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Monday 28 November 2005

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Lundi 28 novembre 2005

**Standing committee on
general government**

**Comité permanent des
affaires gouvernementales**

Ontario Municipal Employees
Retirement System Act, 2005

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

Chair: Linda Jeffrey
Clerk: Tonia Grannum

Présidente : Linda Jeffrey
Greffière : 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**

Monday 28 November 2005

Lundi 28 novembre 2005

The committee met at 1622 in 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 Chair (Mrs. Linda Jeffrey): The standing committee on general government is called to order. We meet today for the purpose of clause-by-clause consideration of Bill 206, An Act to revise the Ontario Municipal Employees Retirement System Act.

Committee, before you you have a letter submitted today by OMERS. You also have three new motions—I tell a lie. One is a new version and the other two are additions, one being 15 and the two new ones 73a and 76a. You should have those in front of you. So those are three additional pieces of paper on your desk, along with the clauses you have before you.

We'll now commence clause-by-clause consideration of the bill, beginning with the—

Mr. Brad Duguid (Scarborough Centre): On a point of order, Madam Chair: I suppose I have to seek unanimous consent. There are two amendments that have been circulated around, one for subsection 40(1) and the other for subsection 41(1). I'm just seeking unanimous consent that they be included as well. I have talked to the opposition parties. They're really just correcting a drafting error.

The Chair: I think we just said we'd include those. I don't think we have any objection to that.

Mr. Duguid: That's fine. The only other request I was going to make is that perhaps, given the complexity of the bill, maybe we should have staff up at the table, because there are going to be a lot of questions.

The Chair: Sure.

Mr. Duguid: Rather than having them come back and forth, we might as well have them here for the whole time.

The Chair: It's a little complex.

Yes, Ms. Horwath.

Ms. Andrea Horwath (Hamilton East): Just to clarify then, the amendments we just got on the table right now, my understanding is that they are somewhat housekeeping amendments based on errors in language that might have been found on the government side of the table. I just want to confirm that that's the case.

The Chair: I believe so. They're consequential amendments.

So we're going to begin with subsection 1(1), a government motion. Mr. Duguid.

Mr. Duguid: I have a motion to move here.

I move that the definition of "OMERS pension plans" in subsection 1(1) of the bill be struck out and the following substituted:

"OMERS pension plans" means the primary pension plan, any retirement compensation arrangements that provide benefits for members and former members of the OMERS pension plans and such other pension plans as may be established by the sponsors corporation; ('régimes de retraite d'OMERS')."

The Chair: Any comments or questions on this section?

Ms. Horwath: Can I just get a clarification of exactly why this amendment was necessary?

Mr. Duguid: The information I have is that the motion would recognize a retirement compensation arrangement as an OMERS pension plan, provide the sponsors and the administration corporations with a full range of powers for RCAs as they exercise under the bill for other OMERS pension plans, and maintain OMERS current powers with regard to retirement compensation arrangements. I'd be happy to refer it to staff if you want some more details on that.

Ms. Horwath: No, I think that'll do it.

The Chair: Any other comments or questions on this motion? Seeing none, shall it carry? All those in favour? All those against? That's carried.

Subsection 1(4). Ms. Horwath.

Ms. Horwath: I move that subsection 1(4) of the bill be struck out and the following substituted:

"Police and fire sectors

"(4) A reference in this act to persons who are employed in the police and fire sectors is a reference to OMERS pension plan members who are members of a police force as defined in section 2 of the Police Services Act or who are employed as firefighters as defined in subsection 1(1) of the Fire Protection and Prevention Act,

1997, or as paramedics as defined in subsection 1(1) of the Ambulance Act.”

The Chair: Any comments or questions on section 1?

Mr. Duguid: Just briefly. We support the addition of the paramedics and commend the member for bringing that forward. We do have a motion that would do the same thing. However, the government motion also changes the definition of “police force” to “police officer,” which eliminates the non-uniformed police from consideration for subscribed supplemental benefits. So what we would be doing is voting against this one and we’ll be supporting the government motion, because there’s more to it than that.

Mr. Ernie Hardeman (Oxford): Just a clarification of the comments. It’s not to this motion, so we may want to wait till we get to the government motion, but the challenge of making it “police officer” as opposed to “a member of the police force,” taking out civilians: What happens to people who have been police officers and are now on an extended pension and then they go into regular service because they no longer want to do police work? How do we deal with those?

Mr. Duguid: Did staff understand that? I think I understand where you’re going on it. Did staff understand that question, or could we rephrase it?

The Chair: Could I ask staff to identify themselves for Hansard before they begin?

Ms. Janet Hope: Janet Hope. I think I understand the member’s question, but I think the point of the government amendment is to address consistency with the definitions under the federal Income Tax Act. So that’s the issue at question.

The Chair: Any more comments or questions on this motion?

Mr. Hardeman: Again, I don’t know whether we’re going to deal with the other motion, but the challenge is, at what point does that change? We’ve decided that in this bill we’re not necessarily consistent with the federal guidelines as to what a police officer or a firefighter is and the abilities of the pension plan to cover them. How does that change when—I’m a police officer, I’ve worked 20 years, I’m not yet at retirement and I’m on the enhanced pension. I’m on a supplementary pension and I’ve decided to give up policing and go into civil dispatch, because I’m still with the police force. Can I stay on the full double pension and still get to my early retirement?

Ms. Hope: I think the question you’re asking is one for the pension administrator to determine when there are changes in the status of an individual that might affect their eligibility for specific benefits, and not the specifics of this bill.

Mr. Hardeman: Maybe, Madam Chair, we can debate it further when we actually see the amendment that’s coming forward. I still have some problems with it.

The Chair: Sure. Any more comments? Ms. Horwath.

Ms. Horwath: May I just ask for clarification why the motion that I provided doesn’t cover off the issue adequately?

The Chair: Does staff want to answer that one? We want to know why the existing motion doesn’t cover off the police, why the definition needs to be changed.

Ms. Hope: The definition in the bill, as introduced, is broader in scope and would include a broader group of individuals than those who would be eligible as public safety employees under the federal Income Tax Act.

Ms. Horwath: So “members of a police force” is not as broad as saying “employed as police officers as defined in the Police Services Act”?

Ms. Hope: It’s actually the reverse. As I understand it, “police force” is broader and would include civilian and non-civilian police, whereas “police officer,” as defined in the amendment, is narrower in scope and would refer specifically to those who would be eligible or would be considered public safety employees under the federal Income Tax Act.

Interjection.

The Chair: We have a quorum call, so those members who have to leave to make quorum—I guess we can take a five-minute recess. It’s a five-minute bell. We’ll take a recess.

The committee recessed from 1632 to 1637.

The Chair: We’re back from our recess, and we’re on item number 2, I believe, the New Democratic Party motion. Ms. Horwath, did you have any more comments or questions on the bill, this section?

Ms. Horwath: No.

Mr. Duguid: Just quickly, there’s a question that Mr. Hardeman had asked, and we’ve got a more detailed answer.

The Chair: A better answer?

Mr. Duguid: Yes.

Ms. Hope: I think the question spoke to an individual whose employment status changes and how that employment status would affect their pension entitlement. We have that situation now. An individual might move, if they’re currently a uniformed police officer, therefore a normal retirement age 60, into a position that is a civilian police position, which would be a normal retirement age 65. So when that situation happens, you don’t lose your pension entitlement that you’ve accrued to that point, but if you move into new employment, then you’re subject to the pension benefits associated with that new position.

In this case, where we’re talking about the definition in the amendment, it would be consistent with the definition that is used for police now in the existing OMERS plan. It would align it with the existing distinction between the NRA 65 and NRA 60 police.

Mr. Hardeman: I’m still concerned a little bit about it. I understand that there are different people working in the civilian section, as opposed to in the actual administration of justice section. If there was a supplemental plan, I could understand that the supplemental plan would apply to the police working on the protective side, where there’s a reason to have an early retirement and so forth.

