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# Official Report of Debates (Hansard)

**Wednesday 1 February 2006**

# Journal des débats (Hansard)

**Mercredi 1er février 2006**

## Standing committee on general government

Ontario Municipal Employees
Retirement System Act, 2006

## Comité permanent des affaires gouvernementales

Loi de 2006
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

# STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday 1 February 2006

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

# COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

Mercredi 1er février 2006

*The committee met at 1009 in room 151.*

## ONTARIO MUNICIPAL EMPLOYEES RETIREMENT SYSTEM ACT, 2006

## LOI DE 2006 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):** Good morning. The standing committee on general government is called to order. I apologize for the delay. We meet this day for the purpose of clause-by-clause consideration of Bill 206, An Act to revise the Ontario Municipal Employees Retirement System Act. We will now commence clause-by-clause consideration of the bill.

We do have an overflow room for anybody who is waiting or considering coming into the room. I don't know what that room number is yet. I will announce it when we do have that room.

Our first motion: Ms. Horwath.

**Ms. Andrea Horwath (Hamilton East):** Thank you, Madam Chair. I move that the bill be amended by adding the following section before the heading "Ontario Municipal Employees Retirement System":

"Paramedics

"1.1 On and after the day that this section comes into force, the normal retirement age of members who are employed as paramedics, as defined in subsection 1(1) of the Ambulance Act, is 60 years if the employer has changed the normal retirement age of the class of employees to which the member belongs to 60 years."

**Mr. Brad Duguid (Scarborough Centre):** Madam Chair, just on a point of order—

**The Chair:** Can I ask you to hold that thought? Because procedurally, I have to do section 1. It's my fault that I didn't do that.

**Ms. Horwath:** Are you going to make me read it again, though?

**The Chair:** No. I won't make you read it again. You did such a good job.

Any discussion on section 1? No. Shall it carry? All those opposed? That's carried.

We'll move on to your motion, Ms. Horwath. Did you want to provide some background to your motion?

**Mr. Duguid:** On a point of order, Madam Chair: Just to save Ms. Horwath providing that information now, she may want to just wait and provide it later. I was going to ask, if possible, that this one just be stood down. I did ask the legislative counsel for some information on this, and I haven't seen it yet. I have our own staff just reviewing some of the legal issues with regard to this, so I'm wondering, with Ms. Horwath's approval, if we could stand this down just to take a closer look at it.

**Ms. Horwath:** Sure. In the interest of people having all the information, absolutely. No problem.

**The Chair:** Thank you. Okay.

**Mr. Duguid:** On a second point of order, Madam Chair: I believe the committee has received a letter from the OMERS board, which I just got as I got here this morning. It makes some suggestions to us to consider. I have no problem with asking our staff to take a look at their suggestions. It impacts three motions that are before us today, and I would ask that maybe we stand these three motions down until we get a chance to review the letter. They are motion 2, motion 15 and motion 17. I would ask that we stand those down as well.

**The Chair:** Is there any discussion on that request?

**Mr. Ernie Hardeman (Oxford):** I'm just wondering, could I get a clarification on what we're standing down?

**Mr. Duguid:** Sure. I'll go through them, if you like. Motion 2 is a government motion, which is more of a housekeeping item. The motion would add greater clarity, to ensure that all funds created by OMERS are continued afterwards. So it was sort of a clarity motion. I think it's more of a housekeeping item.

Fifteen—

**The Clerk of the Committee (Ms. Tonia Grannum):** That's page 15, right?

**Mr. Duguid:** Motion 15 is again a government motion. The motion clarifies exactly what benefit would be provided in a supplemental plan.

**The Chair:** Mr. Duguid, I see a look of query on Mr. Hardeman's face, so could you provide not only the page but the subsections? That might help people to follow along. Would that be helpful? So on the second motion, we're talking subsection 3(3).

**Mr. Hardeman:** Madam Chair, I'm just curious as I look at this. The parliamentary assistant talks about government motions for amendments, but all I have before

me is a letter from OMERS, who was one of the presenters here and who, I presume, gave all the information that is behind this letter. They are now, in this letter, making a further presentation, with suggestions of amendments that they have looked at that are going to be proposed, and the government is saying, "Well, they may be right. We may be wrong. We may not agree with our own amendments, so we'll put these down and we'll see, with the second presentation, whether we're going to listen to OMERS this time around."

I'm just a little concerned about the process that we have here. I don't object to ending up with the best possible piece of legislation, which may require having a second look at the operators of the plan and their presentation, but I'm a little concerned about how we're doing this. What we have before us here is just a letter outlining—I look here at the first one: "A number of our recommended changes in this regard were adopted at seconding reading, however, the bill still does not entirely achieve this goal and there remains some ambiguity," on the overlap of the two.

Now, we've had considerable debate before this committee about that problem, that OMERS had said in the initial presentation that we should be very careful to make sure there was no overlap between the sponsoring organization and the administrative organization. I would assume that in the interim time the government has looked at their amendments to make sure that, if they intended to achieve that, they had achieved that. To then come back with a second presentation from the same presenter saying, "You've come halfway. Let's see if we can't convince you to come the other half," I'm having a little trouble with that as to process, as to how we got here. We're not doing more delegations today, we're doing the clause-by-clause, so I guess it's really where the government is coming from on this piece of legislation.

I'm a little concerned that we started with a piece of legislation that was the be-all and end-all to dealing with the OMERS pension situation, and now we have something like 150 amendments and we're standing down part of the bill in clause-by-clause because we may want to amend our amended amendments. I'm getting a little concerned about whether we know what we're doing with this bill.

**Mr. Duguid:** I have no question that these are complicated issues, and many of the amendments do require a great deal of expert scrutiny. We're not arrogant enough to think that, if you've got 100 amendments, every single one of them is going to be perfect.

I haven't read this letter, other than glancing through it. I don't know what the implications are of this letter; I don't know what the recommendations are. I think, though, it would be wise of committee to take it under advisement and in so doing to ask our staff to take a close look at it to see if these are some suggestions that might be worth recommending. If they are, we'll certainly report back to the committee, I would expect sometime after the lunch break today, when I've had an opportunity to actually read the letter, to see whether in fact there may be a need to amend a government motion here or there, or maybe not.

**Ms. Deborah Matthews (London North Centre):** And it would be irresponsible—

**Mr. Duguid:** That's right. I think it would be irresponsible for us to just ignore this new information, and I think it would be wise of committee to take a look at it.

**Mr. Toby Barrett (Haldimand–Norfolk–Brant):** I would—

**The Chair:** Can I let Mr. Duguid finish, and then I'll let you have the floor.

Mr. Duguid, would you like to go on with what other motions—you were in the middle of 15, I think it was, and what was the last one, 17?

**Mr. Duguid:** Number 17 was the last motion, yes.

**The Chair:** So 17 is—

**Mr. Duguid:** It is again a technical amendment to ensure that the terminology was consistent.

**The Chair:** Just the number.

**Mr. Duguid:** Subsection 11(3).

**The Chair:** Thank you. Mr. Hardeman?

**Mr. Hardeman:** I have no problem with it, Madam Chair. I would just point out that, in the month or six weeks we've been at this, we've had so many amendments with thorough thought and preparation. I'm a little concerned that, in haste, we'd be making changes that in fact were not well thought out, because I find it hard to understand how we could do all these reviews and come up with an amendment in 20 minutes or half an hour—or in two hours, for that matter. I think this is kind of late in the game, late in the battle, to be changing your battle plans. We'll let it go at that.

**The Chair:** Ms. Horwath.

**Ms. Horwath:** Just in the interests of making sure that all interested groups have an opportunity to see exactly what the government is looking at in terms of possible changes that would be affected by this, I'm just asking whether the clerk has had a chance to provide this to the research staff of the opposition parties as well. Can I just ask that the research staff of the opposition parties are assured to receive this document so that we can have our staff look at that as well?

**The Chair:** We'll make sure you have that as soon as possible.

So we'll move on to the next motion, which hasn't been stood down.

*Interjection.*

**The Chair:** Sorry. Mr. Duguid?

**Mr. Duguid:** On a point of order on motion number 3, the NDP motion: I've talked to Ms. Horwath about this already. There is a part of it that I'd like to get some further legal advice on. We just received these last night. I should have that legal advice, I would think, by the end of the day today for sure. I had mentioned it to Ms. Horwath. I'd appreciate it if we could just hold this down just so we can get that legal advice so we can determine whether we can support it or not.

**1020**

**The Chair:** So we're talking about motion 2?

**Mr. Duguid:** This was motion 3.

**The Chair:** We're not there yet.

**Mr. Duguid:** Oh, I'm sorry. I thought we'd—

**The Chair:** That's okay. That gives me a heads-up for when I get there. I have to follow my road map; if things are out of order, I'm going to get confused by the end of the day. Let me get through section 2 and then we'll get to the next motion.

Shall section 2 carry? Any discussion? All those in favour? All those against? That's carried.

Section 3, which is motion 2, has been stood down; we won't be dealing with it.

We're on to section 4, which I believe is what you want to talk about, Mr. Duguid, after Ms. Horwath has brought forward her motion. Is that right?

**Mr. Duguid:** Yes.

**The Chair:** Mr. Hardeman, I see you signalling. Has it to do with business I've just done or am about to do?

**Mr. Hardeman:** I'm afraid you lost me around the first bend. In setting down section 1, we also set down the amendment for 1.1?

**The Chair:** Section 1 in the act carried. What we set down was—

**Mr. Hardeman:** Section 1 carried?

**The Chair:** Section 1 in the act.

**Mr. Hardeman:** Did we deal with the NDP motion?

**The Chair:** We were dealing with 1.1 of the act. It has been asked to stand down section 1.1. That's not section 1; it's a new section. So 1.1 comes after 1, and that's stood down. Okay?

We're on section 4, which is the NDP motion number 3.

**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 purpose of paying any optional benefit under a supplemental plan or funding the payment of any other liability of a supplemental plan.

"Same

"(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.

"Same

"(4) All costs related to the transfer of assets to the primary pension plan under subsection (3) shall be paid from the supplemental pension plan."

Again, this is just tightening the language regarding cross-subsidization of plans.

**The Chair:** Mr. Duguid, was this the item you wanted to talk about?

**Mr. Duguid:** Yes. I was just going to ask that this item be held down. I've asked staff to review a section here to get some legal advice.

**Ms. Horwath:** That's fine.

**The Chair:** The next motion is a government motion.

**Mr. Duguid:** I move that subsection 5(3) of the bill be amended by striking out "For the purposes of this section" at the beginning and substituting "For the purposes of this section and section 7".

**The Chair:** Do you want to give us an explanation?

**Mr. Duguid:** This ensures that school boards can't take non-teaching staff out of OMERS. It prevents a fragmentation of the fund. It further protects the OMERS fund. It was agreed to by all the stakeholders. OMERS had requested this change.

**The Chair:** Any discussion?

**Mr. Hardeman:** I'd just like a little further clarification. This is to make sure that no one can leave the plan, as opposed to wanting to get in?

**Mr. Duguid:** Non-teaching staff can't be taken out of OMERS, so they keep them all within. My understanding is that all the stakeholders had agreed to this. This is something that should have been in there.

**Mr. Hardeman:** Is it an obligation that all people who are presently in are locked into the plan as their only choice?

**Mr. Duguid:** Say that again?

**Mr. Hardeman:** Is every employee presently in the OMERS plan obligated to be in the OMERS plan?

**Mr. Duguid:** Yes. They can't go off and join another plan.

**Mr. Hardeman:** So why is this necessary, if they're already obligated to be in there? Or is it strictly in the school board that they're not?

**Mr. Duguid:** I think it was unintentionally omitted from the original, and that's why they're including section 7.

**Mr. Hardeman:** Thank you.

**The Chair:** Any further questions? Shall the motion 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.

Section 7; Mr. Duguid.

**Mr. Duguid:** I move that subsection 7(1) of the bill be amended by striking out "other than a school board".

The rationale for the motion is that this maintains the status quo. It will ensure that the non-teaching employees of school boards who are not eligible to be members of the Ontario teachers' pension plan must continue to participate in OMERS. It's similar to the last motion. Again, the OMERS board requested this change, technical as it is.

**The Chair:** Any debate? All those in favour of the motion? All those opposed? That's carried.

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

Section 8; Mr. Duguid.

**Mr. Duguid:** M. Lalonde is going to do that one.

**Mr. Jean-Marc Lalonde (Glengarry–Prescott–Russell):** I move that section 8 of the bill be amended by

striking out "paragraphs 1 to 7" in subsection (1) and in subsection (2) and substituting in each case "paragraphs 1 to 7 or paragraph 9 or 10."

**The Chair:** Discussion?

**Mr. Duguid:** It's again largely a technical amendment, similar to the previous ones. It ensures that the sponsors group and admin corporation employees, who will be part of the fund, are also restricted to staying in that fund. It's just like all the other employer groups. That one just hadn't been thought of, and they were omitted from the original bill.

**The Chair:** Any discussion?

**Ms. Horwath:** Can I get that explanation again, please? I'm not quite sure exactly what it's referring to.

**Mr. Duguid:** In the original bill, all employee groups were treated in a certain way in that they all have to remain part of the OMERS pension plan; they can't go off and get their own pension plan. We didn't include employees of the sponsors corporation or administration corporation under that, and they should be treated like all other employees under the plan. This just includes them in that category as well. That's my layman's explanation.

**The Chair:** Any other questions?

**Mr. Hardeman:** Madam Chair, I haven't found section 8, paragraphs 1 to 7. Unless I'm missing something, section 8 only has two subsections in it.

**Mr. Duguid:** It goes back to subsection 5(1), paragraphs 1 to 7. Subsection 8(1) refers back—it's complicated.

**Ms. Horwath:** It refers back to section 5, which then, in paragraphs 9 and 10, speaks to the sponsors corporation and admin corporation—

**Mr. Hardeman:** I've got it.

**The Chair:** Shall the motion carry? All those in favour? All those opposed? That's carried.

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

Section 9; Mr. Duguid.

**1030**

**Mr. Duguid:** I have an amendment I have to explain to the committee members. I guess I have to introduce it first, then I'll explain it.

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

"Defined benefit plan

"9. Every OMERS pension plan must be a defined benefit plan."

That's not the motion in front of you here, and I'll explain why I'm moving that. I need unanimous consent to move this. You may recall that at the original hearing we voted down this section. In order to reintroduce it, you need unanimous consent to move a motion that was previously voted down. So I'm moving that. If we do not have unanimous consent, this other motion would then be in order. It has to be different; the difference is that it would only apply to the primary plan as being a defined benefit plan. I'm happy to take questions from the opposition if they're not sure what we're trying to do with this.

**Mr. Hardeman:** In the name of expediency, I need to have a discussion on the motion before we can give unanimous consent to introduce that one. I have some concerns with allowing it to go back in the way it was. It deals with the issue of what happens to supplementary plans. If you put that one back in, that means every plan of OMERS must be a defined benefit plan. We discussed it with one of the deputants. There is a real concern that at some point in time an actuary could actually decide that a supplementary plan is solvent with the types of premiums they have, but a year later, as happened with the premium holiday, we find there are not sufficient dollars in the supplementary plan to keep it solvent. In fact, under pension law, the main pension plan would become responsible for the defined benefits. On the other hand, if the supplementary plan becomes a defined contribution as opposed to a defined benefit, then it never crosses over.

If we put it back in that all OMERS plans will be defined benefits—this gets kind of complicated. The motion that was stood down earlier about the no cross-over of funds from one plan to the other—one of the two won't work, because at some point, if there is a discrepancy and there is not enough money to fund the liability of any supplementary plan, the main plan is going to have to cover the cost, under pension law. With that motion and this one, that would not be possible. So I really have a problem.

I don't have any problem with the present OMERS plan being a defined benefit plan. I was supportive of not changing it in the first place. Check the record; I didn't believe it should have been eliminated in the first instance. But now, having heard all the deputations, I have a real concern that if you define them all as defined benefit plans, we could end up with problems with one plan having to fund another one that the law says they're not allowed to do.

**Ms. Horwath:** Can I just ask some clarification from staff with regard to the analysis provided by Mr. Hardeman about whether that's an appropriate assumption? Could she also address the extent to which, for example, the motion we stood down, page 3, might address that very issue?

