Alert

Association of Municipalities of Ontario

393 University Avenue, Suite 1701
Toronto, ON M5G 1E6

Tel: (416) 971-9856 • fax: (416) 971-6191
email: amo@amo.on.ca

To the immediate attention of the Clerk and Council **December 15, 2005 – Alert 05/092**

OMERS – BILL 206 RECEIVES SECOND READING AND HEADS BACK TO STANDING COMMITTEE

Issue: Amendments to Bill 206 make some substantive changes to the governance structure, voting and supplemental plans. The Bill has become even less permissive and more costly.

Action:
Municipal governments need to continue the message that neither the Bill nor its amendments have been analyzed for cost impacts and that the Bill is creating very complex pension plan.

The amended Bill has been referred back to Standing Committee for further consideration prior to Third Reading – the dates for which are yet to be confirmed. AMO will prepare a further submission to the Standing Committee and keep members informed of the commentary and amendment requests. Members should take every opportunity inform MPPs and taxpayer groups of the devastating impact that Bill 206 will have on Ontario's communities.

Understanding the Amendments to the Bill:
At clause-by-clause review there were more than 100 motions for amendments to Bill 206 tabled for review by the Standing Committee members. Some of the most significant Government (i.e., Liberal) proposals that amended the Bill as passed at Second Reading included:

- **Paramedics** – Are included in the meaning of "police and fire sectors" and were not part of our costing. It has also been clarified that civilian officers are included. This will increase costs dramatically.

- **Supplemental Plans** – Supplemental plans shall be provided to police and fire sectors (no longer optional) and paramedics. Bill 206 would now require 4 supplemental plans to be made available for local negotiations within two years of the Act coming into force:

  - 2.33 accrual rate for NRA 60
  - unreduced at 80 (if age 50 or older) for NRA60
  - unreduced at 85 (if age 55 or older) for NRA65
  - best 3 years or best 4 years (compared to best 5 years in basic plan)

  The amended Bill limits the provision of these supplemental plans to one per round of local collective bargaining – which will likely have the unintended affect of reducing the length of contracts to one year.

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- **Funding of rebound costs –** assets from the supplemental plan will be transferred to the primary plan to fund liabilities created by supplemental plans.

- **Cap on Contributions** – the 60 months BAE and 0.6% CPP offset limits only apply to the primary plan, not applicable to supplemental plans.

- **Arbitration Decisions** – Prohibits awards that would result in a three year cumulative increase of more than 0.5% of pensionable earnings.

- **Composition of Sponsors and Administration Corporation(s)** – Includes two (2) additional members on the Sponsors Corporation for AMO for a total of 5 appointments on the Sponsors Corporation, and a total of 3 appointments to the Administration Corporation. In addition, AMO will be required to make two appointments to an advisory committee on supplementary plans for the police and fire sectors and 3 appointments to an advisory committee on supplemental benefits for other employees. In total, AMO will be required to make 13 appointments.

  AMCTO will be provided with a seat as an <u>employee</u> representative on behalf of all management/union exempt OMERS members.

- **Decision Making** – The government has introduced a complicated and unusual new decision making protocol. The Sponsors Corporation may make a specified change (e.g. change to benefits or contribution rates) with an affirmative vote of two-thirds of its members. If a proposal is neither accepted (2/3 majority), nor rejected (simple majority votes against), within a 30-day period, the Sponsors Corporation may, by an affirmative vote of a simple majority of its members (i.e., 50% + 1), refer the proposal to mediation and arbitration.

- **Solvency –** Current pension solvency rules under the *Pension Benefits Act* (PBA) make supplemental plans considerably more expensive for employers and employees than they would be if the solvency rules did not apply.

  On December 8, 2005, Finance Minister Dwight Duncan, wrote to the OMERS Board indicating that he is prepared to "… recommend to Cabinet" that new supplemental plans created under Bill 206 be exempted from solvency requirements, through a regulation amendment, under the following conditions:

  1. that, subject to the approval of Cabinet, the supplemental plans are prescribed by regulation as jointly sponsored pension plans under the PBA as amended by the *Budget Measures Act, 2006* (which passed Third Reading on December 14, 2005.)
  2. that, subject to the approval of Cabinet, the supplemental plans will be exempted from coverage under the Pension Benefits Guarantee Fund (PBGF). The plans would not be covered by the fund if the plans were not funded on a solvency basis.
  3. that the supplemental plans be created in a way that ensures that, in the event that the plan is wound up, if there are insufficient assets to pay for the accrued benefits, members would only receive benefits to the extent that they are already funded, (i.e., the pension plans will reduce benefits if there are insufficient assets rather than require additional payments by employers or employees.)

The difference related to solvency rules is illustrated in the OMERS Board's hypothetical costing analysis. The actuarial consultant hired by OMERS prepared an example of a "Hypothetical Employer" with 1000 employees: 260 NRA60 employees and 740 NRA65 employees.

In the "Hypothetical Employer" example, OMERS costs increase from $4.04 million to $5.35 million a year with solvency rules in place - an increase in pension costs of 30%. With an exemption from solvency rules, the same employer's costs would increase about 10%, from $4.04 million to $4.41 million. However, the costing assumed only one supplemental plan per employee group, which is now an unrealistic scenario given the aforementioned amendments to Bill 206 adding paramedics and making a menu of supplemental plans mandatory over time.

Although the intent of the Minister's letter is helpful, it provides no guarantee that the solvency exemption will occur. Consequently, it would be irresponsible to consider the cost implications of Bill 206 outside of the current solvency rules.

Potential Fiscal Implications :
Because there are no guarantees that the solvency rules will be changed, AMO is not in a position to reduce its cost estimates of an average 3% property tax increase or up to $380 million a year. In fact, with the addition of paramedics and a new guarantee of additional supplemental benefits, costs could be higher than initially estimated by the more than 120 municipal treasurers in Ontario who undertook a costing analysis on behalf of AMO.

Although AMO and others have requested costing information from the Government, the Government has provided no information on costs. In an effort to determine if the government has carried out any cost analysis of Bill 206's original or amended provisions, AMO is proceeding to make an information request under the provisions of the *Freedom of Information and Protection of Privacy Act.*

Summary:
While some municipalities, and AMO, were permitted to participate in the Committee hearings, many municipal stakeholders were shut out of the process entirely. More than 160 municipal governments have passed resolutions asking the government to reconsider Bill 206. Instead the government appears to be forging ahead with amendments that ignore the concerns of municipal governments and substantially meet virtually all of the expectations of the police and fire service unions.

If Bill 206 becomes law in Ontario, municipal governments will need to prepare for continuing property tax increases and/or significant service reductions to pay for enriched retirement benefits. It is clear that Liberal government is creating its own legacy, akin to the downloading legacy of the Harris government.

Municipal governments and their residential and commercial taxpayers deserve nothing but full disclosure of the government's costing analysis as part of their due diligence on this major policy initiative.

For more information, contact 416-971-9856: Pat Vanini, Executive Director, at ext. 316 or
Brian Rosborough, Director of Policy at ext. 318