My concern is someone working as a police officer for a period of time and then, for whatever reason, decides

they're not entitled to their retirement yet, but they no longer can or want to work in the enforcement side. They switch over to the other, but they're still in the OMERS pension. When they reach the age of 60 instead of 65, is changing over going to mean that they no longer can be part of the supplemental plan, so they can't retire at 60 if they switched over to the civilian side before 60?

Ms. Hope: I think, quite apart from the supplemental plan issue, as it stands now, they would be moving in that scenario from an NRA 60 position to an NRA 65 position. So even in the current world, an individual moving employment—situations as you described—would change categories. This is a question, to some extent, for plan administrators to answer in detail, but if one's employment changes and therefore one is entitled to different pension benefits as a result, then that would have an impact on pension benefits. One doesn't lose the pension that's accrued while in one position if you're transferring within a plan, but subject to the benefits of the new position.

Mr. Hardeman: In this case, we're talking about a new plan that presently doesn't exist. So when it comes to the 65 and the benefits accrued, they're the same, whether you're on the one side or the other, because we don't have the supplementary plan.

Now we have a supplementary plan. I'm entitled to the benefits of a supplementary plan, but then, for whatever reason, I decide I can't stay at that position at 58. So I spend two more years working as a civilian because I can no longer do or don't feel I'm capable of doing what I'm entitled to the supplementary for. Now we're saying that because I switched over, I have to work seven more years to get my pension because I'm no longer eligible for the supplementary pension.

Ms. Hope: I couldn't speak to exactly what would happen to the individual, because that would be subject to what's in the plan text. The plan text would need to address what happens to individuals who are in an area with a supplemental plan who transfer into another job, whether it's with the same employer or to another employer who doesn't participate in a supplemental plan. So the plan text and the plan administration would need to address the specific details of how that transfer occurred and what pension entitlement followed or did not follow that individual. With that, I think we're getting to a level of detail beyond my knowledge.

Mr. Hardeman: I'm concerned about that being in there, that it takes people out of the plan who might not necessarily want to be out of the plan. I can understand when I'm a police officer and I negotiate with another service where I may, in fact, not have as good a pension, but where there are other reasons why I want to transfer. But staying within the service, I think there needs to be something that says that my pension entitlement stays regardless of which chair I'm sitting in for the same employer. I can't believe that we would have a piece of legislation that would say no, that if you take retirement, you could go on sick leave for two years, but if you don't take your retirement and work as a civilian, you now

have to work seven years instead of five to qualify for the same plan that you've been paying for. I have some concerns. If that's why we're doing it, I don't think we should be doing it.

Ms. Hope: If I could go back to the rationale for the difference in the definition, I think the rationale is to have a definition which is consistent with the current definition that distinguishes between NRA 60 and NRA 65 police in the current OMERS plan, and which also is consistent with the definitions in federal income tax that distinguish public safety employees who have eligibility for certain higher benefits from others. So it's those issues of consistency.

Mr. Hardeman: Just one more question, if I could, going back to the amendment put forward by the New Democratic Party—which is, incidentally, identical to one that our party has put forward: What is it that you believe would happen if we pass that one as opposed to the government one? Who would be negatively impacted? Would the plan be negatively impacted by passing this one without the different wording of it having to be an officer?

Ms. Hope: The two different definitions that are provided in the two different amendments would differently scope the group of individuals who would be eligible for accessing supplemental benefits, given other amendments that are proposed. Under the NDP motion, it would be a larger group of individuals caught up in this group who could be eligible to access supplemental benefits. Under the government motion, it is a somewhat smaller group of individuals. It would exclude the civilian police.

Mr. Jean-Marc Lalonde (Glengarry—Prescott—Russell): Just for clarification, to follow up on Mr. Hardeman's question: Quite a few times I've seen a police officer who, during his regular duties, gets involved in an accident, and after 15 years of service, he's not able to continue working on the road, let's say, in a cruiser or on the beat. If, after a while, he's assigned as a desk duty officer, will he be able to continue on the same pension entitlement that he had when he was working on the road as an officer?

Mr. Tom Melville: It's Tom Melville. I'm a legal counsel with the Ministry of Municipal Affairs and Housing. I believe this answer also relates to Mr. Hardeman's question. It's a job classification question, really. If the police officer changes the job classification from police officer to something else—say, a civilian desk job of some kind—there are rules in place today that deal with that conversion.

By the way, this act doesn't really change those rules. Today, a police officer is in a category called normal retirement age 60. They're entitled to an earlier retirement than people with a later retirement age of 65. That's not been changed. If that police officer changes their job category to something that's not a police officer, then there are conversion rules that apply in terms of how their pension would be calculated and when they would be entitled to begin drawing the pension. Those rules are not affected by the bill.

Mr. Lalonde: Thank you, Madam Chair.

The Chair: Any more comments or questions on this amendment?

Mr. Hardeman: In order for me to be able to decide which is the good amendment and which one isn't, I need the information as to what it says as far as a definition of being a firefighter under the firefighters act or under the Police Services Act, because I have a problem with the fact that the amendments that are being put forward, the New Democratic one and the Conservative one, are strictly based on adding paramedics, under the paramedics act, under the bill that was introduced and that we had the public hearings on.

From what I'm hearing in the explanation of why we should support the third amendment, which is the government amendment, it's that we're going to exclude certain people from this supplementary benefit package. I'd like to know who those certain people are. Unless I can see the definition of what is a firefighter under the Fire Protection and Prevention Act, 1997, subsection 1(1), as to who that is then, I don't know how we can support or not support any one of these three amendments, because I think that the third amendment actually changes who is going to be eligible for supplementary benefits, and I'd like to know who that is. Madam Chair, I'd like to see if we could have someone get us that before we vote on these amendments.

The Chair: Is that a possibility? Can staff do that?

Ms. Hope: The definitions from the acts?

The Chair: Yes.

Ms. Hope: We'll have to follow up, but we can—

Ms. Catherine Macnaughton: We're going to see if we can access through Hansard to get to the e-law system.

Mr. Duguid: Perhaps we could stand this particular item down and then come back to it. Would that be acceptable to members?

The Chair: Is that OK? We'll stand section 1 down until we've dealt with that, and move to section 2. We have a government motion.

Mr. Duguid: I move that section 2 of the bill be amended by striking "and any retirement compensation arrangements that provide benefits for members and former members of the OMERS pension plans" at the end.

What does that mean? It amends the bill to remove reference to retirement compensation arrangements from the section. I have been told that because the definition of the OMERS pension plans is earlier in the bill, the reference here is redundant. If any further explanation is required or if there are any questions on that—it's pretty technical—certainly we could refer them to staff.

The Chair: Any comments or questions?

Mr. Hardeman: I would like the staff to explain it. So far, I'm right out in the dark.

Ms. Hope: Let me take a stab at it, then. The first government motion proposes to change the definition. So previously, the bill as introduced made reference to the OMERS pension plan and to the retirement compensation

arrangements as an extra—or distinguished between them. In fact, retirement compensation arrangements are part of the current plan that OMERS administers. So the definition at the front is being amended to say that whenever we talk about the OMERS pension plan, we're also talking about any retirement compensation arrangements that OMERS administers. If the members do indeed change that definition, then the change needs to be made here, just to be consistent. If the definition up front is changed, then any time the OMERS pension plan is referenced, it would also automatically include a reference to retirement compensation arrangements.

The Chair: Any other comments or questions? Mr. Hardeman, you had another question?

Mr. Hardeman: It's still the same one.

The Chair: OK.

Mr. Lou Rinaldi (Northumberland): He wasn't here when—

The Chair: Sorry? Mr. Rinaldi, what did you—

Mr. Rinaldi: Just for clarification, you weren't here when the first motion was passed, and that's really what it refers to.

1650

Mr. Hardeman: Then I guess somebody could explain that to me.

The Chair: Staff, can you answer that question?

Mr. Melville: Throughout the bill there are motions dealing with references to retirement compensation arrangements. Retirement compensation arrangements aren't part of the pension plan per se but they're arrangements made so that people who make money over the maximum level for pensions under the Income Tax Act can have an additional amount of pension that would reflect their higher level of earnings after they retire. So because they made more money, they get a larger pension. Retirement compensation is just a technical name for that particular arrangement, so that people who make more money than the pension maximum under the Income Tax Act can have their pension topped up to an additional level.