**Ms. Janet Hope:** I'm Janet Hope, director of the municipal finance branch, Ministry of Municipal Affairs and Housing. My understanding of the federal law, under the Income Tax Act and the rulings of the Canada Revenue Agency, is that when a supplemental plan is set up, there cannot ever be transfer of assets between a base plan and a supplemental plan. There is complete financial separation between the plans. So if at any point in time a supplemental plan were underfunded, ran into funding difficulties, there could never be recourse to the primary plan. It would be necessary to either increase contributions to the supplemental plan, to wind up the supplemental plan, to change the nature of the supplemental plan, but if there's an issue of underfunding in the supplemental plan, it must be addressed within the confines of the supplemental plan. It is not my understanding

that there's any relationship between the issue of rebound costs, if I can put it that way, and the issue of whether plans are defined benefit or defined contribution plans.

**The Chair:** Ms. Horwath, did that answer your question? Mr. Hardeman.

**Mr. Hardeman:** Thank you very much for the explanation, but going on with that, who pays the unfunded liability if a supplemental plan becomes insolvent? Who becomes responsible for the unfunded liability if the participants should decide not to participate in it?

**Ms. Hope:** There are a couple of issues in what you're asking about, as I understand it. The participants in the plan, the employers and the employees, have the responsibility for the plan. If individuals withdraw and the plan cannot continue, doesn't have funds to continue, then you've got issues of potential windup of the plan. Then the issue of the Minister of Finance's statement on solvency funding become relevant. The Minister of Finance—I don't have the exact language in front of me—has gone on record to say he'd be prepared to support, through regulation, exempting supplemental plans from the solvency funding requirements, provided certain circumstances are met. I understand that the end result of that is that if a supplemental plan became insolvent and had to be wound up, it would only pay out to the extent that there were funds in the plan.

**Mr. Hardeman:** So a person retired on a supplementary plan could, five years down the road, find they no longer get the supplementary pension?

**Ms. Hope:** Yes, but that individual is still a member of the base plan and is entitled to all the pension benefits of the base plan. But if that individual were also a member of a supplementary plan that became insolvent and could not pay out benefits, it's conceivable that individual might not receive some or all of the benefits that he or she was expecting under the supplemental plan.

**Mr. Hardeman:** In the case of a windup, would the provincial authority wind up the plan of an employer that's still solvent?

**Ms. Hope:** We may be getting a little bit beyond my technical abilities here, but it's—

**Mr. Hardeman:** I think it's very important, because the way I understand it, at some point in time, the sponsoring corporation becomes responsible for any unfunded liability in any of its plans, unless they actually go out of business, which we have all agreed municipalities are not going to be able to do. My concern is that at some point in time, the fund owned by the sponsors and the main plan will see fit to use their assets in that plan to fund the unfunded liability in a supplementary plan, if that should happen.

**Ms. Hope:** It's my understanding that that would not be permissible under federal law, so even if all the sponsors of the OMERS plan desired to do so, desired to use the main plan funds to fund a liability in the supplemental plan, it is my understanding that under federal law, that would not be permissible.

**The Chair:** I'm going to interrupt now, because I have to determine whether we have consent to deal with this motion before we get into the nuts and bolts of it. Unanimous consent is needed. We don't have consent.

Going back to the original motion—Ms. Matthews, you're going to be reading it?

**Ms. Matthews:** I move that the bill be amended by adding the following section:

"Defined benefit plan

"9. The primary pension plan must be a defined benefit plan."

**The Chair:** Any debate? Mr. Hardeman.

**Mr. Hardeman:** To the legal branch again, having just gone through that, if this motion passes, now we are going to have that just the primary plan must be a defined benefit plan; the supplementary plans can still be a defined benefit plan, but they don't have to be. If all the parties agree it should be that way, and obviously, if they set it up that the premiums coming in will cover the benefits they say they're going to pay out—as long as everything runs properly, it's somewhat irrelevant which it is. Is that right? The only time it would matter is that if there were no money and neither of the parties were willing to put the money in to cover their liability, they'd have to reduce the benefits.

**1040**

**Ms. Hope:** There is a technical difference in what individuals get in a plan, whether it's defined benefit or defined contribution. Aside from that, I think I agree with your statement.

**Mr. Hardeman:** But in the end, in reality, for everybody, as long as they pay sufficient premiums to cover the cost of the supplementary plan, their benefits will never be reduced?

**Ms. Hope:** Unless those who have authority for the plan—

**Mr. Hardeman:** Unless they agreed to do that.

**Ms. Hope:** Yes—could change the text.

**The Chair:** Ms. Horwath.

**Ms. Horwath:** I'm a little bit frustrated, because the position we're now in is really untenable; that is, the government is bringing forward this motion which, because of its own fumbling of the ball the first time around, has now led to the thin edge of the wedge being provided in the OMERS pension plan. It's disheartening that they didn't have their t's crossed and their i's dotted to be able to recognize that this second-best motion here is completely unacceptable.

It really does speak to the lack of understanding of the government's initial attempt at the devolution of OMERS. It says that the principle of defined benefits, which is really an underpinning of the OMERS pension plan, is in fact the underpinning of any pension plan that's actually going to provide for stable income for people upon retirement—all pension plans, in my opinion, should be defined benefit. But what the government has now done, because of their fumbling of the ball initially or because of their inability to understand what they were doing the first time around due to the complexity of this bill, is in effect to allow for these

plans to now begin to be considered as defined contribution.

I would hazard to say that none of the employee members of the plan would be supportive of this kind of compromise. I'm not going to be able to support this motion, not because I don't think that the primary pension plan should be a defined benefit pension plan—absolutely I believe that—but I believe it's a poor excuse for trying to fix a problem that the government put on itself in its initial round of hearings on this bill and in clause-by-clause on this bill.

I'm sorely disappointed, to be frank with you, because I think it's irresponsible. It really is one of the things that highlights how this process has been cumbersome from the beginning. There are ways in which the government could have dealt with the process; it has come up by stakeholders during the public hearings, in both the initial round and the most recent round last week that the government had an opportunity to pull stakeholders together or to set them a place where they could get together to go over these issues over a period of time.

Instead, this ill-conceived bill was brought to us at the end of last year. Just by looking at the second reading version, with all the strikeouts—I mean, there's more blue in the document than there is black. I hazard to say that at the end of this clause-by-clause, there won't be any black left in the bill. I think that indicates that the government made an egregious error in the way they brought this legislation forward.

It's unfortunate now, because the result is that we end up with motions like this to try to correct a problem from the last time around that, in effect, simply make a very negative statement about the government's commitment to the principle of defined benefit pension plans, which we all know—or we should know, anyway—are the ones that actually prevent people from losing their investment in pension plans over time because they're not as vulnerable to market whims as defined contribution plans are.

I'll leave it at that, Madam Chair, but I have to say that although I absolutely support the principle of the pension plan being a defined benefit plan, all of the plans, in my opinion, should have been defined benefit. It's extremely frustrating to be in this situation now, where that can't be guaranteed through this process.

**Mr. Hardeman:** I want to agree with all the comments made about the fact that the bill must have been written somewhat in haste and not really thought out very well. The member is totally right: When I look at the document where we have the two colours, there is more blue than there is black; that is, there were more changes than what is left of the original bill. That was before we got here, and now we have upwards of 50 more amendments being put forward to correct the problem.

Dealing with just this issue, though I'm not supporting the bill, I think this is actually closer to treating everyone fairly than the original. Though as a government they may have got here by accident, I believe it's the right thing to do, because everyone who is presently in the OMERS plan has a right to expect that it was a defined benefit plan before and it will be a defined benefit plan when it's finished. With this motion, everyone who is presently in the plan is guaranteed that it is a defined benefit plan from here on and into the future.

The only thing this allows that the original doesn't is that people, as they negotiate supplementary plans, may very well want a defined benefit plan that would serve their purposes. It may not be the present ones talked about as supplementary plans; it may be a totally different supplementary plan or a different group of stakeholders that want to be part of it. They may very well not be able to make the types of contribution required to guarantee a certain benefit, but they may want to set that benefit based on the amount that both parties are putting in. I think this allows future supplementary plans to be more designed for the needs of the people.

We were told a number of times during the public presentations that the pension world is going more toward defined contribution plans than it is to defined benefits plan. That doesn't mean I support taking this one away from being a defined benefits plan. As close as I can come to supporting it, I support this amendment more than I do the—with this, the whole OMERS organization will always be defined benefit as opposed to defined contribution.

**Mr. Duguid:** I want to begin by saying that we don't apologize at all for listening to our stakeholders and making improvements to this bill. I recognize that there were a number of amendments in the original hearings and there are a number of amendments here today. They are amendments that improve the bill. They are amendments that indicate that we are listening to stakeholders. I can recognize that the members opposite aren't used to that, because the previous government never listened to stakeholders and went through committees and rammed whatever they wanted to ram through with very few amendments. So this is rare in this place, but it indicates that we have listened. We've listened intently to stakeholders who have wanted us to improve the bill, and we've done that.

This is a complex bill—I know the members opposite know that—a bill that, no matter which party brought it forward, would require wording changes. Most of the amendments are technical in nature and come through our legal department. I think the government side and the opposition side have done an excellent job of getting their heads around this bill.

Again, I don't apologize at all for the amendments we've brought forward. They improve the bill. Good God, that's what we're here for, to bring forward the best possible legislation and listen to the public as they come in through the public hearings.

**Ms. Horwath:** Can I just ask: The extent to which supplementals could possibly become defined benefit plans would be a decision of the sponsors corporation subject to this two thirds supermajority vote?

**Ms. Hope:** Yes.

**The Chair:** Any further debate, discussion? All those in favour of the motion?

**Ms. Matthews:** Recorded vote.

**The Chair:** A recorded vote has been requested.

**Ayes**

Dhillon, Duguid, Lalonde, Matthews, Rinaldi.

**Nays**

Hardeman, Horwath.

**The Chair:** That's passed.

Shall section 10 carry? All those in favour? All those opposed? That's carried.

**1050**

Section 10.1; Mr. Rinaldi.

**Mr. Lou Rinaldi (Northumberland):** I move that subsection 10.1(1) of the bill be struck out and the following substituted:

"Optional increases, police and fire sectors

"(1) Despite any other provision of this act, the administration corporation shall amend the OMERS pension plans to provide optional increases in benefits for members of the primary pension plan who are employed in the police and fire sectors and establish the contribution rates for the benefits."

**The Chair:** I'm just bringing to your attention that there's a new word in the motion that isn't in your printed copy; that is, between "primary" and "plan" the word "pension" has been added.

**Mr. Rinaldi:** In the second-last line.

**The Chair:** Any explanation, Mr. Duguid?

**Mr. Duguid:** That was just a last-minute change from our legal counsel. I guess "primary plan" maybe can mean a lot of different things, so "primary pension plan" provides a little more clarity.

What this does is that it ensures that the administration corporation will get on with the direction that the Legislature sets over the course of the next 24 months. This only applies for the initial 24-month transition period. It will ensure that the functions we're asking the administration corporation to complete—getting on with the supplemental benefits—don't get mired in some of the start-up challenges that may occur at the sponsors corporation. It allows the work to start being done over the course of the next 24 months, which may not otherwise take place, and then the work to get these supplemental benefits up and running could take a lot longer.

**Ms. Horwath:** Can I ask whether I'm correct in my assumption that this doesn't provide the same provision in terms of rights to the negotiation of a supplemental plan for the remainder of the plan members who aren't police, fire or paramedics?

**Ms. Hope:** If I understood your question correctly, this would apply only to the establishment of a supplemental plan within 24 months for police, fire and paramedics with respect to the specific benefits listed in 10.1.

**Ms. Horwath:** So members who are CUPE members, OSSTF members or CAW members, who are not necessarily employed in police, fire or paramedics, are treated differently in terms of their established right within the legislation to negotiate supplemental plans. Is that correct?

**Ms. Hope:** The bill does provide the authority for the sponsors corporation to create a supplemental plan for those other employees but does not direct either the sponsors or the administration corporation to create such a plan.

**Ms. Horwath:** Absolutely. Just to clarify once again, this gives the as-of-right requirement for the supplemental plans to be negotiated, while at the same time, because the other employee plan members are not covered under this section and many others in regard to supplementals, it requires them to jump through a separate hoop, which is that of the two thirds majority requirement established in terms of the decision-making of the sponsors corporation in regard to supplemental plans for other employees?

**Ms. Hope:** I beg your pardon. I missed the question.

**Ms. Horwath:** The extent to which other employees—not police, fire and paramedics—in their attempts to get supplemental plans are required to go through a second hoop or another tier of process, which is the two thirds majority requirement for the sponsors corporation to establish supplemental plans for those groups.

**Ms. Hope:** This motion doesn't change in any way the direction that OMERS is to create a supplemental plan for specific groups of employees and the authority of the sponsors corporation to create supplemental plans for others.

**Ms. Horwath:** But this particular motion—if I may, Madam Chair; it's an important point—sets out the requirement for the supplementals that they must be established within 24 months for this one group of employees, but nowhere is there a similar requirement enshrined in this legislation that within 24 months supplementals be set out for other employees. In fact, for other employees, my understanding—again, it's a matter of the technical nature of this bill—is that this bill is silent on any requirement but is enabling, but the enablement requires a two thirds majority vote of the sponsors corporation. Am I correct in my understanding of the two tiers that exist and that are reflected in this motion?

**Ms. Hope:** The thing I would differ with is that this motion actually doesn't change the direction. The direction of the bill, as amended at first reading and as continued, including with this motion, is that there is a requirement to establish a supplemental plan with respect to one group of people, with respect to a specific list of benefits, and there is an authority to create a supplemental plan for other employees.

**Ms. Horwath:** I guess that was my point and why I thought it was important to raise it under this particular amendment, in that this amendment could have been the one that would have perhaps enabled the other employees to have the same right as police and fire in regard to the establishment of supplemental agreements. I think my

point has been made. I appreciate the opportunity, Madam Chair.

**Mr. Hardeman:** Just for clarification: I'm trying to figure out the difference between the previous amendment that was amended after first reading and this one. I'm seeing very little difference, but one of the things I noticed is that it doesn't include paramedics. Is there a reason for that? Is it somewhere else in the legislation, or are they not covered?

**Ms. Hope:** The bill, as amended at first reading, redefined the police and fire sectors to include paramedics. So everywhere in the bill now, where you see the phrase "police and fire sectors," it is as defined in section 1 of the bill, and that includes paramedics. Every time you see "police and fire" in this bill, it means "and paramedics."

**Mr. Hardeman:** Is there a reason why it wouldn't just be added in each one?

**Ms. Hope:** I think we get into legislative drafting conventions of how one does amendments.

**The Chair:** No other debate? Shall the motion carry?

**Ms. Matthews:** Recorded vote.

**The Chair:** Another recorded vote has been requested for the government motion, page 8.

**Ayes**

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

**The Chair:** That's carried.

Page 9, which is another government motion; Mr. Dhillon.

**Mr. Vic Dhillon (Brampton West–Mississauga):** I move that paragraphs 2 and 4 of subsection 10.1(3) of the bill be amended by striking out "counted in full years and months, plus credited service and eligible service, counted in full years and months" in each paragraph and substituting in each case "counted in full and part years, plus the member's service, counted in full and part years."

**Mr. Duguid:** This is a technical amendment to ensure that the supplemental plans are implemented correctly. The amended language uses terminology to describe the plan member's service that is consistent with the language in the current OMERS plan. It's a request that came forward from the OMERS board.

**Ms. Horwath:** Can I get further explanation of exactly why it was required to be changed? What was ineffective or improper about the first drafting, and what really does this do?

**Mr. Duguid:** The only explanation I can give you is that the OMERS board indicated that the way we were referring to service wasn't consistent with the current OMERS plan. They wanted us to make sure it was consistent. I don't know if staff can add anything to that.

**Ms. Horwath:** So it doesn't change what had been the intention of the primary plan or the existing OMERS plan in any way?

**Ms. Hope:** Correct. It's an amendment to make sure that the intention is in fact crystal clear by using language that is consistent with the language in the current OMERS plan text.

**The Chair:** No further discussion? All those in favour of the motion? All those opposed? That's carried.

Next government motion; Mr. Duguid.

**Mr. Duguid:** I move that paragraphs 6, 7 and 8 of subsection 10.1(3) of the bill be struck out and the following substituted:

"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 service of three years, but the average may be less than three years for members with 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 service of four years, but the average may be less than four years for members with service of less than four years.

"8. The option for a member to elect to purchase credit in the supplemental plan for a benefit described in paragraph 1, 2, 4, 6 or 7 in respect of the member's service before the date the employer of the member consents to provide the benefit under the supplemental plan."

I've been advised that this just amends the technical language to provide greater clarity, to be clear that contributions would not be made for past service, but rather a purchase of credit. It's something that is generally the practice of other pension plans.

