

Alert

To the immediate attention of the Clerk and Council

February 2, 2006 – Alert 06/004

OMERS – Bill 206 – More Amendments Bill Remains Flawed

- Issue:
- Standing Committee undertaking clause-by-clause review
 - Update on AMO's FIPPA Request

I. Summary of the substantive Government proposals

Some observations:

- The amendments at First Reading are being amended and others deleted as outlined below.
- Composition of the Sponsors Corporation and the Plans Administration Corporation has changed again.
- OMERS made a submission commenting on motions and what's still missing.

We do not as yet have a complete list of the motions adopted, but have indicated the Committee's action for those that we do know. There is one significant amendment that was withdrawn (see # 2 below) which if we didn't succeed, would have added more costs to municipal governments.

Highlights of Proposals:

1. Defined Benefit Plan

At First Reading clause-by-clause, the government moved the deletion of section as requested by AMO, OMERS and others. On the following day, the government members sought unanimous consent to reinsert the section but failed to get that consent.

Today, an amendment was adopted to insert a section that will require that the primary pension plan be a defined benefit plan. This means that supplemental

plans, at least those that are not already prescribed by the Bill, could in theory be based on a defined contribution formula based on a 2/3-majority vote. This means the primary plan and the prescribed supplemental benefits are now locked-in by the Bill.

2. Prescribed Supplemental Benefits (for police, fire and paramedics)

An amendment would require that, at a local level, there be at least 36 months between the date that one prescribed supplemental benefit is made available and the date that any subsequent supplemental benefit is made available (by that same employer). This means that access to the prescribed benefits cannot be accelerated by shortening the terms of collective agreements, a consequence that was generated by an amendment made at First Reading. In relative terms, this is helpful.

A government motion to replace Subsection 11(3) was withdrawn as a result of some quick advocacy. If the amendment had passed, it would have resulted in potential new additional costs associated with the prescribed supplemental plans for fire, police and paramedics, as the sections appeared to obligate employers to share in the costs of those benefits on a retroactive basis as well as prospective basis for those members who wish to purchase past service.

3. Cap on Employer Contributions

Section 12 is to be deleted. This section limited the improvements that could be made to the primary pension plan. The implication of the section was that the primary plan provide benefits based on:

- the current best 60 consecutive months of earnings (multiplied by pensionable service)
- and an accrual rate of no greater than 2% less an offset of 0.6% of the YMPE (which allows for some level of CPP integration).

In other words, with the deletion of Section 12 the primary plan can be amended in the future to improve either the best average earnings formula (i.e., best 36 months) or the accrual rate (i.e., 2% with no offset). This is a significant change and is clearly a concession to CUPE and other employee groups who have been fighting the "cap".

4. Governance Structure

The Government has proposed a number of changes that again deal with the governance of OMERS.

a) Sponsors Corporation

Section 38(1) is to be amended with the effect that during the transitional period (of one year) the Sponsors Corporation will be comprised of 14 members (compared to the 22 required by the Bill following second reading and compared to the 16 voting members when the Bill was introduced).

A new section 39(9) is to be added, which will give multiple (i.e., weighted) votes to AMO and CUPE (Ontario). The two AMO members will each have two votes and the one CUPE (Ontario) member will have three votes. Each side (employers and plan members) will have nine votes, for a total of eighteen.

A list of the revised Sponsor Corporation membership follows.

14 voting members – Sponsors Corporation *	
Number in () indicates the composition at Second Reading	
AMO and CUPE (Ontario) have weighted votes	
Employer Representatives	Plan Member Representatives
AMO – 2 (5)	CUPE (Ontario) – 1 (5)
City of Toronto – 1 (2)	CUPE Local 79 and 416 - 1 (0) and the appointment rotates
School Boards – 1 (1) and the appointment rotates	PAO – 1 (1)
OAPSB – 1 (1)	OPFFA – 1 (1)
Other Employers - 2 (2) and rotational representation continues	OSSTF – 1 (0) (replaces representative to be chosen by Association of Municipal Managers, Clerks and Treasurers who were to represent non- union/unaffiliated employees)
	Other Members – 1 (2)
	Former Members - 1 (1)

- Second Reading – 22 voting members

b) Administration Corporation

Section 33(2) is to be replaced. The replacement section provides for a three-year transitional period (versus the one year period previously in the Bill), during which the composition of the Administration Corporation will be as prescribed by the Bill, notwithstanding any by-laws passed by the Sponsors Corporation.

Section 44 is to be replaced. The replacement section alters the composition of the Administration Corporation during the three year transition period follows. Unlike the Sponsors Corporation there is no weighted voting.

14 voting members – Plans Administration Corporation Number in () indicates the composition at Second Reading No weighted votes	
Employer Representatives	Plan Member Representatives
AMO - 2 (3)	CUPE (Ontario) – 2 (3)
City of Toronto - 1 (2)	PAO – 1 (1)
School Boards – 1 (1)	AMCTO – 1 (1)
OAPSB – 1 (1)	OPFFA – 1 (1)
Other Employers - 2 (2)	Other Member Groups 1 (2)
	Retirees - 1 (1)

The AMCTO has representation on the Administration Corporation whereas it does not have representation on the Sponsors Corporation. On the other hand, OSSTF has representation on the Sponsors Corporation but not on the Administration Corporation. Despite the equal size of OSSTF and the non-union (AMCTO), there are clear inconsistencies in the initial composition (and voting structure) of the Sponsors Corporation and the Administration Corporation. This, along with fire and police with a seat each, the composition does not accurately reflect a representation by population model.

A motion proposes that the Lieutenant Governor in Council will make the first appointments to the Administration Corporation. These appointments are not to exceed three years.

A new section 33(1.1) is to require a two-thirds majority vote of the Sponsors Corporation members in order to pass by-laws that affect the composition of and method for choosing members of the Administration Corporation.

c) Advisory Committees

Section 40(3) and 41(3) are to be struck out. The consequence of this change is that the advisory committees will become permanent (i.e., they will not be discontinued upon the establishment of the Sponsor Corporations by-laws).

II. AMO's FIPPA Request Update:

The Association made a FIPPA request December 15, 2005 for information related to the financial analysis of the Bill and government sponsored amendments. AMO was recently informed that MMAH is extending the timeframe for response until February 27, 2006. AMO is appealing this extension request for the following reasons:

- We did not receive an adequate decision letter within the 30 days from the date that our request was received, as required by legislation;
- We did not receive notice that there has been an extension of a time limit within 30 days from the date that our request was received, as required by legislation; and,
- We do not agree that an extension is necessary, or that an additional 31 day time period is reasonable.

Given the legislative stage of the Bill, and that it could be reported to the House as early as February 13, AMO has pointed out the extremely time sensitive nature of the request. AMO will keep members informed of the results of our appeal.

Action:

AMO wishes to acknowledge the work of municipal governments in their efforts to raise the issue locally with their MPPs and community. These efforts should continue as the Bill will be reported to the House for Third Reading debate. Timing for this is not known as yet but could occur as early as February 13 when the House resumes.

AMO would also like to acknowledge those municipalities that made written submissions as well as appearing at Standing Committee.

AMO will continue to message that this Bill is flawed and that the government should withdraw it.

This information is available in the Policy Issues section of the AMO website at www.amo.on.ca

For more information, contact: Pat Vanini, Executive Director, at 416-971-9856 extension 316