The amendments in the bill reflect, for the most part, what OMERS is doing now, which is administering retirement compensation arrangements for pension plan members who happen to make money over that limit. These are really just technical amendments to make it possible for OMERS to continue doing what it's doing now.

Mr. Hardeman: Thank you.

The Chair: Any more comments or questions? Seeing none, shall this amendment carry? All those in favour? All those opposed? That's carried.

Shall section 2, as amended, carry? All those in favour? All those opposed? That's carried.

Section 3, page 5, a government motion.

Mr. Duguid: It's another motion similar to the other one.

I move that section 3 of the bill be amended by adding the following subsection:

"Retirement compensation arrangements

“(4) Any retirement compensation arrangements that provide benefits for members and former benefits of the OMERS pension plans that are in effect on the day the Ontario Municipal Employees Retirement System Act is repealed are continued and have the terms and conditions that were in effect immediately before that act was repealed.”

OMERS has sought this assurance. It ensures that the plan operations currently in place would continue to be in place after Bill 206 is passed.

The Chair: Any comments or questions?

Interjection.

The Chair: Mr. Duguid, could you read the motion again—we think you may have misspoken—just so we have it accurately?

Mr. Duguid: I move that section 3 of the bill be amended by adding the following subsection:

“Retirement compensation arrangements

“(4) Any retirement compensation arrangements that provide benefits for members and former members of the OMERS pension plans that are in effect on the day the Ontario Municipal Employees Retirement System Act is repealed are continued and have the terms and conditions that were in effect immediately before that act was repealed.”

The Chair: Thank you. Any comments or questions?

Ms. Horwath: Can I just clarify that this is a transitional clause to make sure that nothing changes, that nothing is omitted from the previous plans?

Mr. Melville: Yes, it has the same purpose as the previous motion. There are a number of them throughout the bill. Again, they’re to continue the existing retirement compensation arrangements.

The Chair: Any other comments or questions? Shall this amendment carry?

Ms. Horwath: I do have one more question; I’m sorry.

In the other motions, were we not striking out the part that talks about any compensation arrangements that provide benefits for members? Weren’t we striking those out? And now we’re referring to them. Can you explain that to me?

Mr. Melville: I guess that’s a drafting issue. We tried to more clearly state in the bill what the existing arrangements were. We had heard from some stakeholders that it could be better arranged, and this is really just reflecting—

Ms. Horwath: So this is where it makes sense to have them referred to, as opposed to where they were in the previous two clauses?

Mr. Melville: Yes.

Mr. Hardeman: Just to be perfectly clear, then, this is just a catch-all motion that anything that was being paid out now will be paid out when the plan is enacted?

Mr. Melville: Yes; it’s to assist with the continuance of existing arrangements.

The Chair: Any more comments or questions? Shall the amendment carry? All those in favour? All those opposed? That’s carried.

Shall section 3, as amended, carry? All those in favour? All those opposed? That’s carried.

Section 4.

Ms. Horwath: I move that section 4 of the bill be amended by adding the following subsections:

“Restriction on use of primary pension plan assets

“(2) No assets of the primary pension plan shall be used for the purposes of paying any optional benefit under a supplemental plan or funding the payment of any other liability of a supplemental plan.

“Exception

“(3) In the event that any supplemental plan, or any provision of any supplemental plan, increases the actuarial liabilities of the primary pension plan, the supplemental plan shall transfer assets to the primary pension plan sufficient to fund the increased liability.”

The Chair: Any comments or questions?

Mr. Duguid: I think we understand what this motion is trying to get at. It’s trying to ensure that members of the plan are protected from rebound costs. The difficulty that we have with it is that our legal counsel has advised us that it’s not legally permitted to transfer assets, as this is proposing. Perhaps I could just get clarification of that from staff, so that members can be made aware.

Mr. Melville: The purpose of a rebound provision, in case anybody’s not familiar with it, is that if the behaviour of plan members changes because of introduction of a new benefit, that behaviour could affect other members of the plan or members, in the case of the supplementary plan, of the primary plan. A rebound provision would be an attempt to make sure that the changed behaviour of the members who were taking advantage of the supplementary benefits in the supplemental plan did not financially affect the main plan or the primary plan in a negative way. That’s the purpose of the rebound provision.

Under the Pension Benefits Act and, generally speaking, assets of a pension plan, once contributions are paid in, are locked in, then they can only be taken out in special circumstances. The government’s position is that it’s better to address the rebound provisions by requiring that contributions, when paid by people who would be taking advantage of the supplemental benefits, be directed to the extent necessary into the primary plan to pay for those rebound costs.

Mr. Hardeman: I understand that the bill already prohibits the supplemental plans being funded by the primary plan. The actuary who decides the cost, the premiums that need to be put in to fund the supplemental plan, since it’s a defined benefit plan—if that is not covered off, somebody made a mistake. Doesn’t this then prevent them from having to pay it? There’s some discussion out there, some train of thought that in fact, at some point in time, it will automatically happen: The supplemental plan will not have enough contributions to keep it going or to pay it out in full. Do we not need something to prevent the main plan from paying for that?

Mr. Melville: Again, there will be a government motion introduced later in the bill that addresses the issue

of rebound costs, which I think is what you're talking about: the concern that the impact on the primary plan, the main plan, of the supplemental plans would not otherwise be compensated for. That's in section 14 of the bill.

Ms. Horwath: Two things: The first is that people will recall that some stakeholders were concerned that the language that existed in the first draft of the bill did not adequately address their concern about rebound costs. I think that's important.

Secondly, I think it's important to recognize that other stakeholders who are interested in the supplemental plans agreed in principle that those plans were not going to, in any way, rebound costs into the primary plan. So that's the first thing, just acknowledging the fact that there is no controversy over the extent to which supplemental plans would not be subsidized by the primary plan.

Further to that, it's all kind of one plan; it's the OMERS plan. Supplementals are certainly part of that, but notwithstanding, it is all the same plan, so perhaps it could be argued that OMERS as a pension plan, with supplementals, is still the same plan. Further to that, though, I'm wondering whether it might be appropriate to put a clause such as this in, because this legislation, if that clause, as I put it, is in, then allows for the kind of consideration to take place that was just discussed by staff. From my perspective, the whole point of putting it in here is to make sure that these issues can be addressed in the way that we draft the legislation.

1700

The Chair: Any other comments or questions? Seeing none, shall the amendment carry? All those in favour? All those opposed? That's lost.

Shall section 4 carry? All those in favour? All those opposed? That's carried.

Government motion for section 5.

Mr. Duguid: I move that subsection 5(1) of the bill be amended by adding the following paragraphs:

"9. The sponsors corporation.

"10. The administration corporation."

What this does is permit OMERS staff and staff of the administration and sponsors corporations to participate in the OMERS pension plan itself. This is a request from OMERS as well.

The Chair: Any comments or comments?

Mr. Hardeman: The question of adding two more to it: Are they presently in the plan? Are they presently covered by OMERS insurance?

Ms. Hope: The current staff of OMERS are indeed members of the OMERS pension plan. They will presumably become staff of the administration corporation when this transfer takes place. So it would ensure that they and any potential future employees of the sponsors corporation are able to continue to enjoy their pension benefits.

The Chair: Any further comments or questions? Seeing none, shall the amendment carry? All those in favour? All those opposed? That's carried.

Shall section 5, as amended, carry? All those in favour? All those opposed? That's carried.

Shall section 6 carry? All those in favour? All those opposed? That's carried.

Shall section 7 carry? All those in favour? All those opposed? That's carried.

Shall section 8 carry? All those in favour? All those opposed? That's carried.

Section 9.

Mr. Duguid: The government side has a bit of a problem with section 9, and I'll be recommending committee members to vote in opposition to this. We don't have any particular position with regard to the issue of a defined plan, but some providers in the future may decide to go in a different direction. We feel that if we're giving autonomy to the sponsors corporation, they should have the autonomy to be able to do that, should they so choose. They may or may not. Who knows what issues they may have to deal with 10 or 20 years down the road? So we'll be voting in opposition to this particular section.