**1100**

**The Chair:** Any debate?

**Ms. Horwath:** I'm trying to figure out, from looking at the amendment in front of us and the last amended version of the bill we have—I'm wanting to confirm that this section was already amended the last time around, and now it's being amended again. Am I looking at the right part, on page 7 of the amended bill?

**Mr. Duguid:** Pages 7 and 8.

**Ms. Horwath:** I'm just trying to figure this out. If the initial amendments came from staff going through the bill, whether OMERS or municipal affairs and housing staff, and making their first set of amendments, what is it that changed? Is there an amendment we've made or a government amendment coming up that requires that initial amendment to now be re-amended?

**Ms. Hope:** It's really comparable to the last motion, in that different plans can use slightly different language to describe issues of buying back service or credit. These are very minor amendments. In fact, in several places, the original motion read "credited service." That's being replaced with "service," because that's more consistent with the language in the existing OMERS plan text. Again, it will make it crystal clear that this can be implemented as originally intended. It's entirely housekeeping, and it's to bring greater clarity.

**Ms. Horwath:** That leads one to assume that perhaps the plan itself wasn't consulted on the first set of

amendments. Can that be true? It's a process thing for me, trying to figure out how these things get done. Notwithstanding how minor an amendment it is, it seems odd to me that we would be in a situation where perhaps the plan itself wasn't consulted in the first drafting of amendments. Is that the case?

**The Chair:** Mr. Duguid.

**Mr. Duguid:** No, there's been considerable consultation with all stakeholders on this, including the OMERS board. What does happen, though, is that as legal people get an opportunity to look at bills, they sometimes will identify improvements that can be made or clarity that can be brought, and that's what's happened here. As I've mentioned before, a number of the amendments, as they go through more and more consideration, there sometimes can be improvements to the language. That could probably be said of any piece of legislation.

**Mr. Hardeman:** I want to go on in that same vein for a moment. Obviously, when the original amendment was written, legislative counsel would have been looking at the language in the present legislation. The explanation I'm getting is that the amendment is strictly to make the new language conform with the present situation at OMERS, that different plans have different language and now we find that what we put in the first amendment isn't in the right language for the present plan. Wouldn't the people writing the document have the same information in front of them for both amendments? I find it hard to understand that we can have a whole page of the bill completely amended. Actually, there are only five or six paragraphs on two pages that are not amended from the first time around. Now we have paragraphs 6, 7 and 8, all based on amending the amendment. Wouldn't leg counsel have had the same information in front of them both times, and wouldn't it have been written in the right language if there wasn't an intent for a change?

**Ms. Hope:** Legislative counsel have access to a variety of resources in drafting. As Mr. Duguid has indicated, when a bill gets put together, when all the pieces get put together and people have the opportunity to reflect on the language, from time to time potential improvements in the language are identified to help enhance the meaning of the original.

**Mr. Hardeman:** Not to find fault with legislative counsel, as they do a wonderful job, but—everything has a "but." I think the parliamentary assistant said he was not going to apologize for having listened to the people as they made presentations and then making amendments to the bill, even though it required a lot of amendments. I respect the government side for doing that. Where my challenge really comes in is that after we've done that, after we listened to the people and asked leg counsel to prepare amendments to deal with what we heard, we then come back with such wholesale changes to the amendments. Did we hear that much different the second time around that would require this many changes? I'm starting to think this has very little to do with changing it because we heard something different the second time around. I think everyone would have to agree that the presenters didn't change their story nearly as much as you're changing the amendments.

There seems to be a problem here. We seem to have fallen off the track of writing the legislation to what government originally had in mind in accomplishing with this bill. I just can't see the amendments to amendments on issues that seem pretty straightforward. To just say, "Well, we're making all these amendments to deal with the wording. The original OMERS legislation words it in a different way, so we have to put all these amendments forward"—if I could be so bold as to ask, in paragraph 6, what wording was changed to meet this goal for which we said now we have to write it in the language of the legislation?

**Ms. Hope:** There were three changes in paragraph 6. The original made reference to "period of credited service," and that's been replaced with "period of service," so the word "credited" has been removed. Then, further on, it said, "employees with credited service," and it now says, "members with service"—very minor changes.

**Mr. Hardeman:** They are housekeeping, aren't they?

**Ms. Hope:** Yes, they are.

**The Chair:** Ms. Matthews?

**Ms. Matthews:** Now that Ms. Horwath is back, I think you can end your questioning. Anyway, I can't just let this conversation go without making a comment. This is complex legislation. The financial health of thousands of people depends on our doing this right. We don't want to get bogged down in legal arguments later; we'd rather get it right now. The government took this to hearings after first reading for a very important reason, and that was to get the arguments out on the table, to get it right. Coming back after second reading was to look at the amendments we made after first reading. I will never apologize for having an amended, good bill. Far better that than a poor, unamended bill.

**The Chair:** Any further discussion?

**Ms. Horwath:** I too want to thank Mr. Hardeman for so studiously reviewing this particular clause. Notwithstanding the comments just made by the government side, I think many of the stakeholders at this point in the game don't agree that it's a good bill. In fact, unfortunately, many stakeholders are concerned that the government got it wrong and that the bill is not in their best interest. And it's both sides of the table; it's not just one side or the other. People or interests or stakeholders on both sides of this issue are concerned that the government hasn't got it right, notwithstanding the fact that it went to public hearings—which I respect, and I'm happy to have gone through that process, because it is a technical bill; it's difficult and there are lots of important issues that need to be resolved. Nonetheless, I think we're at a stage now where stakeholders are even further apart from the time when the bill went through its first reading hearings. I thought it was important to get that on the record.

**1110**

**Mr. Hardeman:** I just want to comment that I agree and I appreciate all the work the government is doing in

the public hearings on the bill and the changes they're making. I would just say that they should have done a lot of that consultation prior to introducing the bill to find out what the stakeholders really wanted and what really needed to be done so we wouldn't have had to have this debate with just politicians sitting around the table but it could have taken place with the stakeholders on the other side. That way, we'd have something before us that was actually going to serve the purpose this bill was intended for, which, if we remember, the minister told us at the first meeting was the devolution of OMERS from the provincial government to the municipalities and the employers, to be operated by an employer and employee board.

I have had the opportunity of sitting through the whole process, and I have to tell you that has not been the main topic of discussion that has taken place at these committees. The issues on which we have had the discussion should have had much more discussion prior to coming here, because it seems we're doing it differently from what we set out to do. I think that's the problem with the bill, not that I object to making wording amendments that will make the bill better. I support that, but at the same time I think a lot more consultation should have been done with all the stakeholders to see if we couldn't come up with a compromise or a bill that would please all the people involved.

**The Chair:** Any further debate? Seeing none, all those in favour of the motion? All those opposed? That's carried.

The next motion, I believe, is being moved by Mr. Lalonde.

**Mr. Lalonde:** I move that subsection 10.1(4) of the bill be amended by adding "participating in the OMERS pension plans" after "any members who are employees of an employer".

**Mr. Duguid:** By way of explanation, this is again a technical amendment. It ensures that there is no confusion about who is eligible to participate in an OMERS supplemental benefit plan. It ensures that you can only participate in an OMERS plan if a member's employer is part of the plan. Again, it's technical language but it's just to ensure that there's no confusion.

**The Chair:** Any further debate, discussion?

**Mr. Hardeman:** To the parliamentary assistant, does that just mean that if you're presently an employee with a participating employer, if you were to change jobs, there's no way you can purchase entitlements and stay in the pension plan? Is that basically what we're talking about?

**Mr. Duguid:** My understanding is that if you're currently employed by an employer who is not participating in the OMERS pension plan supplemental benefits, you can't qualify without having your employer participating.

**Mr. Hardeman:** In the present plan, there is an opportunity to buy back service for different employers. If you were an employee of the federal government for a period of time—I know an individual who worked for the railroad and he was entitled to buy back service within the OMERS plan. Is this going to eliminate that?

**Mr. Duguid:** Say that again? I'm sorry, I didn't catch—

**Mr. Hardeman:** Someone who was working for a related government-type organization has had the ability to buy back service time in the OMERS plan. If they came into this plan later in life, they can buy back. Not many do it because of the cost of the premium, because you have to pay both halves, but is this eliminating the ability to buy back service time for the pension, or is that something totally different?

**Mr. Duguid:** My understanding is this motion doesn't change anything; it's just clarifying. I may want to refer that to staff to give you a fuller answer.

**Ms. Hope:** Your answer is correct. This doesn't have anything to do with changing anything around buyback entitlements.

**Mr. Hardeman:** Thank you.

**The Chair:** Any further comments, debate? All those in favour of the motion? All those opposed? That's carried.

The next government motion; Ms. Matthews.

**Ms. Matthews:** I move that subsection 10.1(5) of the bill be struck out and the following substituted:

"Same

"(5) In a consent under subsection (4), an employer may consent to provide a benefit or benefits under only one of the following paragraphs:

"1. A benefit described in paragraph 1 of subsection (3).

"2. The benefits described in paragraphs 2 and 4 of subsection (3).

"3. A benefit described in paragraph 6 of subsection (3).

"4. A benefit described in paragraph 7 of subsection (3)."

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

**Mr. Duguid:** Yes. It's a difficult one to explain, but this motion indicates that employers can only offer one of the supplemental benefits per local negotiation. That was our original motion. There will be a subsequent motion that will change that to 36-month periods, something that will give some comfort re some of the concerns expressed by some municipalities about getting into one-year agreements or things like that.

This particular motion separates each of the supplemental benefits outlined under section 10.1 to indicate that only one of the benefits can be offered per negotiation. It clarifies that police, fire and paramedics are free to negotiate more than one supplemental benefit in the next round of local negotiations.

That's about as clear an explanation as I can give you. This particular part is more technical. It's the next one that's more substantive in terms of changing the actual original proposition from a collective bargaining session to a 36-month period.

**Mr. Hardeman:** As I understand the problem that was presented to us, it was that if you have it that you can only negotiate one supplementary benefit at a time, we would end up with a lot of one-year contract negotiations so they could get the three benefits in three years. I understand that this amendment would help solve that problem.

Is it also not possible, since we said originally that this was going to be a freely negotiated position, that an employer and an employee may want to negotiate more than one benefit as opposed to a wage increase or something? If we look at the autonomy and the right of the employer and employee to work together on this, if we then say, "But you can only do a little bit at a time"—if the end result is where you want to go, does the government have an interest in making sure we don't get there any quicker, that you take up to four contracts to get to where you say is the appropriate place to go?

**Mr. Duguid:** You're asking that if employees and employers agree that they want to do more than one of these benefits together, would the employer have the option of moving forward in that direction? It's something I haven't personally contemplated, but maybe staff could confirm.

**Ms. Hope:** Even if an employer was willing to provide two at once, it would prohibit that from happening.

**Mr. Hardeman:** I understand why that's being done. Obviously, we heard a lot in the committee presentations about the arbitration process, that a lot of the contracts are settled in arbitration. But on a straight voluntary basis, in defining the difference between a negotiated settlement and an arbitrated settlement, does the government have any problems with a negotiated settlement allowing more than one benefit per contract?

**Mr. Duguid:** I think it's a case of trying to strike a balance. We've heard from municipalities; they have expressed concerns. As we've said all along, we don't believe there will be full take-up of these benefits in the supplementals, but we want to make sure that municipalities have time to adjust. This will give time to adjust. We don't believe there will be full take-up at any time, but this ensures that it will be at least nine years before a worst-case scenario, which we don't believe will occur, could even take place. It gives municipalities a little more time to adjust and should ease some of the concerns about any potential for them to be pressured into negotiating these benefits prematurely.

**Mr. Hardeman:** I understand why it's being introduced, again based on the arbitration. As you just mentioned, it would take up to nine years before a single plan could get to—actually, it would be 12 years before you could get all of them; if there are four three-year contracts, it would take 12 years. We're going to have an awful lot of people who are presently looking at the supplementary plan who are not going to be eligible to get into a full supplementary plan to benefit their pension when they get finished.

**1120**

If this was agreed upon by both employer and employee, it would seem that if that's the right place to go in the future, why not allow that ability for employer and employee, based on negotiated agreements, to have a better pension plan to retire with in the next 12 years, recognizing that no one is going to be eligible in 12 years, and then only after they've contributed long enough in each one of them to actually benefit from it? It seems to me like holding up here for no good reason, providing it wasn't arbitratable.

**Ms. Horwath:** I just want to thank Mr. Hardeman for speaking in favour of free collective bargaining in the province of Ontario.

I do want to make the point that it's unfortunate that the clause before us is one that restricts the right of parties to bargain collectively, free of any constraints. What this does is put constraints on that process of collective bargaining. I don't think that's a good way to go. In fact, that's why we have a collective bargaining process and rules around it.

I have a question, because I'm not sure of the process. In terms of the Ontario Labour Relations Act, for example, which sets out the rules around collective bargaining, and then this legislation, which restricts those rules to these requirements—can I get an explanation of how those two pieces of legislation sit in a pecking order, which takes precedence, and how this can then restrict the right of the parties to bargain freely?

**Ms. Hope:** The question was with respect to the—I apologize. I was—

**Ms. Horwath:** With all respect, you were playing with your BlackBerry, maybe, when I was—

**Ms. Hope:** I'm sorry; I apologize.

**Ms. Horwath:** I was asking the extent to which this legislation supersedes the rights of parties to collectively bargain freely under the Ontario Labour Relations Act.

**Ms. Hope:** This section, together with the section that's amended by the next motion, restricts employer's consent, which in effect restricts the parties to one benefit per 36-month period. That's addressed in the next one.

**Ms. Horwath:** So just in terms of what I would call a pecking order of supersedance of legislation, there is nothing that restricts this legislation from reducing the rights set out in other legislation, that is, the Ontario Labour Relations Act, around collective bargaining?

**Ms. Hope:** This act doesn't speak to the labour relations act. It speaks to restrictions around the ability to access particular benefits under a pension plan.

**Ms. Horwath:** All right. But it does say that you're not allowed to bargain certain increases outside of certain time frames.

**Ms. Hope:** The language of this bill doesn't actually use collective bargaining language, because there may be groups of employees who are unionized and groups of employees who are not unionized. It speaks to the consent of the employer, but I think the effect would place limitations on what employers could agree to throughout a collective bargaining processes.

**Ms. Horwath:** So it's not required to make amendments to the Ontario Labour Relations Act. What it does, though, is that kind of through a back door, more or less,

it restricts the ability of parties to negotiate certain benefits or certain language in collective agreements. That's fine.

This is not a transitional provision, right? This is something that exists in perpetuity from the day this bill is adopted. Is there an opportunity, for example, for this to be changed by the sponsors corporation through its procedures? Or is this forever and ever, until it's changed in the Legislature, a precept of the relationship?

**Ms. Hope:** If the bill is passed, this would be the law until such time as the Legislature would change the bill in the future.

**Ms. Horwath:** Can I ask, through you, Madam Chair, whether the government considered making this something that could be addressed in the future by the sponsors corporation?

**The Chair:** Mr. Duguid?

**Mr. Duguid:** Sorry; making which?

**Ms. Horwath:** Whether this provision included in your amendment was ever considered by the government to be something that should be put into the purview of the sponsors corporation to change at some point in the future?

**Mr. Duguid:** Are you referring to the time period?

**Ms. Horwath:** Yes.

**Mr. Duguid:** Our incentive to put this in was based on concerns expressed by some—I don't know how realistic it was—that with the collective bargaining agreements, there might be pressure to go with one-year agreements simply so somebody seeking a supplemental benefit could get it quicker. I'm not sure how realistic that concern was, but at the same time, it was something we wanted to allay. Realistically, to be able to negotiate one of these benefits every 36 months—it's probably unrealistic to think that at the end of nine years they're going to be there, because of the costs to the members themselves. But we felt it was a reasonable way to bring about some level of comfort to municipalities.

**Ms. Horwath:** I understand that, with all due respect to the parliamentary assistant. But what I'm getting at—not dissimilar to one of the issues Mr. Hardeman was trying to get at—is that if at some point in the future it might be of interest to both parties to do away with the 36-month provision, sponsors corporation should be able to do that instead of having to come back to the Legislature and change that piece of legislation. My question is, did the government consider the opportunity for the sponsors corporation to make such a change as it deals with the devolved plan, let's say 20 years from now or 10 years from now or five years from now? Did you consider at all that that might be something that both parties might want to consent to in the future?

**Mr. Duguid:** We felt that to provide a level of comfort, this should be done up front. Thinking that far ahead, I suppose you never know what can happen between different parties. But we don't think that a 36-month period of time to bring in better benefit changes—let's face it: How often have benefit changes taken place in these pension plans? They're very, very rare. This is not something that I think would be prohibitive to anybody. I don't anticipate it would become an issue, but I suppose you can never say never, looking into the future.

