator could have a significant say on the municipal tax rate, without any regard for tax increases or cost-cutting in terms of human resources or services to accommodate an arbitration decision.

Supplemental Benefits:

- Bill 206 restructures OMERS into a system comprised of a primary plan and possible additional supplemental plans, which would provide for additional pension benefits such as: enhanced early retirement; or, an increased benefit accrual rate (2.33%) higher than the current maximum (2.0%).
- These supplemental plans would act as standalone pension plans operated under the OMERS umbrella in conjunction with the primary plan. Each employer could conceivably provide access to different supplemental benefits under a number of collective agreements made even more complicated if an employee changes employers over the course of their career. This complexity would all have to be managed and administered by OMERS, requiring an increase in actuarial and technology costs at the very least.
- At odds with any notion of "autonomy", Bill 206 specifically directs the Sponsors Corporation to consider providing supplemental plan benefits to the police and fire fighter sectors.
- Given the "no strike" restrictions in the police and fire sectors, interest arbitrators would have the ability to award access to such plans if it were raised in local collective bargaining.
- Although the costs of supplemental benefits would be borne equally by employer and employee members, anticipated local costs are potentially very high. In many communities, it is estimated that supplemental plans created as a result of Bill 206 could result in property tax increases of at least 3%, without any other service cost considerations or even inflationary costs.

- Compounding the above risks is the fact that the future costs do not factor in the already soon to be approved OMERS contribution increases (9%) for 2006, with further increases expected in future years. Municipalities are working hard to hold the line on property taxes. They do not have the budget flexibility to accommodate supplemental benefits. In the past, arbitrated settlements have not reflected the “ability to pay” within the terms of a binding settlement.
- As municipalities try to cope with the crushing requirement to subsidize provincial health and social services programs to the tune of \$3 billion a year, Bill 206 provisions could not have come at a worse time for the property tax payers of Ontario.

SUMMARY:

OMERS circumstances have vastly changed since the initial discussions concerning devolution in 2002 – the magnitude of the pension plan valued at \$36 billion in net investment assets, its importance to municipal employees and the significant role OMERS plays in the provincial economy (i.e., currently equal to approximately 8% of Ontario’s annual Gross Domestic Product). As such, it ought to warrant such study and due diligence to ensure that this critical piece of legislation is done right.

AMO believes that the government has not demonstrated that it has carefully completed and reviewed an independent and comprehensive financial analysis of these changes. This Bill fails on cost impact, it fails on governance, and it fails on autonomy if that is in fact the government’s objective.

A hasty implementation of such fundamental changes would be reckless and irresponsible.

For more information, contact 416-971-9856: Brian Rosborough, Director of Policy at ext. 318 or Patricia Swerhone, Senior Policy Advisor at ext. 323