Ms. Horwath: I would submit that the government got it right the first time by including defined benefit as the way to go with this plan. I think you will recall that I asked many plan member stakeholders who were at the table, including police and fire, CUPE, CAW and every single plan member stakeholder group that arrived at this table and spoke to this committee, that specific question around defined benefit versus defined contribution, and every single one of them, in my recollection—and I stand to be corrected—indicated a preference for maintaining a defined benefit status within this OMERS plan. I find it shocking, frankly, that this is on the government's agenda; that, instead of putting some kind of formal notice to stakeholders that this was going to happen through an amendment, they actually just verbally indicate that they're going to be voting against it. I think it's going to be a surprise to many plan member stakeholders that the government is in fact prepared to allow the defined benefit plan to slip into a defined contribution plan at some time in the future and to enshrine that in legislation.

Mr. Hardeman: I agree with Ms. Horwath's comments. I find it curious, if not surprising, that all of a sudden we would make such a major change with what, in my opinion, would be a piece of paper that's out of order for the government side to come in with a notice that says that they're recommending their members vote against it. Really, in the amendments coming in my amendment package, it's not appropriate to send in an amendment in a committee hearing that says how I should vote—or how the government members should vote, for that matter.

I think that the issue of the section is a much bigger issue than just, "There it was and there it isn't." We heard quite a few comments, and I expect some of them were both ways, as to whether it should be a defined benefit or a defined contribution plan. I think to just change it from one to the other—I guess I need a little bit more explanation as to why, recognizing that everything else in the legislation is written and is predicated on it being a

defined benefit plan, why we would not want to leave that in there.

Mr. Duguid: In response to that, it is a defined benefit plan; there's no question about that. Why we're recommending our members to oppose this clause is to allow OMERS flexibility for future decisions should, sometime in the next number of decades—this plan is going to be around a long time—they decide to go in a different direction. We're not presupposing that they do that or recommending that they do that. They may never want to go in that direction. But at some point in time, who knows? They may decide that they want to do that, and that should be left up to the capable people appointed to administer this plan.

With regard to the procedure before us, that's the only procedure available to us. I know your party has utilized that as well when you recommend to vote against a clause. You can't put in an amendment to withdraw a clause; the only way you can do it is to vote against it, which is following procedure.

Mr. Hardeman: I would suggest that if you check the record, you'll find that the table has, many times, ruled that type of amendment out of order. You can tell your members how to vote but you're not to tell the opposition that we should vote against it, because it's the government decision to do that.

With that, Madam Chair, seeing such major changes being made, I would ask for a recorded vote on each item as it's coming forward.

The Chair: All items, or just this one?

Mr. Hardeman: All of them.

The Chair: OK.

Ms. Horwath: Two things: First of all, on the procedural issue, if that's the normal way of doing things and I was speaking out of turn, I certainly apologize for that. It's my first clause-by-clause, so there you go.

But having said that, I do believe that there's still a problem with that particular direction that the government is taking by asking its members, who have a majority on this committee and so they well will reign, to take the slippery slope of allowing for a defined contribution plan to seep into the OMERS plan.

For clarification, Madam Chair, how long has OMERS been in existence?

The Chair: I would ask staff to answer that question.

Ms. Hope: I believe the early 1960s, but I don't have the specific year.

Ms. Horwath: So in 40 years it hasn't needed to go to defined contribution, I would guess. Maybe I'm wrong. Hopefully, for the next 40 years it won't need to go to defined contribution, either.

The Chair: Mr. Hardeman, did you want the clerk to comment on whether this is out of order or not, on your comment?

Mr. Hardeman: It doesn't make any difference, Madam Chair. I believe that it's not an amendment when it comes in my amendment packages.

The Clerk of the Committee (Ms. Tonia Grannum): No, it's not an amendment, and that's why

it's not numbered, either, but I left it in because that's how I received it. But it isn't a motion, and you're right that you just vote against the section.

The Chair: Any more comments or questions? Shall section 9 carry?

Ayes

Hardeman, Horwath.

Nays

Dhillon, Duguid, Lalonde, Matthews, Rinaldi.

The Chair: That's lost.
Section 10.

Mr. Duguid: I move that subsection 10(2) of the bill be struck out.

Mr. Hardeman: If I could have an explanation? Why is it being struck out?

Mr. Duguid: I'm just checking into subsection 10(2). This motion would remove the requirement for the sponsors corporation to consider supplemental benefits. The government recommendation would be to have the sponsors corporation put in place supplemental benefits. It would be redundant, therefore, to ask for it to consider supplementary benefits. We're going to be putting it into the bill as we're subscribing it, so it would be redundant for us now to ask that they consider it.

Mr. Hardeman: We've already put it in the bill?

Mr. Duguid: I don't think we've gotten to that motion yet. We will, though. It's the government's intention to do that in a subsequent motion we're going to see.

1710

Ms. Horwath: Just to clarify, then, by supporting this we're really not doing anything. Really, the substantive piece comes later on when, in effect, the government puts the other motion?

The Chair: I believe so, yes.

Mr. Hardeman: Just for the record, the issue from all the municipal presenters who spoke to the committee really was that, although the board could consider supplementary plans—it said "shall consider"—there was concern that it wouldn't happen. The municipalities immediately said that it would happen because an arbitrator would force it to happen. The minister said that none of this would happen if it wasn't agreed on by both parties, but what this is really going to do, in conjunction with your next amendment, is make it already happen. Is that right?

Mr. Duguid: No. What this means is that the OMERS corporation will have to have this as part of their package in terms of their plan. It will still be up to the parties, the municipalities and other parties, to negotiate whether they can have it or not, and that will depend on their collective bargaining process.

Mr. Hardeman: The original bill—what we're taking out here now—said that OMERS, the top one of the two,

had to consider it, shall consider it, but not necessarily implement.

Mr. Duguid: That's correct.

Mr. Hardeman: This says that as a given, the OMERS pension plan will include supplementary programs for those three categories.

Mr. Duguid: Yes, that will then be available to its members to negotiate with municipalities. So in essence, it's stronger.

Mr. Hardeman: When municipalities were concerned about the arbitrator being allowed to make that decision, we solved that problem by making the decision for the arbitrators and for the municipalities. Is that right?

Mr. Duguid: No, because the decision for the arbitrator would be a decision based on the collective bargaining process between the employees and the employers of the various municipalities.

Mr. Hardeman: Presently, the section we're discussing now to delete is: "The sponsors corporation shall consider providing optional increases in pension benefits for members of the primary pension plan who are employed in the police and fire sectors." If they couldn't come to an agreement, an arbitrator would make their decision.

Mr. Duguid: I see what you're saying.

Mr. Hardeman: Again, the next step was that the employers and the employees could discuss and decide whether they would actually use it, but this here gave the decision of whether the plan itself was going to have supplementary benefits to the sponsoring board. We're taking that away, and we're going to say, "The sponsoring board shall have available supplementary benefit packages"?

Mr. Duguid: Yes, we are prescribing that they have that available.

Mr. Hardeman: You're prescribing the benefits as opposed to that being a decision of the sponsoring body?

Mr. Duguid: That's right.

Mr. Hardeman: OK.

The Chair: Any more comments or questions?

Ms. Horwath: Can I just find out which further amendment this one refers to? This is a technical bill to start with, so when we're dealing with amendments that refer to further amendments along in the package, it might be useful to just do them together. I don't know whether that's the case, but I find it really challenging.

Ms. Hope: I believe it's the very next motion. The government motion is the one that would speak to prescribing, so motion number 10. If motion number 10 were adopted, that would make what is in the bill in subsection 10(2) redundant.

I'm sorry, motion 9 is the section 10. I beg your pardon.

Ms. Horwath: Oh, I see. OK.

The Chair: Any more comments or questions? Seeing none, shall the amendment carry? Mr. Hardeman, do you want everything recorded from now on? OK. A recorded vote has been asked for.

Ayes

Dhillon, Duguid, Horwath, Lalonde, Matthews, Rinaldi.

Nays

Hardeman.

The Chair: That's carried.