**Ms. Horwath:** Well, unfortunately, the government said never.

**Mr. Hardeman:** On the same topic, if I could ask the parliamentary assistant, the next amendment says the employer "may consent" as opposed to "would be obligated." That would take it away from the arbitration process. It does the same thing. It says it can offer any benefit, but only one every 36 months. I can see that, in the collective bargaining, that may be a restriction. If this is good news for both employer and employees, an employer may very well want to, in negotiations, offer benefits in the pension, as opposed to cash today. Is there a connection between the amendment we're presently dealing with and the next one? Would not doing the next one in fact hinder what we're doing here? The next amendment is to section 6.

**The Chair:** Mr. Hardeman, you're going to have to talk about the one that's in front of us right now. I know you want to leap to the next one, but you're really going to have to confine your conversation to the motion that's in front of us.

**Mr. Hardeman:** Well, it's a question on this motion. I want to know what happens to this motion if the next motion isn't passed, I guess to understand what we're doing here. We're talking about making sure that the negotiations restrict pension benefits in supplementary plans to one per contract, and one per every three years if it's not a three-year contract; so it could be two contracts, but only one every three years. In the next one you say an employer "may," but at the same time, it restricts that to one every three years. Is that going to be connected to this one?

**Mr. Duguid:** My understanding is that this motion just clarifies wording. It's the second motion that's more substantive in terms of making the change. So if we were to pass this and not pass the other one—and staff can interject if I'm wrong—this would still be an improvement in wording, but we would just maintain what we had in the original bill, which was that you can negotiate a benefit per collective bargaining negotiating period.

**1130**

**The Chair:** Any more debate? Seeing none, all those in favour of the motion? All those opposed? That's carried.

The next is a government motion; Mr. Rinaldi.

**Mr. Rinaldi:** I move that subsection 10.1(6) of the bill be struck out and the following substituted:

"Same

"(6) An employer may consent to provide an additional benefit listed in any of paragraphs 1 to 4 of subsection (5) that the employer has not previously consented to provide, but not until at least 36 months has passed since the employer previously consented to provide an additional benefit under subsection (5) or this subsection."

**Mr. Duguid:** I don't know if further explanation is necessary. This is what we were talking about. This ensures that a supplemental benefit can only be extended once per 36-month period.

**Mr. Hardeman:** I just want to reiterate what I said. It seems to me that everyone would be better served with not passing this amendment. This is strictly that an employer "may," and it seems to me that we haven't heard anybody from the employee side say they would object to getting the benefits quicker. Since this is a discretionary ability of the employer to give benefits more than one per every three years, that seems to me totally appropriate, as opposed to being forced to do it through arbitration. Without this, it does exactly what all parties said that they wanted done, so I would suggest not supporting this motion.

**The Chair:** Any further debate?

**Ms. Horwath:** I actually agree with the comments just made by Mr. Hardeman. The principle of free collective bargaining is being usurped by this particular amendment in conjunction with the previous one. Just on the principle, I can't support it. Many mitigating factors will affect the extent to which employee groups seek the maximum in terms of what's allowable under the legislation, not only in terms of the various pressures and the various items they might be asking for in any particular bargaining session, but also the extent to which employees are able to be in a position to put their hand in their own pockets to pay for their portion of any benefits. I just think this is not necessary and not supportable..

**Ms. Matthews:** I would just like to comment on this. We heard from a lot of municipalities that they're concerned about the costs that are going to accrue as a result of these changes. This is an amendment that I think addresses significantly some of the concerns of AMO and of my city of London. I think it's a prudent measure and I am happy to support it, because I think it addresses, to some considerable extent, those concerns.

**Ms. Horwath:** It's interesting. I recall some of the presentations from the municipal sector, and at all turns, they were asking the government to provide them with its figures in regard to what this would cost municipalities, and at no time did the government acquiesce. In fact, all though the hearings, the government maintained that the municipalities were bringing forward the worst-case scenarios and that they would never even contemplate that the kinds of scenarios being brought forward would have any basis in reality. I find it interesting. I don't understand how on the one hand, when those presentations were being brought before the committee, the government was saying this wasn't going to be the case, yet now government members are saying that this amendment is put here to acknowledge and recognize that what AMO and municipalities are bringing forward is in fact a problem.

I would just like to understand, from the government's perspective, whether they think it is or it isn't a problem, because we're getting mixed messages as to whether or not the scenarios brought forward by AMO are likely or not likely.

**The Chair:** Mr. Duguid, did you want to respond to it?

**Mr. Duguid:** I have nothing further.

**The Chair:** Ms. Matthews?

**Ms. Matthews:** I'll quickly respond. We acknowledge that there may be additional costs to municipalities as a result of this. We're not so naïve to think that there are no additional costs that municipalities and the property taxpayers will have to pick up as a result of this. What we continue to argue is that the numbers that were put before us do assume absolute worst-case. This amendment just ensures that there will be a significant period of time to adjust to potential increases.

**Mr. Hardeman:** Just in response to the last comment, I have real concerns. The minister was very clear in his letter to every municipality in this province that this legislation would not impose any cost or any pension liability on any municipality—any. That was what he said. That's what this legislation would do. Now I hear the government side saying, "Yes, we acknowledge that there are costs." Now I'm getting very concerned that with this acknowledgement, we have not seen any direction as to what that cost might be.

Having said that, I just want to point out—and maybe I don't understand this amendment—that it is not an obligation upon municipalities. It says, "An employer may consent" to give benefits, but no employer would be obligated to give benefits.

Every municipal presentation that came before committee was based on the fact that the police and fire services are essential workers and cannot strike, so if they can't come to an agreement, an arbitrator makes the decision. This section would not give the arbitrator that decision, because the employer "may" do it. I don't see the challenge with giving the employer and the employee the right to negotiate something that will be available three years from now, but it's quite obvious that the government has a different view, and I respect their view—somewhat.

**Mr. Duguid:** Just to be clear, there's no direct cost to municipalities when this legislation passes. What we're acknowledging, what I think we all acknowledge, is that this legislation gives emergency workers an ability to negotiate further for some supplemental pension benefits, something that we think is appropriate, something that emergency workers have countrywide in other provinces—not all provinces, but many—something that is recognized under the Income Tax Act. We don't have a problem with that. It doesn't necessarily mean that municipalities are going to have further expenditures. It may well be that as they negotiate with their emergency workers, there will be a compromise between a wage increase versus an enhancement to their pension benefits. That will be worked out through a number of years of collective bargaining agreements, and yes, arbitration plays a role in that as well. There's no question.

Could there be some pressures as a result of this legislation on municipalities in future collective bar-

gaining? I would suggest, when you look at the whole scheme of things and you look at the cost of salary increases in general, that those pressures are relatively minor. But realistically, yes, there may be some pressures on municipalities over time. As I said, it may be trade-offs with salary increases or other benefits. I think one of the presentations before us compared one of the benefits to an eyeglass benefit in terms of cost. It's a cost, yes, but it's something that, in the whole scheme of things, should be manageable.

**The Chair:** Any further speakers? Seeing none, those in favour of the motion? Those opposed? That's carried.

The next motion is Mr. Hardeman's.

**Mr. Hardeman:** I withdraw the motion.

**The Chair:** It's being withdrawn, so we'll move on. Because the next motion has been stood down, we would move on to the next NDP motion, page 16.

**Ms. Horwath:** I've just got to get a drink of water before I start reading this motion. Excuse me. It's a long one.

**1140**

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

"Optional increases, other sectors

"10.2(1) The sponsors corporation shall amend the OMERS pension plans to provide optional increases in benefits for members of the primary plan who are not 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 2.0 per cent 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."

**The Chair:** Would you like to provide some background?

**Ms. Horwath:** Sure. I think it is apparent that what this basically does is address the government's omission of the as-of-right ability of a number of employee groups to negotiate supplemental plans. This really gets rid of the two-tiered nature of the bill. In effect, this amendment addresses what we heard from stakeholders who were concerned that the government has gone forward with a bill that treats employee groups differently in so far as it, as of right, requires within 24 months certain groups to be in a position of the negotiation of supplemental agreements, while other groups are told that their ability to negotiate supplemental agreements is reliant upon a two thirds majority vote of the sponsors corporation. This amendment basically enshrines in the same way the right of employee groups other than the police and fire sector to be in a position to negotiate those

supplemental agreements without having that supermajority imposed upon them.

If anyone is interested in fairness, in terms of legislation that treats all employee groups fairly, a fundamental requirement is that this amendment would be supported, because it would enable all people who are employees of the plans to be on the same footing in regard to the ability to negotiate supplemental agreements. In effect, without this amendment, a whole group of employees is being put through a separate process that really requires a huge hurdle to be overcome, and that is the supermajority that's been put on the sponsors corporation in regards to the provision of supplemental plans.

**Mr. Hardeman:** I have a bit of a problem with this. I support number 1, because we heard a lot of presentations about the accrual cap put on the lower-wage earners at 1.6% as opposed to the legislative right to go to 2%. The presenters from CUPE told us, "Why would you set the limit of the lowest-paid workers lower than the allowable amount to get a reasonable pension when they retire?"

Having said that, the whole amendment putting forward the supplementary plans for everyone goes against the grain. I've been speaking to the fact that I don't think the government prepared very well for the bill as it's put forward, because it goes in directions that the original intent was never meant to go. This motion does exactly the same thing. If you were going to provide supplementary plans for everyone in the municipal service, all the stakeholders should have had an opportunity to come and speak to the impact of that and the need for that and the justification for it. I don't think that has been done, so I think it would be somewhat foolhardy to all of a sudden pass an amendment like this, to say, "We've heard the government's justification for having supplementary plans for the emergency workers, and we think that to be equal, we should just impose this upon everyone or have everyone have a supplementary plan without any information as to what impact that would have on local government or on the province as a whole."

I can't support this resolution for that reason, although I do agree with the change of the cap to allow it to go to 2%.

**Mr. Duguid:** I appreciate the motives behind this particular motion, but I can't support it. When we set out some time ago on this legislation, we looked at the uniqueness of emergency workers in terms of the jobs they do. It doesn't belittle the work that other members of the OMERS pension plan do, but it acknowledges that our firefighters, our police and our EMS workers do have a unique and difficult job that requires some consideration.

We're not unique in doing this. Supplemental benefits exist for these sectors in other places across the country—in fact, I think supplemental benefits already exist within Ontario in some areas; Toronto has some form of special benefits, in terms of retirement consideration—because of the uniqueness of these professions. That's what we set out to acknowledge in this legislation. To extend that carte blanche across the board is going well beyond our intention when we set out with this legislation.

Firefighters and police have been working on these particular provisions for probably 10 years or more, so this isn't something new. It's something that all parties and all governments have had an opportunity to consider for some time. The idea of extending these same provisions across the board is something that's really just come up. In fact, there has not been, as far as I know, demand for these supplemental benefits in any of these other sectors. That's not to say that in the future, demand won't arise. If it does, then there's an opportunity to work through the new sponsors corporation and try to achieve that. But I'm not prepared at this time to front-end this, given that it is not something that we originally had set out to do.

**1150**

**Ms. Horwath:** I'm just a little bit confused in terms of what the intentions of the government were in bringing forth this legislation. It seems to me that we've been told from day one that the intention of the government with bringing forward this legislation was to devolve the governance of OMERS to the stakeholders. Now I'm hearing from the parliamentary assistant that in fact there was a different agenda, which is one I don't particularly have a problem with, in regard to making sure that the police and fire sector, which includes paramedics, has the ability to negotiate supplemental plans.

Now I'm even more confused about what the government was trying to do when they first decided to table this bill in its first reading. My understanding was that it was to devolve, but now it's really to make sure that police and fire are able to negotiate their supplemental plans. All I would say is that, in looking at OMERS as a plan that covers all workers in all sectors, it's inappropriate in the devolution to stakeholders for any government to say, "This group has to go through this process to achieve supplemental plans, whereas this group has to go through a whole other process, which is not likely to actually result in success."

Again—and I've maintained this through all readings, and stakeholders will know this—I absolutely support and am happy to see the ability of police and fire sector workers to obtain their supplemental plans. A lot of the uniqueness of their situation is already acknowledged and addressed through other pieces, particularly around the 2.33% and other issues like that. I agree with that wholeheartedly. All I'm saying is that if the government had wanted to put together a two-tier system, then they should perhaps have even thought about splitting and making two separate plans. Instead, the Legislature is going to be in the untenable position of having a bill before it that says, "This group of workers is able to negotiate supplemental agreements. In fact, their employer is required to do that within 24 months of the passing of this bill. But this other group of workers—no such luck. In fact, you have to jump over extra hurdles so

that it becomes well nigh impossible for you to ever obtain a supplemental plan."

It's not just a matter of whether or not police and fire-sector workers are entitled, deserve or are in a unique position and all those things to negotiate supplemental plans that reflect their working lives, their working realities, their contributions to the community, to all communities. But I think it's equally important to acknowledge that other workers also make contributions to communities. To prevent them from having the same level playing field in regard to their ability to negotiate supplemental benefits based on their working realities, based on their contributions to the community, based on their parameters that are provided, whether it's through the federal Income Tax Act or other provisions, I think is inappropriate and is not fair-minded at all. In fact, it's extremely unfair.

This amendment I'm putting forward goes directly to the government's desire to put a two-tier system into place that treats workers in different ways, not in the specifics around what they're able to obtain but in the process that requires a particular group of workers to jump extra hurdles, which is simply unfair and unjust in regard to the process.

**The Chair:** Any further discussion? All those in favour of the motion? All those opposed? That's lost.

Our next motion has been stood down, so we move on to section 12. Shall section 12 carry? All those in favour? All those opposed? That's—

**Ms. Horwath:** Chair, can I ask that section 12 of the bill not be carried, or can we get a recorded vote on section 12? Sorry. You know what? I'm doing the wrong thing. I'm just looking at my notes. I'm doing the wrong thing. That's fine. Can we get a recorded vote on section 12 anyway?

**The Chair:** If you want one, we can have one.

**Ms. Horwath:** Sure.

**The Chair:** I'll go back again. On section 12—Mr. Lalonde, you had a question?

**Mr. Lalonde:** On a point of order, Madam Chair: When we voted, was it for section 12?

**The Chair:** We're about to. Section 12 has not been amended. I can't deal with section 11 because we have a motion that has been stood down.

**Mr. Lalonde:** But after the debate we had on the NDP motion—

**The Chair:** It was on section 10.2. It lost. That's a new section, so I'm moving on.

**Mr. Lalonde:** I thought I had heard section 12.

**The Chair:** I am on section 12 now.

**Mr. Lalonde:** Okay, thank you.

**The Chair:** Mr. Duguid?

**Mr. Duguid:** Just very briefly, I will be voting against this section for the following reason. While I understand why this cap provision was originally put in, it makes this pension plan inconsistent with most others. We don't see the need to have that cap written in legislation. There are other things that will ensure that the integrity of this pension plan remains in place. There are a lot of other protections within it. Like Ms. Horwath, I, and I expect my colleagues, will not be supporting this section and will be voting against it.

**The Chair:** Any more discussion on section 12? Seeing none, a recorded vote has been requested.

**Nays**

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

**The Chair:** That's lost.

On section 13, there's a government motion; Mr. Duguid.

**Mr. Duguid:** Is this motion 18?

**The Chair:** Yes.

**Mr. Duguid:** 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 per cent and less than or equal to 2.33 per cent (the 'increased benefit'), the municipality or local board may make contributions to the plan for the increased benefit in respect of the employees' service on or after the date on which the municipality or local board decides to provide increased benefit, but not in respect of service before that date.

"Same

"(2) Nothing in subsection (1) prevents an employee from making payments to an OMERS pension plan in respect of the service of the employee before the date on which the municipality or local board decides to provide the increased benefit."

My understanding is that this is similar to motions 9 and 10. It's considered a technical amendment to ensure that the OMERS pension plans continue to be administered correctly. It's amending the language to make it consistent with the OMERS plan. If there's additional information sought, I'd have to refer it to staff.

**The Chair:** Any comments or questions?

**Ms. Horwath:** I just want to be clear: The initial language was amended to the language that's in the bill at second reading, and then this amends that. Just to understand, is there any substantive change from the most recent amendment?

**Ms. Hope:** No, there is not.

**Ms. Horwath:** Can you just highlight for me really quickly where the wording changes actually are?

**Ms. Hope:** In about three places in the section, there was originally the phrase "pensionable service," and that is replaced with "service," much as we did earlier. Also, the word "contributions" was replaced with "payments." In one place, the phrase "the plan" was replaced with "an OMERS pension plan".