Shall section 10, as amended, carry? A recorded vote has been requested.

Ayes

Dhillon, Duguid, Horwath, Lalonde, Matthews, Rinaldi.

Nays

Hardeman.

The Chair: That's carried.

Section 10.1.

Mr. Duguid: I move that the bill be amended by adding the following section:

"Optional increases, police and fire sectors

"10.1(1) The sponsors corporation shall amend the OMERS pension plans to provide optional increases in benefits for members of the primary plan who are employed in the police and fire sectors.

"Same

"(2) The amendment required by this section shall be made within 24 months after the day this section comes into force.

"Method of calculating benefits

"(3) A supplemental plan established under this section shall make provision for all of the following:

"1. An annual benefit accrual rate that is 2.33% for members under the supplemental plan.

"2. The payment of pension benefits to members of the supplemental plan in which the annual amount of pension is not reduced because a member retires before the member's normal retirement age of 65 years if, at the date of retirement, the sum of the member's age, counted in full years and months, plus credited service and eligible service, counted in full years and months, equals at least 85 years.

"3. The pension benefits payable to members under circumstances described in paragraph 2 shall begin to be paid not more than 10 years before the member's normal retirement age.

"4. The payment of pension benefits to members of the supplemental plan in which the annual amount of pension is not reduced because a member retires before the member's normal retirement age of 60 years if, at the date of retirement, the sum of the member's age, counted in full years and months, plus credited service and eligible service, counted in full years and months, equals at least 80 years.

“5. The pension benefit payable to members under circumstances described in paragraph 4 shall begin to be paid not more than 10 years before the member’s normal retirement age.

“6. The pension benefit payable to members of the supplemental plan is calculated based on the average annual earnings of the members over a period of credited service of three years, but the average may be less than three years for employees with credited service of less than three years.

“7. The pension benefit payable to members of the supplemental plan is calculated based on the average annual earnings of the members over a period of credited service of four years, but the average may be less than four years for employees with credited service of less than four years.

“8. The option for a member to pay all of the contributions to the supplemental plan for a benefit described in paragraph 1, 2, 4, 6 or 7 in respect of the member’s pensionable service before the day the employer decides to provide the supplemental plan.

“Consent of employer

“(4) A supplemental plan established under this section shall not authorize a contribution in respect of or provide for a type of benefit for any members who are employees of an employer unless the employer consents to provide that type of benefit to the members.

“Same

“(5) In a consent under subsection (4), an employer may only consent to provide,

“(a) a benefit described in paragraph 1 of subsection (3);

“(b) the benefits described in paragraphs 2 and 4 of subsection (3);

“(c) a benefit described in paragraph 6 of subsection (3); or

“(d) a benefit described in paragraph 7 of subsection (3).

“Same

“(6) An employer may subsequently consent to provide an additional benefit listed in any of clauses (5)(a) to (d) that the employer has not previously consented to provide.”

Ms. Horwath: I am going to support this because I believe it to be an appropriate thing to do. However, I have to say that I’m extremely disappointed that the government decided to undertake this initiative and yet ignored a whole other group of plan members who were looking for some of the restrictions to be removed on their ability to improve their plans.

Although I do support what fire and police were asking for in these amendments being enshrined in the legislation, I was dumbstruck with the government decision, notwithstanding the presentations by so many of those plan members who came forward and said that not only is this not equitable, but some of the lowest income earners who are covered by this plan are not going to be able to see improvements to their pensions over time. It’s appropriate that this would be done, but

it’s totally inappropriate that, on the other hand, those other plan members were not given one iota of consideration in regard to the removal of their cap.

Again, I’m happy that this is here but I’m extremely unhappy that the other piece was not undertaken by the government. I’ll be making some further comments about that when the time comes.

1720

Mr. Hardeman: I have a question for the parliamentary assistant. There’s nothing mentioned here about the arbitration process. When the contract goes to arbitration, will the arbitrator be allowed to issue changes in the pension plan as part of the settlement? Here it says that it must be agreed upon by the employer.

The Chair: Mr. Duguid, do you want to pass it on to staff?

Mr. Duguid: Yes, I’m going to pass that on to staff, for sure.

Ms. Hope: The impact of this is that it requires the sponsors corporation to set up a supplemental plan and to have the specific benefits available within that supplemental plan. It is then up to local employers and employees to decide if they wish to access a benefit under that supplemental plan.

I think your question goes to, what if that decision process goes to local arbitration? The impact would be that an arbitrator could conceivably award one of the benefits in the supplemental plan as part of an arbitration award.

Mr. Melville: That’s not in the bill, though.

Ms. Hope: No, the bill doesn’t specifically address that local arbitration process, but the language of this section would permit that. I think you were referencing particularly the employer consents. The employer consent in the case of collective bargaining that goes to arbitration would be that the employer is bound by the arbitration decision, if that’s the way the decision process is reached in that particular circumstance.

Mr. Hardeman: Your suggestion here is that if the next contract of our local police services goes to arbitration, the arbitrator could guarantee a supplemental pension plan as part of the—

Ms. Hope: If part of what went to the arbitrator was a desire to access one of these benefits, the arbitrator could conceivably award one of these benefits, but subsection (4) does limit the decision, if that comes by an arbitration award, to one of these benefits at a time. So an arbitrator would not be permitted to award multiple benefits in the supplemental plan.

Mr. Hardeman: My local police services have, at this point, decided not to deal with the supplemental plan, and their contract goes to arbitration because my local policemen do want the supplemental plan. You’re saying that the arbitrator could award it and force the municipality into the supplementary plan, but only one piece at a time; is that it?

Ms. Hope: Yes.

The Chair: Any other comments or questions? Seeing none, shall the amendment carry?

Ayes

Dhillon, Duguid, Horwath, Lalonde, Matthews, Rinaldi.

Nays

Hardeman.

The Chair: That's carried.

Section 11. Mr. Duguid, are you going to be doing this?

Mr. Duguid: Yes, I'll do this one as well. I'm eventually going to start sharing this as my voice gives out.

I move that section 11 of the bill be amended by adding the following subsections:

“Exception

“(2) Despite subsection (1), the sponsors corporation may amend any of the OMERS pension plans to authorize unequal amounts of contributions to be made by employers and employees for one or more years if,

“(a) after the amendment, the contribution rates for employers and employees for each class of benefit under the OMERS pension plans are equal; and

(b) the sponsors corporation is of the opinion that it is fair and reasonable to make the amendment.

“Application

“(3) Subsection (1) does not apply in respect of contributions payable to a pension plan for a year if,

“(a) the amount of the contributions are in accordance with the terms and conditions of the pension plan as it was governed by the Ontario Municipal Employees Retirement System Act immediately before that act was repealed, and those terms and conditions have not been amended by the sponsors corporation; or

“(b) the only reason that the total amount of the contributions payable by the employer does not equal the total amount of the contributions payable by the employer's employees is because one or more employees made contributions to a supplemental plan in respect of pensionable service described in paragraph 8 of subsection 10.1(3).”

Ms. Horwath: Can I get an explanation of exactly what this is about and perhaps an example of when it will be necessary to use it?

Mr. Duguid: Sure. This is a request from OMERS to have more flexibility in arrangements for paying for benefits. It would continue their current practice.

It would be used where a firefighter, for instance, may want to buy back service, but if it's not available to him to do that jointly with the employer, he may want to pay for it on his own. That's my understanding of it. Is there anything further that needs to be clarified by staff?

Ms. Hope: Another example would be, as is currently the practice, if someone takes a leave of absence for whatever reason and their service is broken and there isn't pension contribution for that period of time—maternity leave, disability leave, what have you—and the

individual then wishes to buy back the pension credit for that period of time at their full cost.

Also, as Mr. Duguid points out, with respect to the previous section where there are some specific circumstances, there could be an opportunity for the employee to buy back supplemental benefits at their full cost.

Ms. Horwath: But this section does not only refer to the police, fire or ambulance?

Ms. Hope: Correct. It refers to—

Ms. Horwath: To all members of the plan.

Mr. Lalonde: When we say the employees will be able to buy back this time by paying full cost, will that be the employer's cost and the employee's cost?

Ms. Hope: That is the kind of circumstance this refers to, that in certain circumstances the employee would pay both the employer and employee share, but not always. The general principle in section 11 that is in the bill now is the 50-50 cost sharing. This amendment would provide for those circumstances where it makes sense for one or the other party to pay the full cost because of the specific circumstances.

Mr. Lalonde: Thank you.

The Chair: Any further comments, questions? Shall this amendment carry? A recorded vote has been requested.

Ayes

Duguid, Hardeman, Horwath, Lalonde, Matthews, Rinaldi.

The Chair: Unanimous.

Shall section 11, as amended, carry? A recorded vote has been requested.

Ayes

Duguid, Horwath, Lalonde, Matthews, Rinaldi.

Nays

Hardeman.

The Chair: That's carried.

Section 12.

Ms. Horwath: This is the very situation that I was talking about earlier in regard to the supplemental plans of police, fire and ambulance workers being enshrined in the legislation as they requested. Section 12 probably would have been the section where the government could have addressed the other plan members capped in regard to what they're allowed in their average annual earnings.

It's interesting, because I received a piece of correspondence from CUPE, as a matter of fact, specifically addressing their disappointment with this piece of their request being ignored by the government. You'll recall when they were at the table, particularly some of the locals that came a little bit later on in the public hearings process. I think they really made a strong case about the

extent to which the workers some of those locals represented were very low-paid workers, were not the top of the rung in terms of wage scale, and could be considered to be fairly low-income. Should they retire, they would likely, in many cases, be living under the poverty line unless there is an opportunity for them to make improvements to their pension.

I find it astounding that the government didn't bother to take that into consideration and didn't take the opportunity to address those concerns.

The Chair: Ms. Horwath, could I interrupt you just for a moment? To get this on the record, could you read it in first?

Ms. Horwath: Oh, I have to read it in first. OK.

The Chair: Please, just so we get it in the right order.

Ms. Horwath: So what I'm doing is I'm recommending that people around the table vote against section 12 of the bill.

The Chair: You have to read it in.

Ms. Horwath: Read what in exactly?

The Chair: Page 11.

Ms. Horwath: I move that paragraph 2 of subsection 12(1) of the bill be struck out—is that the one we're talking about?—and that we vote against section 12 altogether. Is that the appropriate procedure?

The Chair: If you want to continue talking about it, you can.

Ms. Horwath: I can go back to my rant?

The Chair: Yes, you can go back to your rant. But you have to get it on the record to begin with; then we know what you're talking about.

1730

Ms. Horwath: Just to finish off, I think that a very appropriate description of the workers who tend to be in those job classes that were described by some of those locals—it's important to note that they particularly talked about women workers, they particularly talked about immigrant workers and yet the government sees fit not to address that concern in the bill. I have to say that not only am I disappointed that the government decided not to heed that call of fairness and equity for all of the plan members, but seems to have totally ignored the issues that were raised around workers who are not going to now be able to bargain improvements in their pension plans and will unfortunately continue to be ranked among the poorer senior citizens in our communities upon retirement.

Mr. Hardeman: I'm just a little concerned here. I don't understand the explanation and reading the section, the contributions to the Canada pension plan. I have concern with a lot of the things we heard when the people made presentations, particularly CUPE with primarily female workers, and the maximum allowable was 1.4% as opposed to everyone else. Is that this section?

Ms. Horwath: Yes. Paragraph 2 speaks to 0.6% of the lesser of such average annual earnings. Because it's 0.6% less than the 2% that's allowed—do you mind if I answer?

The Chair: I want to just clarify. I think originally you were talking about striking out the whole section, but actually what you're talking about is subsection 12(1).

Ms. Horwath: That's what I was doing initially. I was talking about that. Then I was referred by you to go to this.

The Chair: You have to do them in order, but you were speaking to two definitions that might clarify where the confusion occurred. So if you're dealing with one item at a time—

Mr. Hardeman: I don't—

The Chair: You can continue the questions, but I'm just trying to clarify what—

Mr. Hardeman: Ms. Horwath, we are speaking about paragraph 12(1)2, which is the 1.4%.

The Chair: Yes.

Mr. Hardeman: I guess I could ask the parliamentary assistant about the rationale behind restricting the top pensionable earnings or the pension to be available at 0.6% less than the allowable amount. Is there a rationale for capping it there as opposed to letting the sponsoring board, or whoever, make that decision as to where they think the pension should be?

The Chair: Mr. Duguid, do you want to answer that question or do you want to give that to staff?

Mr. Duguid: I'll give that to staff.

Ms. Hope: The provision in section 12, which includes the paragraph 2 in question: These are provisions that are presently in the Municipal Act, 2001, and they're commonly referred to as the cap on employer contributions. So this section in essence transfers that employer cap on contributions into this bill. It does set a maximum, and part of that formula is the CPP offset, so it provides a cap, as it were, on some of the benefit elements that are possible through the plan.

Mr. Hardeman: I guess maybe it's a political question rather than a staff question. I understand where it's coming from and I understand what it does. In principle, we're looking at changing the allotment or the threshold for the supplemental plans to be considerably higher than what they're presently allowed, yet we're being insistent that this group of people will stick with the old law, which is 0.6% less than the allowable 2%.

Ms. Hope: This provision, as it stands in the bill, would maintain that cap on all of the plans. The motion in question is to remove this one element for all plans. The government does have a subsequent motion that proposes that this entire formula, which is referred to as the employer cap, would apply only to the base pension plans. Either the supplemental plan that is being prescribed in the previous amendment or any other future supplemental plans that could be set up in future for other employees would be exempt from the cap, but that's in a further motion.

The Chair: Any further comments or questions?

Mr. Hardeman: Again, I want to go back to the political side of it, because I find it very curious that we would decide that the plan should be bound by not allowing further negotiations for better pensions for this

group of people, which, when we get the supplemental plan, is going to be the major part of the plan, but also the lower end of the plan—why we decided that that's as high as they can go when everybody else, according to pension law, can go up to the 2%.

Mr. Duguid: It's really a case of maintaining what's there now. It's a case of trying to find some balance as well, because you've heard from a number of the employers who are expressing concern, and who have expressed concern even as far as the supplemental benefits that we're looking at and the committee's looking at right now. It's a case of trying to find balance and to ensure that there are protections for all stakeholders as we move forward with this. That's really why we wanted to stick with the current arrangements.

Mr. Hardeman: I guess my real concern is that, of all the employers we heard from, no one presented a case where they were worried about having to negotiate this plan and then having the labour beat up on them because they were giving them a better benefit package than they wanted to. The concern of all the presenters was those areas where it's arbitrated, where they're no longer a part of the decision-making. That isn't this group. This group of people, every one of them, is going to be negotiated. I don't think the employers have told us that that's where their concern was. They told us that they were concerned about arbitrators making arbitrary decisions to get the emergency workers a pension plan that they thought they couldn't afford. With this one here, that's not the case at all. It's going to be the lower-paid people who are being restricted. They can't negotiate even a better pension plan.

Ms. Horwath: Thank you to the clerk for showing me the error of my ways in terms of jumping to the section as a whole as opposed to just dealing with the amendment first. I appreciate that.

I'd have to say I'm pretty concerned that the government is prepared to balance the plan on the backs of the lowest-paid workers. That is really a frightening thought, and I'm quite surprised that government members are willing to admit publicly that the lowest-paid workers are going to be the ones taking the brunt of the balancing act the government's trying to walk on this particular bill.

Again, I stand by this section needing to be struck. If it isn't, then we'll deal with the section as a whole.

Mr. Duguid: That's really a misrepresentation of what we're doing and what this amendment is about. What we're talking about here is giving supplemental benefits to emergency workers because of the uniqueness of their professions and the fact that they do generally retire at an earlier age. That's what this is all about. Not all workers are in that category, and that's why we're here today, for the most part, and that's why we're prescribing those benefits, because we believe the work that the firefighters and police and, frankly, our EMS workers do is different, and that they do require unique treatment when it comes to this.