**Ms. Horwath:** Thank you.

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

Shall section 13, as amended, carry? All those in favour? All those opposed? That's carried.

Section 14; Mr. Dhillon.

**1200**

**Mr. Dhillon:** I move that section 14 of the bill be amended by striking out "In determining the required contribution rate for the primary pension plan" at the beginning and substituting "In determining the required contribution rate for the primary pension plan and for any retirement compensation arrangement".

**Mr. Duguid:** Just by way of explanation, it's a further strengthening to ensure that if rebound costs can affect the main plan, they would still need to be borne by the supplementary plan members. It's probably not a major change but it's just a further strengthening.

**The Chair:** Any further comments or questions? All those in favour of the motion? All those opposed? That's carried.

Shall section 14, as amended, carry? All those in favour? All those opposed? That's carried.

Shall section 15 carry? All those in favour? All those opposed? That's carried.

Ms. Horwath, you have page 20.

**Ms. Horwath:** I move that subsection 16(2) of the bill be amended by striking out "for the purpose of carrying out its objects under this act" at the end and substituting "to fulfill its objects under this act".

**The Chair:** Did you want to speak to it?

**Ms. Horwath:** This is just one of those amendments that would reflect some of the issues around accountability of governance.

**The Chair:** Any other discussion?

**Mr. Duguid:** I'm looking at this. Can you explain what the difference is between "for the purpose of carrying out its objects under this act" and "to fulfill its objects under this act"?

**Ms. Horwath:** Again, this is related to some of the other NDP motions that are coming later around the governance issues and the relationship between accountability of "sponsors corporation" and "administration corporation." So although it's here in the process, it refers to some of those issues.

**Mr. Duguid:** I appreciate that explanation. I don't feel comfortable, though, with the change. I think we want to make sure that there is a separation between the two corporations and I'm a little concerned that even small changes like this could be confusing down the road in terms of interpreting the roles of the two, the administration and the sponsors corporations.

**The Chair:** Can I try and be helpful? Since there are a couple of NDP motions that were stood down for more clarification, do these have anything to do with the further clarification we're looking for after lunch that would help people vote on this?

**Ms. Horwath:** No, these are more for when we get into the administration and sponsors corporations.

**The Chair:** Okay. Any further debate? Seeing none, all those in favour of the amendment? All those opposed? That's lost.

You have the next amendment.

**Ms. Horwath:** I move that section 16 of the bill be amended by adding the following subsection:

"Same

"(3) 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."

You'll see how that previous motion addresses language in this motion. Again, this is the extent to which the sponsors corporation should be able to have access to information that is being used by the administration corporation in its business and decision-making and allow for that level of oversight that we heard that some stakeholders were concerned about not existing currently and wanting that to exist in the future. It's certainly a philosophical debate. It's a perspective debate, as it relates to whether or not any organization or group would want to see that level of oversight, but certainly large—numbers-wise—stakeholders in this OMERS pension plan from the employee side are very concerned about transparency and accountability, and see that from their perspective the oversight of the administration corporation by the sponsors corporation is an appropriate way of them ensuring that the interests of their members and the plan members are being looked after.

**Mr. Duguid:** We feel there is already adequate coverage for the production of information between the two corporations, so we won't be supporting this.

**The Chair:** Any further debate? All those in favour of the motion? All those opposed? That's lost.

Shall section 16 carry? All those in favour? All those opposed? That's carried.

Ms. Horwath, you have the next motion.

**Ms. Horwath:** I move that section 17 of the bill be amended by adding the following subsection:

"Consultation with sponsors corporation

"(3) The administration corporation shall not make a determination under subsection (2) without first consulting with the sponsors corporation."

**The Chair:** Did you want to add anything?

**Ms. Horwath:** As I bring forward these amendments regarding the governance, it's the same issue. It's the issue of accountability, it's the issue of transparency, it's the issue of information flow and, in some cases, the timing of information flow. This motion basically indicates a requirement for the administration corporation to consult with the sponsors corporation in certain milestones in its process.

**Mr. Duguid:** These are similar to motions moved in the previous hearings. Our concern is that they have the potential to blur the responsibilities of both the administration and the sponsors corporations, so we won't be supporting this.

**The Chair:** Any further discussion? All those in favour? All those opposed? That's lost.

Shall section 17 carry? All those in favour? All those opposed? That's carried.

Shall section 18 carry? All those in favour? All those opposed? That's carried.

Ms. Horwath, you have motion 23.

**Ms. Horwath:** I move that subsection 19(2) of the bill be struck out and the following substituted:

"Reports and recommendations

"(2) The actuary shall give to the administration corporation and the sponsors corporation such information and reports as either corporation may request, and shall make such written recommendations to the administration corporation and the sponsors corporation as he or she considers advisable for the proper administration of the pension plans."

If I may, it's the old adage that information is power. When it comes to the ability of members of this pension plan to feel assured or their representatives to feel assured that the plan is being administered appropriately, the provision of such information to the sponsors corporation representatives is extremely important. This motion basically just requires any information that the actuary provides the administration corporation to go to the sponsors corporation as well as for information to flow on request.

**The Chair:** Any further comments or questions?

**Mr. Duguid:** We feel this is excessive and, again, it blurs the responsibilities of the two corporations.

**Mr. Hardeman:** I guess I'm somewhat in support of this amendment. I find it hard to understand why information, as it relates to the financial stability of the plan, would not be available to everyone involved with the plan, both in the sponsoring and in the administrative section of it. I would think that in both cases, both administrations at times would need this information to make their decisions as to how they're going to proceed with the plan. I wasn't sure that it's necessary, but I really see a problem with suggesting that it would be inappropriate to have in the legislation that this information would be available to everyone involved with the administration and the structure of the plan.

**The Chair:** Any further comments or questions?

**Mr. Hardeman:** If it was never talked about, Madam Chair, I wouldn't have any problem not talking about it. But when all of a sudden it's before us and then to pass a motion that would suggest the information would not be available to one of the two players in this pension plan seems hard to justify.

**The Chair:** No further comments or questions? Those in favour of the motion? Those opposed? That's lost.

Shall section 19 carry? All those in favour? All those opposed? That carries.

Shall sections 20 and 21 carry? All those in favour? All those opposed? That's carried.

Ms. Horwath, you have motion 24.

**1210**

**Ms. Horwath:** I move that subsection 22(3) of the bill be struck out and the following substituted:

"Fiduciary duty of sponsors corporation

"(3) The sponsors corporation and its members are fiduciaries in relation to members and former members of the OMERS pension plans and others entitled to benefits from the OMERS pension plans."

Again, this goes to the issue of the distinction between whether you are dealing with a plan that is more on the corporate model or more on a trusteed model. As technical as that whole debate can be, the issue really is the extent to which the sponsors corporation, once again, has some ability to have a say in or have oversight over—or requires accountability of—the decisions made by the administration corporation. This particular amendment speaks to the extent to which the sponsors corporation, then, has a fiduciary responsibility, in its decision-making around the plan and changes to the plan, to the actual members of the plan.

**Mr. Duguid:** The concern that I have with this motion is that fiduciary duties lie with the administration corporation and the members of the administration corporation. To make sponsor reps responsible to the OMERS corporation with fiduciary duty almost places them in a bit of personal quandary, in that they're on the sponsors committee representing other groups. To give them that fiduciary responsibility, I think, would be an unwise thing to do and an unfair thing to do to them. The sponsors committee will work, but as a group that represents other interests. While we hope that sponsors members will be able, from time to time, to consider the best interests of the fund ahead of those who may have sent them there, they also have a role of representing those groups. From time to time, there could be conflicts between a fiduciary duty to OMERS and the particular group that may have sent them to the sponsors corporation, se we don't want to place them in that position.

**The Chair:** Any further debate? Seeing none, those in favour of the motion? Those opposed? That's lost.

Shall section 22 carry? All those in favour? All those opposed? That's carried.

Section 23; Ms Horwath.

**Ms. Horwath:** I move that section 23 of the bill be amended by adding the following subsection:

"Same

"(1.1) The sponsors corporation shall ensure, in any bylaw adopted under subsection (1), that the entitlement of organizations that represent employees to choose members of the sponsors corporation shall be allocated among those organizations based on the number of employees who are members of the OMERS pension plans that each organization represents."

I think the motion is very clear. It speaks to the issue of representation.

**The Chair:** Any further debate?

**Mr. Duguid:** I understand the intent of the motion. In fact, one of the considerations in the various motions we've put forward on the membership of the sponsors corporation has been the representation, the number of people that members may represent. But that can't be the only consideration. To lock it in as saying that this has to

be the only consideration, I think, would probably not be in the best interests of striking a proper balance of representation on these particular committees.

**Mr. Hardeman:** I'm just wondering about the intent of this. It's strictly that the members of the corporation would be based on proportional representation. How would this resolution allocate that if there's one member and there are different organizations? Do you intend to change the size of the board in order to accommodate that everyone is represented?

**Ms. Horwath:** The motion doesn't speak to the details of the structure but rather the principle of proportionality. It would be up to the sponsors corporation to ensure that proportionality is enshrined, whether it's through individual proportional numbers or whether it's the force of the vote or whatever. So although this motion doesn't speak specifically to how that would be achieved, what it does is to say that the principle of proportionality has to be what guides the sponsors corporation.

**Mr. Hardeman:** I guess my concern is that if this was passed, it seems quite possible that it's not achievable, so I don't know whether it's appropriate to put in a section of the bill that in fact can't be done. If one of the groups is very large, and in order to get the type of representation from that group to the smallest group in the association, you would have trouble getting one from everyone and not change the size of the board. So if there's nothing being put forward to change the board, then I think this could be unachievable, and I think it would be inappropriate to pass it.

**The Chair:** Any further comments, questions? Those in favour of the motion? Those opposed? That's lost.

Shall section 23 carry? All those in favour? All those opposed? That's carried.

Ms. Horwath, you have the next motion.

**Ms. Horwath:** I move that section 24 of the bill be amended by adding the following paragraphs:

"1.1 To supervise the administration corporation.

"1.2 To oversee the administration corporation's operations."

**The Chair:** Any discussion?

**Mr. Duguid:** Yes. We'll be opposing this for the same reason as many of the others. We feel it does in fact blur the responsibilities of the administration corporation and the sponsors corporation.

**The Chair:** Any further discussion?

**Ms. Horwath:** Not to belabour the point, but the parliamentary assistant is correct in his view of what this motion does. Basically, it puts in that extra oversight that has been the philosophical debate among plan members as to whether or not that's the right model. But this is true to that other model, which says that there should be some oversight of the admin corporation by the sponsors corporation.

**The Chair:** No further debate? All those in favour of the motion? All those opposed? That's lost.

Shall section 24 carry? All those in favour? All those opposed? That's carried.

Section 25; Ms. Horwath.

**Ms. Horwath:** I move that clause 25(2)(d) of the bill be struck out and the following substituted:

"(d) require the administration corporation to provide the sponsors corporation with such reports, opinions, agreements, information or documents in its possession or control, whether prepared by the administration corporation or any entity it controls or by a third party, as the sponsors corporation requires in relation to the objects or activities of the administration corporation;

"(e) subject to any limitations in this act or the Pension Benefits Act, amend the OMERS pension plans at its own initiative or on the recommendation of the administration corporation;

"(f) consult with the administration corporation on the actuarial methods and assumptions to be used for the purposes of administering the pension plans and pension funds;

"(g) require that the administration corporation provide it with any reports and information concerning the performance of any agents or advisors retained by the administration corporation;

"(h) establish procedures for the retention of agents and advisors for both the administration corporation and the sponsors corporation;

"(i) require that the administration corporation provide it with any information about any corporations incorporated by the administration corporation or any investments held in any manner by the administration corporation;

"(j) require that the administration corporation provide it with copies of any bylaws or resolutions passed by the Administration corporation under subsection 35(3);

"(k) request that the administration corporation, or any entity through which the administration corporation acts or invests, explain, consider or reconsider any policy, arrangement, plan or commitment contract;

"(l) retain advisors to assist it in carrying out its objects;

"(m) seek the advice, opinion and direction of an appropriate court on any manner connected to the OMERS pension plans;

"(n) commence or defend such legal proceedings as it considers necessary; and

"(o) undertake other acts it considers necessary or proper in relation to the OMERS pension plans."

**1220**

This basically sets out a different set of activities or objectives of the sponsors corporation in terms of what it would require from the administration corporation, and in the interest of trying to ensure that there is a level of oversight, a level of accountability built in.

Members of committee will recall that the Borealis issue was raised in regard to discomfort that members of the OMERS pension plan currently have around how decisions have been made in the past, and wanting to see some of this accountability built in for the future, as we devolve the pension plan. So this basically puts that level of oversight in place and raises the comfort level for those members who are so concerned that any activity

undertaken by the administration corporation is disclosed in a timely fashion to the sponsors corporation.

**Mr. Duguid:** This is similar to a motion that the committee defeated during our hearings after first reading. It was stated then that it runs counter to the notion that fiduciary and sponsor roles should remain distinct and separate. So we won't be supporting this one either.

**The Chair:** Further debate? Seeing none, all those in favour of the motion? All those opposed? That's lost.

The next motion is yours, Ms. Horwath.

**Ms. Horwath:** I move that subsection 25(3) of the bill be amended by adding "Subject to subsection (4)" at the beginning.

Again, Madam Chair, this relates to the next motion, so I don't know, process-wise, how that works. But I guess we'll see whether this one passes, and if it does, maybe the next one will too.

**The Chair:** Okay. Any discussion on this item?

**Mr. Duguid:** Just the same argument about a blurring of responsibilities, Madam Chair.

**The Chair:** Okay. Shall the motion carry? All those in favour? All those opposed? That's lost.

**Ms. Horwath:** I move that section 25 of the bill be amended by adding the following subsection:

"Meetings

"(4) The sponsors corporation shall meet at least five times a year for the purpose of considering any issues related to the OMERS pension plans."

This was just a building-in of time frames for meeting to ensure that the sponsors corporation was required to meet to address the issues of the plans. The previous motion was one that required those meetings to occur as well. So this is basically a way of making sure that the legislation governing the OMERS pension plan clearly sets out an obligation of the sponsors corporation to meet on a regular basis.

**Mr. Hardeman:** I support the notion. We should have some direction as to the meeting of the sponsors corporation, because it would seem to me that one of the problems that the OMERS presentation pointed out when they were here in front of the committee was the fact that, under the present structure, any changes to the plan had to go through the provincial government, and that took too long. It was quite cumbersome and they wanted something whereby changes could be made in a more appropriate manner. If the bill does not include any direction on when the sponsors corporation must meet, the time delay may in fact be even larger than it is under the present structure.

So I support the notion of meeting on a regular basis or meeting more often. In some of the presentations it was pointed out that the sponsors corporation may meet once every three years, and that, to me, would be unacceptable. At the same time, I think that the motion put forward here by the New Democrats is based on the other motions having passed, which included the oversight of the administration corporation; in fact, they would need to meet five times a year in order to do a sufficient job of that. But since they were not passed, I think it would likely be inappropriate to mandate that they must meet five times a year. I wouldn't envision changes of the plan being required quite that often. As pension plans go, they don't change that much, so I can't support five times a year, but I do think we should look at making sure they are asked to meet at regular intervals.

**The Chair:** Ms. Horwath.

**Ms. Horwath:** In terms of clarifying why they would need to meet five times a year, had all the other amendments carried and they had all these other duties and responsibilities in terms of oversight of the administration corporation, then of course they'd probably need to meet about five times a year. You can see how the logic then flows through all the amendments we've put forward in regard to the changed purview of the sponsors corporation.

**The Chair:** Mr. Duguid.

**Mr. Duguid:** The flow of the amendments may be logical, but we're still not going to support it. We think it's unduly restrictive. The sponsors corporation is not limited in any way from meeting when they need to meet, and I would think there's no need to have them meet statutorily five times a year. In the first year, they may meet a number of times. They may find they don't need to meet as much in the second and third years, and to have them meet just for the sake of fulfilling the statute would probably not be a wise thing to do.

**The Chair:** Mr. Hardeman.

**Mr. Hardeman:** A question to the parliamentary assistant: The intent of the bill is that the sponsors corporation will not meet as often as the administrative corporation would meet, but what would generate the meeting of the sponsors corporation? Would it be at the request of the administrative corporation? What generates the ability for them all to get together to make changes to the plan? Who asks whom? It's quite clear that we've divided the two organizations up and there is no close relationship between the two. What generates the meeting of the sponsors corporation?

**Mr. Duguid:** The sponsors corporation itself would have to meet in the transition period. I expect they will probably meet more frequently in the beginning, but they will meet when they choose to meet. As far as I know, the administration corporation may be able to ask them to meet; I can't imagine when. Maybe staff might be able to provide a little more clarity on that for you.