Ms. Horwath: Just for the record, it's important to note that I believe all the members of this committee supported the piece of the government's motion around making sure that the fire and police workers had their supplementals enshrined in this legislation. This particular section actually refers to the other requests from the other workers, who wanted to see the 1.4% cap removed. To characterize the striking of paragraph 12(1)2, as anything but the request to make sure that there's some equity and some recognition of the request that came from those other plan members is inappropriate.

The Chair: Mr. Hardeman, did you have your hand up? You're OK? All right. Any comments or questions on this amendment? A recorded vote has been requested.

Ayes

Hardeman, Horwath.

Nays

Dhillon, Duguid, Lalonde, Matthews, Rinaldi.

The Chair: That's lost.

Government motion, page 12. Mr. Duguid, are you going to read this one, or are you passing them on?

Mr. Hardeman: I'm sorry, what is that we're reading?

The Chair: Page 12. It's the government motion.

1740

Mr. Duguid: Mr. Lalonde.

Mr. Lalonde: I move that subsection 12(2) of the bill be struck out and the following substituted:

"Exceptions

"(2) Despite subsection (1), a municipality or local board is not prohibited from making a contribution,

"(a) if the employee retires having less than 10 years of pensionable service under the OMERS pension plans;

"(b) if the contribution is made for the purpose of providing an inflation adjustment to pension benefits under the OMERS pension plans; or

"(c) if the contribution is made for the purpose of providing an optional pension benefit to a member or former member through a supplemental plan."

The Chair: Any comments or questions?

Ms. Horwath: Chair, it's probably helpful if we just get the explanation as you put the amendments forward. That way we know what we're addressing.

Mr. Duguid: What this does is respond to employee groups' requests to lift the cap to allow future supplemental benefits, so that they can get access to future supplemental benefits without the cap interfering with that. Maintaining the cap on a primary plan will also serve as a cost containment feature, which is what I talked about before in terms of the employers and collective requests—and they have made collective requests to maintain the cap.

Mr. Hardeman: This, then, is in answer to the request from the OMERS presentation, where they said that there

are opportunities when the 50-50 split of contribution doesn't work, because it's in a buyback situation or something like that. Is that what this is?

Mr. Duguid: No. This allows for the cap to not have to apply in terms of supplemental benefits. I can't give an example. Maybe staff can give some examples.

Ms. Hope: One example would be, if in future there were a supplemental plan for folks other than the police, fire and paramedic sector, and there was a desire to look at—sorry, I always get it mixed up, whether it's a higher or lower CPP integration rate—that could be, then, considered through a supplemental plan.

Removing the so-called employer cap from the supplemental plans also permits the three-year final average earning benefit that was referenced in an earlier amendment. If this cap were kept on as a whole in the supplemental plans, the three-year and four-year final average earning benefits would not be permitted.

Ms. Horwath: With police, fire and ambulance workers, we referenced not only their ability but their specific outline of what they wanted to see happening with their supplemental plans. In the case of all others, not only do we not strike the specific cap, but now we put this kind of language in that doesn't seem at all to be equal to the language that we put in for police, fire and ambulance. I'm just trying to figure why the difference. I don't understand why the difference, why we've done something very specific in the one case, and in the other case, instead of striking the cap out, we now have this. I don't understand, so perhaps I could get an explanation of why this is before us the way it is.

The Chair: Do you want staff to answer this one? Mr. Duguid?

Mr. Duguid: I think I can respond to that. I think the employers, by and large, would have wanted us to maintain a cap for everything. I think realistically, given the desires of firefighters, police and potentially EMS at some point to implement supplemental benefits, in order for them to be able to effectively do that, we understood their request to have that cap lifted.

We also understand and are sensitive to the concerns of employers about the affordability of all this stuff. We're trying to do what we can, as I said before, to balance the needs of both employees and employers, and in doing this, we felt this is the approach we'd like to take.

Ms. Horwath: But just for clarification, this is "everyone but," I think staff said; this refers to everyone but police, fire and ambulance workers, right? This is for everyone else, or is this for them?

Ms. Hope: This would maintain the cap or the base plan for everyone. It would move the cap for any and all supplemental plans created, whether that's the supplemental plan that's specifically referred to elsewhere in the bill, or other supplemental plans that could be established in future for other employees.

Mr. Hardeman: I've heard a number of times now—is there anything in the bill that allows the sponsoring

body to set up more supplemental plans than the ones that we're speaking of?

Ms. Hope: The bill does not specifically reference other supplemental plans, but, provided the Canada Revenue Agency is willing to register a supplemental plan, there would be nothing in here that would prevent the sponsors corporation from setting up other—

Mr. Hardeman: Without federal change, though, they can't do it?

Ms. Hope: No, no. I'm sorry. There's nothing in this bill that prevents them from doing so, and we understand from Canada Revenue Agency that they imagine, in general, that any pension plan could conceivably have two or three—a limited number of supplemental plans. So there's nothing here that prevents the sponsors corporation from deciding in future to set up other supplemental plans.

Interjection.

Ms. Hope: I beg your pardon. It's been pointed out to me that it actually says that they may establish one or more supplemental plans in section 4 of the bill.

The Chair: Any further comments or questions on this amendment? Seeing none, a recorded vote has been requested on the amendment.

Ayes

Dhillon, Duguid, Lalonde, Matthews, Rinaldi.

Nays

Hardeman, Horwath.

The Chair: That's carried.

Shall section 12, as amended, carry? A recorded vote has been requested.

Ayes

Dhillon, Duguid, Lalonde, Matthews, Rinaldi.

Nays

Hardeman, Horwath.

The Chair: That's carried.

Section 13: Ms. Matthews, you're on deck.

Ms. Deborah Matthews (London North Centre): I move that section 13 of the bill be struck out and the following substituted:

"Cap on contributions by employer for increased benefits

"13(1) If, under a supplemental plan, a municipality or local board may provide an optional pension benefit for its employees in respect of which the annual benefit accrual rate is greater than 2.0% and less than or equal to 2.33% (the "increased benefit"), the municipality or local board may make contributions to the plan for the increased benefit in respect of the employees' pensionable service on or" before "the date on which the municipality

or local board decides to provide the increased benefit, but not in respect of pensionable service before that date.

“Same

“(2) Nothing in subsection (1) prevents an employee from making contributions to the plan for the pensionable service of the employee before the date on which the municipality or local board decides to provide the increased benefit.”

The Chair: I’m sorry, Ms. Matthews. Could you reread it?

Ms. Matthews: Oh, really? Can you point me to which line I need to reread?

The Chair: It’s “on or after.” I think you said “on or before the date,” near the end of the paragraph.

Ms. Matthews: I’ll read the last two lines of that: “which the municipality or local board”—

The Clerk of the Committee: No, before that.

Ms. Matthews: OK. So I’m reading from the fourth line: “ ... the municipality or local board may make contributions to the plan for the increased benefit in respect of the employees’ pensionable service on or after the date on which the municipality or local board decides to provide the increased benefit, but not in respect of pensionable service before that date.”

The Chair: Thank you. Any comments or questions? I think Ms. Horwath asked for an explanation. Could somebody—

Mr. Duguid: Sure. I can give a brief explanation. This is just in response to the request from the fire sector to allow employees to buy back past service for the 2.33% pension accrual rate benefit. That’s the explanation for it.

Ms. Horwath: Just to clarify, then, the first part there indicates no retroactivity for the employer. Is that right?

Ms. Hope: The earlier amendment that sets out the supplemental plan specifically refers to the 2.33% benefit on a go-forward basis only. So this permits, then, the employee, at his or her full cost, if he or she so chooses, to buy back past service.

The Chair: Any other comments or questions? There being none, should the amendment carry? A recorded vote has been requested.

Ayes

Dhillon, Duguid, Horwath, Lalonde, Matthews, Rinaldi.

Nays

Hardeman.

The Chair: That’s carried.

Ms. Horwath, you have the next motion.

1750

Ms. Horwath: I move that subsection 13(1) of the bill be struck out and the following substituted:

“Contributions for increased benefits”—

The Chair: I’m sorry, Ms. Horwath. Apparently, that’s out of order based on the previous decision we just

made, according to the clerk. So I’m going to rule it out of order.

Any comments or questions about section 13? Shall section 13, as amended, carry? A recorded vote has been requested.

Ayes

Dhillon, Duguid, Lalonde, Matthews, Rinaldi.

Nays

Hardeman, Horwath.

The Chair: That’s carried.

Section 14.

Mr. Rinaldi: I move that section 14 of the bill be struck out and the following substituted:

“Contribution rate, benefits under multiple plans

“14. In determining the required contribution rate for the primary pension plan to be paid by the members of the primary pension plan who are also members of a supplemental pension plan and by their employers, the actuary shall use the best estimate assumption of retirement or termination or”—

The Chair: Mr. Rinaldi, just so everybody knows, this was the new motion that you were handed.

Mr. Rinaldi: Sorry, Madam Chair.

The Chair: It was my fault. I should have reminded everybody we have a new motion in front of us. It’s with the amended motions. There were three of them that were handed out at the beginning. There is a version 1 and a version 2. This is the version 2, right?

Mr. Rinaldi: Correct. I’ll start all over again, Madam Chair.

I move that section 14 of the bill be struck out and the following substituted:

“Contribution rate, benefits under multiple plans

“14. In determining the required contribution rate for the primary pension plan to be paid by the members of the primary pension plan who are also members of a supplemental pension plan and by their employers, the actuary shall use best estimate assumptions to assess the likely impact of the benefits provided by the supplemental plan on the required contribution rate that would otherwise be payable.”

The Chair: Mr. Duguid, did you want to explain this motion?

Mr. Duguid: Yes. This is something that we’ve talked about quite a bit. I’ve had an opportunity to talk about it quite a bit with staff. It comes from CUPE’s request to clarify the principle of having members of the supplemental plan pay for all the costs associated with those plans.

We’re all in agreement with that. It’s a case of trying to find some legal language that works. I’m going to ask staff to just verify for the committee’s use that, in fact, this does exactly what we’re setting out to do, and that’s to ensure that members of a primary plan are not going to

pay for supplemental benefits under this amendment. That's the idea of the amendment.

I read it and, as members opposite probably see, I honestly don't know whether it does that or not. So that's why I'm asking staff to comment on it for you.

Ms. Hope: This directs the actuary, who is responsible for determining and recommending what the rate should be, to take into account the changes in retirement behaviour that individuals who have access to a supplemental plan are likely to have.

Ms. Horwath: Just a point of clarification: In effect, this is what the government would recommend as opposed to what we were suggesting around the transfer of funds to cover off any rebound costs?

Ms. Hope: Yes.

The Chair: Any other comments or questions? Seeing none, shall the amendment carry? A recorded vote has been requested.

Ayes

Dhillon, Duguid, Lalonde, Matthews, Rinaldi.

Nays

Hardeman, Horwath.

The Chair: That's carried.

Shall section 14, as amended, carry? A recorded vote has been requested.

Ayes

Dhillon, Duguid, Lalonde, Matthews, Rinaldi.

Nays

Hardeman, Horwath.

The Chair: That's carried.

Shall section 15 carry?

Ms. Horwath: Madam Chair, I'm not going to be supporting section 15. Again, I think it enshrines the whole issue as to the restrictions in negotiations of the removal of various caps, particularly for the requests that came from some employee groups, including the Canadian Union of Public Employees, which is the largest single number of members of the plan. So I won't be able to support it.

The Chair: Any other comments or questions on this section?

Mr. Hardeman: This is the section for solvency reserves, is that the one we're on?

The Chair: We're on section 15.

Mr. Hardeman: "The sponsors corporation shall not amend the primary pension plan in a manner which reduces contributions or increases going concern liabilities"—is that the one we're at?

Ms. Hope: Yes. It's not about solvency per se.

Mr. Hardeman: But isn't that, "is not less than 1.05 and the ratio of the solvency assets to the solvency liabilities is not less than 1.00"?

Ms. Hope: I'm sorry, I was thinking perhaps you were referring to another solvency issue, which has been a subject of some discussion. I apologize.

Mr. Hardeman: This is really just saying that they can't make changes that would bankrupt the plan.

Ms. Hope: It's saying that there has to be a reserve in excess of full funding in the plan before material benefit changes could be made.

Mr. Hardeman: Thank you.

The Chair: Any more comments or questions on this section? Seeing none, a recorded vote has been requested. Shall section 15 carry?

Ayes

Dhillon, Duguid, Lalonde, Matthews, Rinaldi.

Nays

Hardeman, Horwath.

The Chair: That's carried. Section 16?

Ms. Horwath: I move that subsection 16(2) of the bill be struck out and the following substituted:

"Information

"(2) The administration corporation shall give the sponsors corporation such information, reports and documents as the administration corporation considers necessary and appropriate in order for the sponsors corporation to fulfill its objects under this act.

"Same

"(3) The administration corporation shall upon request provide to an organization that may appoint a member to the sponsors corporation such information, reports and documents relating to the governance of the OMERS pension plans."

Mr. Duguid: We won't be supporting this. We're a little concerned that it could conflict and create confusing interpretations with the Pension Benefits Act and the Municipal Freedom of Information and Protection of Privacy Act. The administration corporation is already required to provide information to the sponsors corporation.

The Chair: Mr. Hardeman, did you have your hand up?

Mr. Hardeman: I was just going to ask the mover of the motion: Is the appointing of a member to the sponsors corporation the only change that's being made from what is there presently?

Ms. Horwath: Let me just confirm that. It adds another subsection, subsection (3). What it does is basically say that information can be provided to an organization that appoints a member as well as to the sponsors corporation itself. Again, it's to reflect the concern around provision of information, transparency of information and putting the onus on the administration

corporation to provide the information that's requested of it.

Mr. Hardeman: It seemed redundant to me when it said that any member who's a part of the sponsoring organization is entitled to get information that's available to the sponsoring organization. I would think that they would get that in their regular agenda once every three years.

Ms. Horwath: Good point, Mr. Hardeman. I think that's part of the point, to increase the flow of information and make sure that that relationship is one that's more proactive as opposed to just reactive.

The Chair: Any further comments or questions on this amendment? Seeing none, a recorded vote has been requested.

Ayes

Hardeman, Horwath.

Nays

Dhillon, Duguid, Lalonde, Matthews, Rinaldi.

The Chair: That's lost.

Government motion, page 17.

Mr. Vic Dhillon (Brampton West–Mississauga): I move that subsection 16(2) of the bill be struck out and the following substituted:

“Information

“(2) The administration corporation shall give the sponsors corporation such information as the sponsors corporation may reasonably request for the purpose of carrying out its objects under this act.”

The Chair: Mr. Duguid, did you want to provide an explanation?

Mr. Duguid: A number of employee and employer stakeholders have requested that there be clearly separate roles for the corporations, and this complies with that principle.

The Chair: Comments or questions?

Mr. Hardeman: Just a little further explanation, I suppose. I understand the parliamentary assistant's point that we want to make sure that we have the clear delineation

of responsibilities between the two organizations, but I don't see what the wording change is going to do to increase that divisional line.

Mr. Duguid: It provides a little clarity as to the differentiation between the roles and responsibilities of the admin committee and the sponsors committee. It would change the term “governing the OMERS pensions plans” to “carrying out the objects of the sponsors corporation,” so it's keeping the use of proper terminology to ensure that there's proper separation between the two committees.

The Chair: Any other comments or questions on the amendment? Seeing none, a recorded vote has been requested.

Ayes

Dhillon, Duguid, Hardeman, Lalonde, Matthews, Rinaldi.

Nays

Horwath.

The Chair: That's carried.

Shall section 16, as amended, carry? A recorded vote has been requested.

Ayes

Dhillon, Duguid, Lalonde, Matthews, Rinaldi.

Nays

Hardeman, Horwath.

The Chair: That's carried.

Committee, I believe we have about a minute left. I don't know that we can finish another section. I'm going to rule that this committee now stands adjourned until 4 p.m. on Wednesday, November 30, 2005.

The committee adjourned at 1802.

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Ministry of Municipal Affairs and Housing

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