**Ms. Hope:** There are indeed provisions in the bill that would require the sponsors corporation to meet under certain circumstances; we're actually hunting to put our finger on that.

**Mr. Hardeman:** There is a place where they must meet?

**Ms. Hope:** There are certain circumstances under which they must meet. They also have to pass an annual report, and there are certain things they will have to do, as a corporate entity, which would require at a very minimum that they meet annually. As I said, there are a

couple of provisions and we're just trying to remind ourselves specifically where they are.

I believe it's section 42. For example, they have to meet after a triennial evaluation. I believe there's a provision where the administration corporation considers that there's a change that needs to be addressed by the sponsors corporation or a matter that needs to be drawn to their attention. There are a number of specific circumstances listed there, and given that the sponsors corporation has natural person powers, they then choose whenever else they need to meet.

**Mr. Hardeman:** If one of the employee groups decided they were going to request the sponsors corporation to create a supplementary plan, as is allowed under the act, how would they proceed to get the sponsors corporation to meet to consider a supplementary plan that is not presently mandated in the legislation?

**Ms. Hope:** I'm just conferring here. They would just need to ask, and it's up to the sponsors corporation itself to decide how it wishes to carry out business and how meetings will be called and under what circumstances matters will be brought forward for consideration: what kind of notice, that sort of thing.

**Mr. Hardeman:** So presently in the legislation there is nothing that deals with how that would happen?

**Ms. Hope:** Correct.

**Mr. Hardeman:** If CUPE decides, as was told to them at the committee hearings, that they would ask, along with their employer, to create a supplementary plan, there's nothing in the bill that directs them as to how they should proceed with that to the sponsors corporation and when they could expect the sponsors corporation to consider the possibility.

**Ms. Hope:** There are provisions in the bill for the two advisory committees on benefits, so presumably those kinds of issues might be discussed among advisory committee members and brought forward to the sponsors corporation for consideration.

**1230**

**The Chair:** Any further debate? Seeing none, all those in favour of the motion? All those opposed? That's lost.

Shall section 25 carry? All those in favour? All those opposed? That's carried.

Section 26; Ms. Horwath.

**Ms. Horwath:** I move that subsection 26(3) of the bill be struck out and the following substituted:

"Decision about a specified change

"(3) A decision respecting a specified change is effective only if it is made under one of the following paragraphs:

"1. At a meeting called for the purpose of considering the matter, the sponsors corporation either decides to make the specified change and passes a bylaw respecting it, or the sponsors corporation decides not to make the specified change.

"2. At a meeting called for the purpose of considering the matter, the sponsors corporation decides to have the matter determined under a supplementary decision-making mechanism described in subsection (4) or (5) and the result of the decision-making mechanism is either to make or not to make the specified change."

Madam Chair, this basically does away with the two thirds majority requirement, so that the ability for changes to be made is not put through the added hurdle of the two thirds majority, but rather through the regular process that parties are accustomed to in their regular dealings with each other.

It's our belief that matters of these kinds of changes be left to the negotiations of the parties. They're accustomed to that kind of relationship, and they're accustomed to the kinds of decision-making processes that would be undertaken should an impasse occur. In the opinion of the New Democratic Party members of the Legislature, putting it through the two thirds majority requirement is an unnecessary hurdle and an untenable position to put plan members in, if they're attempting to have improvements made to their pensions.

**The Chair:** Any comments or questions?

**Mr. Duguid:** We won't be supporting this amendment. We do believe the two thirds majority requirement will provide for a little better consensus-building and ensure that, in fact, the integrity of the fund is paramount and considered throughout.

Secondly, I believe that the second part of this motion takes out the requirement for a vote to go to mediation or arbitration; that would happen by default. That's my reading of it, anyway. We have some concerns about that. We think it is healthy for the board, even if they don't have a two thirds majority and the vote falls between 50% and two thirds, that it go back to the board for a vote. Nine times out of 10, they may vote for the arbitration, if that's the direction they're going in, but at least it gives them an opportunity to consider whether they want to go through a dispute settlement process or either reconsider their positions or send it out for further information. So it gives them some other options.

**Mr. Hardeman:** I don't support this resolution, as it takes out the ability to use the voting manner set out. Having said that, I strongly disagree with the voting and the process the bill presently has too. I guess I'll just vote against both of them, because I do think it's a big problem when you have a board make a decision and because they don't have enough votes it goes to arbitration, and if it has enough votes it doesn't go to arbitration. That really does give power in the hands of a few, as opposed to the voice of the board. I don't agree with it in the bill, but I also don't agree with eliminating the extra standard of care before you make changes to the plan.

**The Chair:** Any further debate? Seeing none, all those in favour of the motion? All those opposed? That's lost.

Next is a government motion; Mr. Lalonde.

**Mr. Lalonde:** I move that paragraph 4 of subsection 26(6) of the bill be struck out and the following substituted:

"4. The arbitrator shall not make a decision to increase benefits under an OMERS pension plan if the decision,

combined with all other decisions made by an arbitrator in the previous 36 months to increase benefits under the plan, would result in a total increase to the contribution rate for the plan for members or participating employers of more than 0.5%."

**The Chair:** Mr. Duguid.

**Mr. Duguid:** We've dealt with the intent of this earlier on with regard to the 36-month period before benefits can be added on. This is just specific language that provides greater clarity to that original intent.

**The Chair:** Any further debate? Mr. Hardeman.

**Mr. Hardeman:** I'm just wondering if we could get the parliamentary assistant to verify for me the 0.5%. Is that 0.5% increase on the total benefit package that the employees get or is that 0.5% in the increased contributions to the OMERS pension plan?

**Mr. Duguid:** I believe that's on the arbitrator's award, but actually, I'll refer this to staff just to ensure.

**Mr. Tom Melville:** My name is Tom Melville. I am legal counsel with the Ministry of Municipal Affairs and Housing. The 0.5% arbitrator cap that you're referring to refers to an increase in the contribution rate resulting from whatever the award might be.

**Mr. Hardeman:** So it really means it's 0.5% of the contributions that either of the two parties make to the OMERS plan.

**Mr. Melville:** The plan text sets out certain contribution rates which are equal for employer and employee. Hypothetically, if the contribution rate was, say, 7%, then the increase to that rate could be 0.5%; it could be increased to 7.5% after the award. But the rate would actually be calculated in reference to the cost of that increase in benefit.

**Mr. Hardeman:** So if the benefit package is increased to give a totally different benefit—they started in the negotiations, they got a benefit increase aside from those listed in OMERS and it went to arbitration—would the total package of benefit increases still have to stay within the 0.5%?

**Mr. Melville:** Excuse me, are you referring to pension increases?

**Mr. Hardeman:** Let's just assume that they got free parking, which is a cost, but it's a taxable benefit so it's a benefit on their pay. Would that be part of the 0.5%?

**Mr. Melville:** No, it would not. The 0.5% refers to a decision of the sponsors committee in terms of making changes to a pension plan, so it has nothing to do with arbitration or decision-making at the local level for other changes.

**Mr. Hardeman:** If this just applies to the OMERS contributions, then why is it necessary, since previously in the bill we already included the fact that they can only award one benefit at a time? If that benefit is over 0.5% contribution, how would it ever be awarded? If it's not, then since they can only do one at a time, they could never go over 0.5%.

**Mr. Melville:** Part of this is a policy question which I think should be answered by a policy person or by the member. But in terms of section 10.1—the decision requirement that the decisions be made every three years—that applies to a required supplementary plan provision which is separate from section 26, and in fact the arbitration provision here doesn't apply there.

**The Chair:** Further questions? Ms. Horwath.

**1240**

**Ms. Horwath:** Well, I'm just wondering—the way this is stated, it says, "combined with all other decisions made by an arbitrator in the previous 36 months." So I'm just trying to figure out, if negotiations go to an impasse and an interest arbitration takes place, but then the arbitration process drags on and on and on, that arbitration may not be settled. The next set of negotiations might be nigh, and then 36 months might not elapse between one set of negotiations and the next. Is that possible, that in fact this prevents the next contract from making improvements because the process has taken so long for the previous contract that in fact—do you see what I'm getting at? So by changing it from any three-year period to 36 months, or even by having this language, does that prevent the next set of negotiations from moving forward if it happens to be within the 36-month time frame?

**Ms. Hope:** I wonder if it would help in clarifying if I just drew the distinction between—there are two places in this context of the whole discussion of the bill where we can be discussing arbitration. One, as in this case, is at the decisions of the sponsors corporation.

**Ms. Horwath:** Right, as opposed to the local negotiations. Okay, I get it.

**Ms. Hope:** So this section specifically deals with arbitration for the sponsors corporation.

**Ms. Horwath:** Okay.

**Mr. Hardeman:** Going back to the 0.5%, it doesn't say here what type of OMERS plan. Does this mean that "the arbitrator shall not make a decision to increase benefits under an OMERS pension plan" if that decision would be more than 0.5% in the past 36 months? So there can be no increase that would have a greater impact than 0.5%, regardless of whether it's a supplementary plan or the main plan?

**Mr. Melville:** There could be theoretically, under this bill in the future, separate pension plans. The 0.5% would apply to each plan independently. The new supplemental plan, for example, to be established under section 10.1 will be a separate pension plan from the existing OMERS plan. So the 0.5% limit applies to each plan independently.

**Mr. Hardeman:** But wouldn't a supplementary plan be an OMERS plan?

**Mr. Melville:** Yes.

**Mr. Hardeman:** So we have the basic OMERS plan, we have a supplementary plan for someone, and no arbitrator can award more than an increase in either one of those that would amount to more than 0.5%. Is that right?

**Mr. Melville:** To the extent I understand the question, my understanding would be that the 0.5% applies to each plan independently. So in the main plan, the limit of the arbitrated increase would be 0.5%. Independently of that,

if there were a decision in respect of the supplemental plan, let's say, there would be a maximum increase in the contribution rate for that plan, which is a separate contribution rate of 0.5%.

**Mr. Hardeman:** So you're suggesting in this amendment that there's something that divides the supplementary from an OMERS plan? To me, it's very clear that "the arbitrator shall not make a decision to increase benefits under an OMERS pension plan if the decision, combined with all other decisions made by an arbitrator in the previous 36 months to increase benefits under the plan, would result in a total increase of the contribution rate for the plan for the members or participating employers of more than 0.5%." So in fact, when the supplementary plan is available, if implementing any part of that makes the total contribution increase more than 0.5%, they can't do it. Is that right?

**Mr. Melville:** If it were an arbitrated decision and if it were not a decision under section 10.1, because section 10.1 operates independently of this, section 10.1 being the required new supplemental plan.

**The Chair:** Any further questions or comments? Seeing none, those in favour of the motion? Those opposed? That's carried.

Mr. Hardeman, I believe you have the next motion.

**Mr. Hardeman:** I withdraw it.

**The Chair:** It's been withdrawn. Shall section 26, as amended, carry? All those in favour? All those opposed? That's carried.

Ms. Horwath, you have the next motion.

**Ms. Horwath:** I move that section 27 of the bill be struck out and the following substituted:

"Recovery of costs

"27(1) The sponsors corporation may require the administration corporation to reimburse it from the pension fund for the primary plan for any of its costs incurred in relation to its activities under this act.

"Same

"(2) The administration corporation shall comply with a request of the sponsors corporation made under subsection (1).

"Dispute referred to arbitrator

"(3) In the event of a dispute concerning the nature of any of the costs incurred by the sponsors corporation that it seeks to have reimbursed under subsection (1), such dispute shall be referred to an arbitrator."

This is to acknowledge or to recognize the costs that might be incurred by a sponsors corporation of doing its due diligence, should it be given that extra purview that we've been recommending in regard to overseeing the work of the administration corporation. In so doing, expenses will be incurred, and what this motion is meant to do is simply to require that the administration corporation covers off those expenses at the request of the sponsors corporation, and that if there is a dispute as to whether or not they're legitimate expenses, that dispute be referred to an arbitration process.

**The Chair:** Any other debate?

**Mr. Duguid:** We won't be supporting this. We feel that the administration corporation, given their fiduciary duty, is in the best position to determine whether or not recouping expenses from the main OMERS plan is lawful or not lawful. We can't support this.

**The Chair:** Any further debate? All those in favour of the motion? All those opposed? That's lost.

A government motion; Ms. Matthews.

**Ms. Matthews:** I move that section 27 of the bill be struck out and the following substituted:

"Recovery of certain fees and expenses

"27 The sponsors corporation may require the administration corporation to reimburse it from any pension or other fund for any of its costs that in the opinion of the administration corporation may lawfully be paid out of the fund."

**The Chair:** Any discussion about that?

**Ms. Horwath:** Can I just ask what the amendment in effect does? Does it mean that if there are costs related to a supplemental plan being implemented, that gets taken from that supplemental plan's contributions, keeping them separate for each?

**Ms. Hope:** Yes.

**Mr. Hardeman:** In that same vein, I'm a little concerned about the last part: "the administration corporation may lawfully be paid out of the fund." Isn't that rather a strange way of wording it, that one asks the other one to pay a bill, and then the payer gets to decide whether it's lawful or not? I don't know how they would get past the hurdle if they said, "We don't want to pay it, so we'll just say it's not lawful." I don't see the merit in writing it that way.

**Ms. Hope:** I believe the reference is with regard to federal pension law and rulings of the Canada Revenue Agency, which sets out fairly stringent requirements over what kinds of costs may or may not be paid out of pension funds. It's providing a nod, if you will, to that legal framework that must be followed, and the administration corporation, as fiduciary, is in the role of making that judgment.

**Mr. Hardeman:** So this is just according to pension law.

**Ms. Hope:** The federal Income Tax Act.

**Mr. Hardeman:** As I read this, I read it as any that may "lawfully be paid out."

**Ms. Hope:** There may also be common law around that, and the Pension Benefits Act as well, so there's a variety of—

**Mr. Hardeman:** See, my problem arises from the previous line, where it says, "reimburse it from any pension or other fund." We have a situation where they need money, they send in a bill, and the sponsors corporation says, "No, we're not paying that; it's not lawful." Why not?

**Ms. Hope:** I think the focus is on which costs can lawfully be paid out of which fund, and the reason for the amendment is to include reference to the fact that there are other funds. For example, there are funds for the retirement compensation arrangements. When there's a

supplemental plan, there'll be funds for that. My understanding is that if there were costs of the sponsors corporation associated with the supplemental plan, for example, it would not be lawful to pay for those out of the primary plan fund. They would need to be paid out of the supplemental plan fund. It's allowing for that appropriate payment out of the appropriate fund, given the broad context of pension law.

**1250**

**Mr. Hardeman:** So your interpretation is that the term "or other fund" means other pension funds, something to do with pension, not just—

**Ms. Hope:** Other funds that the administration corporation would be responsible for or would be administering.

**Mr. Melville:** There could be other pension funds in the sense that the supplemental plan, for example, might have its own fund, or a retirement compensation arrangement, which is technically not quite a pension fund, might have its own fund. So it allows for a payment out of the appropriate fund that could lawfully be paid.

**Mr. Hardeman:** In your opinion, then, there's no opportunity for "or other fund" to mean funds that have absolutely nothing to do with pensions at all? The administration corporation may very well have a reserve to buy new computers. This says "other fund." It doesn't say "other pension fund"; it says "from any pension or other fund." When the sponsors corporation sends in an invoice to be paid, if it's not allowed to be paid out of pension funds, what would be unlawful about paying it out of other funds that were not pension funds? If it's not unlawful, they would be obligated to pay.

**Mr. Melville:** I assume that the administrator of the pension plan, which is the administration corporation, would follow the law in administering its pensions. It would set up funds in accordance with the law, which does dictate what purposes you can use pension monies for.

**The Chair:** Any further comments or questions?

**Ms. Horwath:** I'm a little bit uncomfortable, considering that some stakeholders were quite concerned about the issues of what was sometimes described as cross-subsidization of the plans. When I read this, I took it to mean exactly what we've just been discussing, that, for example, any costs incurred as a result of supplemental plans would be taken from supplemental plans. I'm just not sure of the extent to which this language is strong enough to guarantee that that happens. I just want to get a better comfort level that saying "that in the opinion of the administration corporation may lawfully be paid out of the fund" takes into consideration the entire issue of cross-subsidization, or that the requirement in the legislation be separate that those funds pay for their own costs to ensure that so the main pension fund is not in any way subsidizing the supplemental plans. I just need a comfort level about that. I'm not sure whether this language does it for me.

**Ms. Hope:** The intent of this language is to prevent the sponsors corporation from requiring the administration corporation to pay funds out of a fund that it shouldn't be coming out of. There are provisions in federal law and there are provisions in the Pension Benefits Act which govern how pension costs may or may not paid out of different funds. So that's what this is anchoring: the payment of funds by the administration corporation.

**Mr. Melville:** I think your question is relating to the concern that is called rebound costs, and that's addressed in the bill separately in section 14.

**Mr. Hardeman:** I want to put on the record that when I look at what's presently there—it says to strike it out and put this one in—the only difference I can see is "or other fund," and I'm really concerned about what that means. If there are other pension funds, it's covered under the first one—"pension fund." It doesn't matter whether it's a supplementary pension or an early retirement—whatever it is. If it's a pension fund, it's a pension fund. When we start calling it "other" funds and not defining it, that means any money. A fund is a fund. It may be the petty cash; it's still a fund. Why it's worded that way concerns me.

**Mr. Melville:** As a technical comment on this, a retirement compensation arrangement isn't a pension fund. So the reference to "other fund" would refer primarily to a fund of a retirement compensation arrangement.

**The Chair:** Further comments? Seeing none, shall the motion carry? All those in favour? All those opposed? That's carried.

Shall section 27, as amended, carry? All those in favour? All those opposed? That's carried.

Committee, this seems like a good time to take a break for our lunch. We've achieved a lot. So we'll be back at 2 o'clock for the beginning of section 28.

*The committee recessed from 1255 to 1408.*

**The Chair:** We're back from our recess. We're considering clause-by-clause consideration of Bill 206, An Act to revise the Ontario Municipal Employees Retirement System Act.

We are at the section 28 portion of the clauses. Ms. Horwath, you're on deck.

**Ms. Horwath:** I move that section 28 of the bill be amended by adding the following subsection:

"Same

"(4.1) The administration corporation shall comply with a request of the sponsors corporation made under subsection (4)."

Again, this is just another—I shouldn't say "just," because it's important, from our perspective, anyway. It's important in that it defines the accountability of the administration corporation to the sponsors corporation vis-à-vis requests for information. Just to recap some of the concerns that have been raised, without that extra oversight, without that sober second thought, without that ability of the sponsors corporation to review and force accountability of the decisions of the administration corporation, it is the concern of a number of members of the plan. I'll just reiterate that you've heard from members who are members of CUPE who are extremely

concerned about the accountability factors, about the ability of the sponsors corporation to have an oversight capacity; at the very least to be able to review information and decisions that are being made by the administration corporation on something as extremely important as the pension plan that they are going to be relying on for their retirement.

This amendment is in keeping with the ones that I've tabled previously, and I believe there are still a couple more.

**The Chair:** Any further discussion? All those in favour of the motion? All those opposed? That's lost.

Shall section 28 carry? All those in favour? All those opposed? That's carried.

There are no changes to 29, 30, 31. Shall 29, 30, 31 carry? All those in favour? All those opposed? Those are carried.

Section 32 has a motion, page 36, which is ruled out of order because a decision has already been made on this on the first reading of this bill. Our next item is from Mr. Hardeman. A question?

**Mr. Hardeman:** Yes, I just have a question on the process. Because it was amended after the first reading, all of a sudden you cannot amend that any more?

**The Chair:** I'll ask the clerk to answer the question.

**The Clerk of the Committee:** No. It's the exact same motion that was moved at first reading, so the committee has already made the decision on this exact same motion.

**Mr. Hardeman:** The previous motion had been to eliminate it.

**The Clerk of the Committee:** It was exactly the same wording.

**Mr. Hardeman:** Okay.

**The Chair:** Shall section 32 carry? All those in favour? All those opposed? That's carried.

Section 33, page 37; Ms. Horwath.

**Ms. Horwath:** I move that section 33 of the bill be amended by adding the following subsection:

"Same

"(1.1) The sponsors corporation shall ensure, in any bylaw adopted under subsection (1), that the entitlement of organizations that represent employees to choose members of the administration corporation shall be allocated among those organizations based on the number of employees who are members of the OMERS pension plans that each organization represents."

Again, not dissimilar from the motion that I brought forward in regard to the sponsors corporation, this similarly is the issue of rep by pop on the administration corporation.

**The Chair:** Discussion?

**Mr. Duguid:** We won't be supporting this motion. The administration corporation is there with a fiduciary duty. It's not really to be there as representative of other stakeholders as much as to be there to make sure the fund operates in the best possible way. I would be concerned about saying the representation has to be exactly to do with representation by population. Rather, I think, the idea should be to appoint the best possible people to this administration committee with the best possible representation of the broad interests of all stakeholders in the OMERS fund.

**The Chair:** Any further discussion? Seeing none, all those in favour of the motion? All those opposed? That's lost.

Mr. Rinaldi.

**Mr. Rinaldi:** I move that section 33 of the bill be amended by adding the following subsection:

"Same

"(1.1) Despite subsection 26(1), a decision of the sponsors corporation to pass a bylaw under subsection (1) requires an affirmative vote of two thirds of its members."

**The Chair:** Any discussion?

**Ms. Horwath:** Can I just have the government side explain the amendment?

**The Chair:** Mr. Duguid do you want to answer that or do you want staff to do that?

**Mr. Duguid:** I'm just going to get staff to explain this particular one.

**Ms. Hope:** The sponsors corporation has the capacity on an ongoing basis to determine the composition of the administration corporation. This motion would require that they could only pass such a bylaw to change the composition with a two thirds majority vote.

**The Chair:** Any further questions?

**Ms. Horwath:** So this is saying that in terms of the sponsors corporation making its own decisions around its own composition?

**Ms. Hope:** No, the composition of the administration corporation, the fiduciary body. It's suggesting there needs to be a significant proportion of the members of the sponsors corporation agreeing to changing the composition of the fiduciary body.

**Ms. Horwath:** Okay. Again, this is just more or less, if I could characterize it that way, a further entrenching of the principle of the two thirds supermajority vote. Whereas it was required for certain parts of the bill in the previous reading, in this reading it's now required for extra sections, which is the idea of the composition of the fiduciary body. It's adding another area where the two thirds majority vote is required; is that right?

**Ms. Hope:** Yes.

**Ms. Horwath:** All right. Again, I didn't support that principle. I don't believe that the two thirds supermajority is the right way to go in regard to the decision-making process of the sponsors corporation and I can't support this amendment.

**The Chair:** Any further discussion? Seeing none, all those in favour of the motion? All those opposed? That's carried.

Page 37b; Mr. Dhillon.

**Mr. Dhillon:** I move that subsection 33(2) of the bill be struck out and the following substituted:

"Transition

"(2) Despite subsection (1), for the period commencing on the day that subsection 32(1) comes into force and ending immediately before the third anniver-

sary of that day, the composition of the administration corporation is as determined under section 44."

**The Chair:** Any discussion, questions?

**Ms. Horwath:** If I can just ask what the effect is of the change, what it does?

**Mr. Duguid:** This is the first of two motions which are proposed to allow the members of the initial administration corporation to be replaced through a staggered process, which is something that had been talked about and recommended to ensure there's some kind of, I guess you would call it, corporate knowledge that's maintained throughout and ensures stability of decision-making throughout the transition period.

**The Chair:** Any further questions, comments? All those in favour of the motion? All those opposed? That's carried.

Shall section 33, as amended, carry? All those in favour? All those opposed? That's carried.

Shall sections 34 and 35 carry? All those in favour? All those opposed? They are both carried.

Section 36; Ms. Horwath. This is motion 38.

**Ms. Horwath:** I move that the bill be amended by adding the following section before the heading "Transitional Matters":

"Investment and funding policies, etc.

"36(1) Within 90 days after the day subsection 32(1) comes into force, the administration corporation shall,

"(a) develop proposed investment policies for the assets of the OMERS pension plans;

"(b) develop a proposed investment plan for the following 12 months;

"(c) develop a proposed funding policy for the OMERS pension plans; and

"(d) submit a statement of its proposed investment policies and its proposed investment plan and a statement of its proposed funding policy to the sponsors corporation for approval.

"Approval

"(2) The sponsors corporation may approve the proposed investment policies, the proposed investment plan and the proposed funding policy or may refer any or all of them back to the administration corporation for further consideration and resubmission for approval by the sponsors corporation.

"Annual investment plan

"(3) The administration corporation shall annually develop a proposed investment plan for the following 12 months.

"Approval

"(4) The administration corporation shall annually submit its proposed investment plan to the sponsors corporation for approval and the sponsors corporation may approve the proposed investment plan or may refer it back to the administration corporation for further consideration and resubmission for approval by the sponsors corporation.

"Investments to comply with approved investment policies, etc.

"(5) The administration corporation shall not make any investment with the assets of the pension plans or its own assets if the investment is not in accordance with the investment policies and investment plan most recently approved by the sponsors corporation."

**1420**

Just by way of an explanation, this outlines not only the duties of the administration corporation insofar as putting together the plans, but it enshrines in the legislation a requirement that has those plans receive approval from the sponsors corporation. I think that I've been pretty clear in trying to reflect the concerns that are being raised by members of the plan who are concerned about some of the past practices that have taken place that are currently under scrutiny from a number of different bodies, and the idea, which is quite reasonable, that the actions of the administration corporation receive a second set of eyes, receive a second review, receive a bit of scrutiny from another body, particularly the sponsors corporation. So it's back to the principle of having an accountability structure in place whereby the sponsors corporation can keep tabs on, or at least keep a view over, what's happening at the administration corporation level in the interest of the members.

**Mr. Duguid:** Again, we feel this muddies the relationship between the administration corporation and the sponsors corporation, so we won't be supporting it.

**The Chair:** Any further comments? All those in favour of the motion? All those opposed? That's lost.

Section 37; Ms. Horwath.

**Ms. Horwath:** I move that the bill be amended by adding the following section before the heading "Transitional Matters":

"Response to requests from the sponsors corporation

"37 Without limiting the generality of section 16,

"(a) the administration corporation shall provide the sponsors corporation with anything requested by the sponsors corporation, including reports, opinions, agreements, information or documents required under clause 25(2)(d), within 30 days after receiving the request.

"(b) the administration corporation shall provide the sponsors corporation with any report or opinion described in this act within 30 days after receiving the report or opinion;

"(c) the administration corporation shall provide the sponsors corporation with any report described in this act within 30 days after finalizing the report;

"(d) the administration corporation shall provide the sponsors corporation with copies of any bylaws or resolutions passed under subsection 35(3) requested by the sponsors corporation under clause 25(2)(j) within 30 days after receiving the request."

Again, this refers to some of the previous motions around disclosure of information and passing on of information. Notwithstanding how the other clauses ended up, what this clause is intending to do is to say that not only is it a requirement that the information flow, not only is there an obligation to have the information flow, but that in fact the information flow in a timely manner.

That's what this amendment was intended to do, to make sure that information was coming in a time frame that would make it at least usable by the sponsors corporation.

**Mr. Hardeman:** Just a general question to the mover of the motion: I know that we've received a number of these where we had the cross-reference from the administrative corporation to the sponsoring corporation. I'm just wondering if there is an explanation, and where I would find it, of the likelihood of the sponsoring corporation being more accountable to the members than the administrative corporation. To me, if we don't have faith in the administrative corporation to do what's in the best interest of its members, what is there that would improve the situation by having it going through one more corporation? Is this just to create paperwork, or can I be confident that this is going to help to make the thing more accountable to the members of the OMERS plan?

**Ms. Horwath:** I think there are a couple of different things. We heard from deputants at the hearings in both sessions, last time and the time before, that there was a real concern around some of the investment policies and the result of those on the plan. That was with the current model. What these particular stakeholders brought to our attention is that there's a different way of doing things, there's a different model. It comes back to that issue as to whether or not it's appropriate to have that extra oversight of the decisions being made by the administration corporation. Particularly, as we go through the rest of these amendments, you'll see that there has been a strengthening or, let's say, a change in the representatives on the sponsors committee. I think the government's bringing some amendments forward that will change the representation on the sponsors committee to make it more reflective of the plan members in terms of representation, which is a movement in the right direction, but the problem is that those changes are not equally reflected in the admin corporation. Because there is no direct relationship, there is no oversight, there is no sober-second-thought process provided to the sponsors corporation, which in fact winds up being much more representative of the stakeholders involved in the OMERS pension plan.

Although this is specifically around timelines, the broader issue is around accountability. Again, there's a philosophical difference between what the government has decided to do in terms of the model and what we've heard, for example, from CUPE and others, and even the OSSTF, about having a trusteed model that's not the same as the corporate model, which is what the government decided to go with.

**The Chair:** Any further discussions? Seeing none, shall the motion carry? All those in favour? All those opposed? That's lost.

Section 38; Mr. Lalonde.

**Mr. Lalonde:** I move that subsection 38(1) of the bill be amended by striking out "22 persons" and substituting "14 persons."

**Mr. Duguid:** Just by way of explanation, most, if not all, of the stakeholders that saw the original configuration of the sponsors corporation felt that it was so large that it might become unwieldy. We received complaints from all sides that it was going to be difficult for them to get proper decisions being made. As well, some of them even had concerns about appointing reps and paying reps and things like that. So we thought, we'll do the best to try to maintain as much representation as we could, shrink it down and, to accommodate those who have larger populations, provide a little bit of a weighted voting system. You'll see in subsequent motions that we'll get into that. This one just deals with the size itself, which it brings it down from 22 people to 14.

**The Chair:** Further discussion?

**Mr. Hardeman:** In the past number of resolutions introduced by the New Democrats, there has been talk that we needed representation of all the different groups on the boards. My understanding was that that was not very practical, because that could lead to a very large board.

Am I to take from this amendment that we are going to be able to accommodate adequate representation of all the groups that have presented to us? The parliamentary assistant suggested that we had a lot of presentations where they thought the board would be unwieldy at 22, but are those same people who suggested it was going to be unwieldy going to be satisfied with this type of representation on the board?

**Mr. Duguid:** I would expect most of the groups would be more satisfied with the smaller group. Nobody has really lost their position on the board. There's been a rejigging of numbers to accommodate a variety of concerns, but overall, I think most of the groups that were on the original board supported shrinking it down.

I don't expect for a minute that every group is going to be fully satisfied. I think that all the groups wanted as much representation as they could possibly get. Some with a sizable amount of representation may want more, but that will be up to them to articulate.

**Mr. Hardeman:** Not wanting to speak to amendments that are yet coming, could the parliamentary assistant maybe highlight for me, with eight fewer members on the board, who will not be having those representatives? Which groups would not be represented because of that, or who would have fewer representatives?

**Mr. Duguid:** I'd be happy to walk you through it. It is getting into the next motions, but I don't have a problem—

**Mr. Hardeman:** I can wait for that.

**Mr. Duguid:** Do you want to wait until we get into the other motions? Then we'll discuss that later.

**The Chair:** Okay. Any further discussion of the motion?

**Mr. Hardeman:** I'll stand the question down until the next motion.

**1430**

**The Chair:** You're being so congenial today; it's going so well.

Any other discussion? Shall the motion carry? All those opposed? That's carried.

Shall section 38, as amended, carry? All those in favour? All those opposed? That's carried.

Section 39, motion 39b; Ms. Matthews.

**Ms. Matthews:** I move that paragraph 1 of subsection 39(1) of the bill be amended by striking out "five" and substituting "two".

**The Chair:** Mr. Duguid.

**Mr. Duguid:** Do the members opposite have anything that shows the composition of the committees as restructured? No? I will ask that this be photocopied and given to them, because it will make it easier for them to follow this. In the meantime, I'll just quickly go over what the changes are.

**The Chair:** Mr. Duguid, it will be hard for us to get a copy if you're holding the only copy that we can put our hands on.

**Mr. Duguid:** It's not the only copy. There are many.

**The Chair:** Thank you. I'm just trying to be helpful.

**Mr. Duguid:** That will give them a little bit of help in terms of seeing what's happening here.

**The Chair:** Can you just whet their appetite until they see it?

**Mr. Duguid:** This motion specifically refers to AMO's representation on the sponsors committee, where their numbers go from five to two. Each of those two members will get a weighted vote of two each. So their representation overall would be two members with four votes. They take into consideration 58% of active members; they'd have approximately 44% voting ability on it. That's for this first motion. Would it be helpful if I walked through the rest of them so that we don't have to do it as we're going through?

**The Chair:** I don't know; they're grimacing at the thought of that. It's hard to do that.

**Ms. Horwath:** It's easy for you to see it visually with the chart, but for us—

**The Chair:** Maybe it would help if we just took a five-minute recess until we can get that document. I think it's fairly important. We'll take a short, five-minute recess.

*The committee recessed from 1432 to 1439.*

**The Chair:** We're going to return. We have the documents we need in front of us now. Mr. Duguid, I'm going to return to you. We're on 39b, and you were providing us with some additional information about the composition.

**Mr. Duguid:** The composition, as we provided on this particular motion: AMO was moving from five representatives to two, with two votes per member. Toronto was moving from two—this is not this particular motion but subsequent motions to deal with this—from two voting members to one voting member. Police services boards stay the same, school boards stay the same and "other" stays the same on the employer side.

On the employee side, CUPE went from five representatives to one, with three votes, and CUPE Local 79, on a rotation between Local 79 and Local 416, go to one voting member.

The Police Association of Ontario remains the same. Fire remains the same. The Association of Municipal Clerks and Treasurers of Ontario is removed from the sponsors corporation, from the original. Retirees have one voting member, as they had before. We've added the Ontario Secondary School Teachers' Federation, with one voting member, and "other" goes from two voting members to one voting member.

That's the change to the sponsors committee overall. We're only looking at the one motion here in front of us, but that covers the other motions as well.

**The Chair:** Any further discussion? Seeing none, all those in favour of the motion? All those opposed? That's carried.

Page 39c; Mr. Dhillon.

**Mr. Dhillon:** I move that paragraph 4 of subsection 39(1) of the bill be amended by striking out "Two persons" and substituting "One person".

**Mr. Duguid:** Just by way of explanation, this is the city of Toronto representation.

**The Chair:** Okay. Any further discussion? Seeing none, all those in favour of the motion? All those opposed? That's carried.

Page 39d: Mr. Dhillon, do you want to do that one?

**Mr. Dhillon:** I move that paragraph 6 of subsection 39(1) of the bill be struck out and the following substituted:

"6. One person to be chosen by the Canadian Union of Public Employees (Ontario).

"6.1. One person who is representative of the Canadian Union of Public Employees (Ontario), Locals 79 and 416, to be chosen in accordance with subsection (3.1)."

**The Chair:** Any further discussion? Seeing none, all those in favour of the motion? All those opposed? That's passed.

Page 39e; Mr. Dhillon.

**Mr. Dhillon:** I move that paragraph 9 of subsection 39(1) of the bill be struck out and the following substituted:

"9. One person to be chosen by the Ontario Secondary School Teachers' Federation."

**The Chair:** Any discussion?

**Mr. Hardeman:** Maybe it's on the information that was put here, but what percentage of the OMERS plan are secondary teachers?

**Mr. Duguid:** They represent 4.38%, and they will have 11% in terms of voting representation on the sponsors committee. They're one of the larger "other" groups, if you want to call them the "other" groups.

**The Chair:** Any other discussion? Seeing none, all those in favour of the motion? All those opposed? That's carried.

Page 39f; Mr. Lalonde.

**Mr. Lalonde:** I move that paragraph 10 of subsection 39(1) of the bill be struck out and the following substituted:

"10. One person who is representative of other members of the OMERS pension plan, to be chosen in accordance with subsection (4)."

**The Chair:** Any discussion? Seeing none, all those in favour? All those opposed? That carries.

Page 39g; Ms. Matthews.

**Ms. Matthews:** I move that section 39 of the bill be amended by adding the following subsection:

"Representative of CUPE (Ontario), Locals 79 and 416

"(3.1) The person referred to in paragraph 6.1 of subsection (1) is to be chosen by the Canadian Union of Public Employees (Ontario), Local 79, and his or her replacement is to be chosen by the Canadian Union of Public Employees (Ontario), Local 416; thereafter, the replacement is to be chosen on an alternating basis by Locals 79 and 416."

**The Chair:** Any discussion? Seeing none, all those in favour of the motion? All those opposed? That's carried.

Page 39h; Mr. Rinaldi.

**Mr. Rinaldi:** I move that subsection 39(4) of the bill be amended by striking out "The two persons referred to in paragraph 10 of subsection (1) are to be chosen as follows" at the beginning and substituting "The person referred to in paragraph 10 of subsection (1) is to be chosen as follows."

**The Chair:** Any discussion? Seeing none, all those in favour of the motion? All those opposed? That's carried.

Page 39i; Mr. Dhillon.

**Mr. Dhillon:** I move that paragraphs 3 and 4 of subsection 39(4) of the bill be struck out and the following substituted:

"3. The sponsors corporation shall invite the largest organization to choose the person within the period specified by the sponsors corporation.

"4. If the organization fails to choose a person within the specified period, the sponsors corporation shall invite the next-largest organization to choose the person within the period specified by the sponsors corporation. This step is repeated until the person has been chosen."

**The Chair:** Any discussion? Seeing none, all those in favour of the motion? All those opposed? That's carried.

Government motion 39j; Mr. Lalonde.

**Mr. Lalonde:** I move that section 39 of the bill be amended by adding the following subsection:

"Weighted voting

"(9) The members of the sponsors corporation shall have voting rights as follows:

"1. The members referred to in paragraph 1 of subsection (1) shall have two votes each.

"2. The member referred to in paragraph 6 of subsection (1) shall have three votes.

"3. Every other member shall have one vote each."

**The Chair:** Any further discussion? All those in favour of the motion? All those opposed? That's carried.

Shall section 39, as amended, carry? All those in favour?

**Ms. Horwath:** We don't comment on the section as a whole before it goes to the vote?

**The Chair:** Of course, yes.

**Ms. Horwath:** I just wanted to take this last opportunity on section 39, in regard to the composition of the sponsors corporation, to say that I appreciate that there has been some movement on the sponsors corporation by the government in trying to respond to the concerns raised by the stakeholders in regard to the composition. I think that's a positive move. Also, notably, the removal of the municipal managers from the employee side of representatives of the sponsors corporation is, I think, a positive move. Unfortunately, it still remains that the sponsors corporation's purview is restricted to that of changes to the plan but not providing the opportunity for oversight and comment on the activities of the administration corporation, nor any of the information having a second look as it's being processed by the administration committee on which the investment decisions are being made.

So although the government has moved in a positive direction in regard to the structure, unfortunately there remains a body that doesn't have the kind of effect that many plan members would like to have seen in terms of the structure. As we go on to see the changes in the admin corporation, we're going to be disappointed to not have a similar reflection of acknowledgement, particularly around the municipal managers and treasurers group being kept on the employee side of the table. It begs the question, why does it make sense to remove them from the employee side of the table in the sponsors corporation, as we've just done, but not in the admin corporation? What's the difference? If they shouldn't be on that side for one, then neither should they be for the other.

I thought it was important to raise that before passing the section as a whole.

**1450**

**The Chair:** Any other debate or discussion on this section? Seeing none, shall section 39, as amended, carry? All those in favour? All those opposed? That's carried.

Section 40, government motion 39k; Mr. Lalonde.

**Mr. Lalonde:** I move that subsection 40(3) of the bill be struck out.

**The Chair:** Any discussion? Any detail, Mr. Duguid?

**Mr. Duguid:** My understanding is that by striking it out, this will just allow the advisory committee on benefits, police and fire sector, to carry on after the sponsors committee passes the first bylaw. If staff have anything else to add on this, that would be great. As we're getting to these last motions, I wasn't able to really discuss them with staff too much.

**The Chair:** Would staff be able to clarify that he's done a good job as he winged it?

**Ms. Hope:** That was accurate.

**Mr. Duguid:** I winged it pretty well, then.

**The Chair:** Okay. Any other questions? All those in favour of the motion? All those opposed? That's carried.

Shall section 40, as amended, carry? All those in favour? All those opposed? That's carried.

Section 41, government motion 39l; Mr. Lalonde.

**Mr. Lalonde:** I move that subsection 41(3) of the bill be struck out.

**The Chair:** Mr. Duguid?

**Mr. Duguid:** Just a quick explanation: Again, this allows the advisory committees on benefits and other

members to carry on after the sponsors committee begins rolling.

**The Chair:** Any other questions? Seeing none, all those in favour of the motion? All those opposed? That's carried.

Shall section 41, as amended, carry? All those in favour? All those opposed? That's carried.

Shall section 41.1 carry? All those in favour? All those opposed?

Shall section 42 carry? All those in favour? All those opposed? That carries.

Ms. Horwath, motion 40 is yours.

**Ms. Horwath:** I move that subsection 43(3) of the bill be amended by striking out "The sponsors corporation may use mediation" at the beginning and substituting "The sponsors corporation shall use mediation".

If I'm not mistaken, that is simply strengthening the language to ensure that that's the process that's used on impasse.

**The Chair:** Any discussion? Mr. Duguid.

**Mr. Duguid:** The concern I have about that is that I think it forces the sponsors corporation into mediation. They may choose to go another route; they may choose to reconsider, they may choose a number of different things, so I would not be supporting that.

**The Chair:** Any other discussion? Seeing none, all those in favour of the motion? All those opposed? That's lost.

The next motion is yours, Ms. Horwath.

**Ms. Horwath:** I move that paragraph 3 of subsection 43(3) of the bill be struck out and the following substituted:

"3. The sponsors corporation does not, within 30 days after the meeting at which the proposal is first considered, make a decision to accept the proposal, with or without amendments, or to reject it."

**The Chair:** Any discussion? Mr. Duguid.

**Mr. Duguid:** I won't be supporting this because it removes the requirement for a majority of members to support a specified change.

**The Chair:** Mr. Duguid, it's a little bit hard to hear you. I heard you that time, but just barely.

**Mr. Duguid:** I'm sorry. I'm saving my voice. I've got a long motion coming up.

**The Chair:** You might want to save it and give them to other people, or move your mike closer; one of the two.

All those in favour of motion 41? All those opposed? That's lost.

Ms. Horwath, you have the next one.

**Ms. Horwath:** I move that subsection 43(4) of the bill be struck out.

**The Chair:** Any discussion? Ms. Horwath, did you want to—

**Ms. Horwath:** This motion and the ones previous are addressing not only the issue of the two thirds majority but what happens if decisions aren't made. If you don't support the precept of the two thirds majority requirement, which we don't, then these other motions would take care of matters if there weren't the two thirds majority requirement. Unfortunately, the government has decided, I believe wrong-headedly, to stick with its amendments around requiring the two thirds majority decision-making on the sponsors corporation. These motions are a way to try to get them to change their mind. It's not working, though.

**The Chair:** It's an admirable attempt. Any further discussion?

**Mr. Hardeman:** Maybe I don't understand mediation, but whether it's "may" or "shall," isn't mediation a process to help two parties discuss a solution, and if they can't mediate, it ends up at loggerheads anyway? I can't see where it makes that much difference whether you have mediation or not.

**Mr. Duguid:** I think I can help out with that. There's a difference between "may" and "shall." "May" is that the parties can agree to go through a mediation process. "Shall" is that it will automatically go to mediation or, eventually, arbitration.

**Mr. Hardeman:** I just want to take it one step further and say, what's the end result of mediation? They still have to get both parties to agree. It's just getting someone to help with the discussion. I don't know why we would object to "shall have mediation." We will make every effort to come to an agreement. If that word was "arbitration," to me it's a little different, but "mediation" seems like a pretty benign way of trying to come to an agreement.

**Mr. Duguid:** From our perspective, it precludes the possibility for both parties to avoid the dispute resolution system altogether and come up with another solution, which is quite possible. It's probably not always going to happen, but sometimes parties faced with a dispute resolution system may say, "Well, let's work this out. We can work out a compromise or something among ourselves. We don't need to automatically go through this dispute resolution process." We want to leave that open to the parties so they have the option to determine, do they want to go through mediation or do they not?

**The Chair:** Any further discussion? Seeing none, all those in favour of the motion? All those opposed? That's lost.

Ms. Horwath, yours is the next one.

**Ms. Horwath:** I move that subsection 43(11) of the bill be struck out and the following substituted:

"Decision by sponsors corporation

(11) The sponsors corporation may decide by an affirmative vote of a majority of its members to accept the proposal, with or without amendments, or may decide by an affirmative vote of a majority of its members to reject the proposal."

Again, this is reaffirming the idea of a simple majority, as is the case with most decision-making bodies that we come into day-to-day contact with. Supermajorities are very rarely required. Unfortunately, the government has decided that the sponsors corporation needs to go through a supermajority process to make decisions in certain areas. We fundamentally agree with many, in fact I believe all, of the employee groups who

have made presentations at this committee that the supermajority is onerous, is inappropriate and in fact serves to block the ability of certain groups of workers from obtaining the same kinds of consideration, particularly for supplemental plans, as others. Therefore, this motion is trying to bring back the decisions to the sponsors corporation as being a straight-out simple majority as opposed to a two thirds supermajority.

**The Chair:** Any further conversation? Seeing none, all those in favour of the motion? All those opposed? That's lost.

The last motion of this section is yours, Ms. Horwath.

**Ms. Horwath:** I move that subsection 43(12) of the bill be struck out and the following substituted:

"Arbitration request

"(12) If the sponsors corporation neither accepts, with or without amendments, nor rejects the mediator's report at its first meeting after receiving the mediator's report, the member who made the proposal may request arbitration of the matter.

"Same

"(12.1) If the member who made the proposal requests arbitration of the matter under subsection (12), the sponsor's corporation shall refer the matter to arbitration within 30 days after receiving the request."

Again, this is a dispute resolution mechanism that we believed, had all the other amendments we moved been passed, would be an appropriate way to get over disputes. Also, it acknowledges that when a dispute occurs, it's incumbent upon the member to bring it forward, and it then requires, through the "shall" language, the arbitrator to be engaged within 30 days.

**1500**

**The Chair:** Any further discussion? Seeing none, all those in favour of the motion? All those opposed? That's lost.

Shall section 43 carry? All those in favour? All those opposed? That's carried.

Section 44, motion 44a; who drew the short straw and has to read this long motion?

**Mr. Duguid:** I'll do this one, since you were complaining about me not speaking loudly enough.

I move that section 44 of the bill be struck out and the following substituted:

"Transitional composition of the administration corporation

"44(1) On the day on which subsection 32(1) comes into force, the terms of office of the persons who hold office as members of the Ontario Municipal Employees Retirement Board immediately before that day are terminated and the administration corporation is composed of the following members:

"1. Two persons to be chosen by the Association of Municipalities of Ontario.

"2. One person to be chosen by the city of Toronto.

"3. One person who is representative of school boards to be chosen in accordance with subsection (3).

"4. One person to be chosen by the Ontario Association of Police Services Boards.

"5. Two persons who are representative of the other participating employers, to be chosen in accordance with subsection (4).

"6. Two persons to be chosen by the Canadian Union of Public Employees (Ontario).

"7. One person to be chosen by the Police Association of Ontario.

"8. One person to be chosen by the Ontario Professional Fire Fighters Association.

"9. One person who is representative of other members of the OMERS pension plans, to be chosen in accordance with subsection (5).

"10. One person to be chosen by the Association of Municipal Managers, Clerks and Treasurers of Ontario.

"11. One person who is representative of former members of the OMERS pension plans, to be chosen in accordance with subsection (6).

"First appointments

"(2) Despite subsections (1), (3), (4), (5) and (6), the Lieutenant Governor in Council shall appoint the first members of the administration corporation and shall specify in the appointment under which paragraph of subsection (1) each appointment is being made.

"Representative of school boards

"(3) The person referred to in paragraph 3 of subsection (1) is to be chosen by the Ontario Public School Boards' Association and his or her replacement is to be chosen by the Ontario Catholic School Trustees' Association; thereafter, the replacement is to be chosen on an alternating basis by the associations.

"Representatives of other participating employers

"(4) The two persons referred to in paragraph 5 of subsection (1) are to be chosen as follows by those employers who are not members of an organization described in paragraph 1 or 4 of subsection (1) or in subsection (3):

"1. The first person is to be chosen by the employer who has the greatest number of members in the primary pension plan.

"2. The second person is to be chosen by the employer who has the second-greatest number of members in the primary pension plan.

"3. When the term of office of the first person expires, his or her replacement is to be chosen by the employer who has the third-greatest number of members in the primary pension plan on the expiry date of the first person's term.

"4. The subsequent replacement for a member is to be chosen by the employer who has the next-greatest number of members in the primary pension plan, until all employers have chosen a person.

"5. When all employers have chosen a person, the next replacement is to be chosen by the employer who has the greatest number of members in the primary pension plan, and the steps described in paragraphs 2 to 4 are repeated.

"Representative of other members

"(5) The person referred to in paragraph 9 of subsection (1) is to be chosen as follows on behalf of those members of the OMERS pension plans who are not

represented, directly or indirectly, by an organization described in paragraphs 6, 7 or 8 of subsection (1):

"1. The administration corporation shall make inquiries to determine what organizations, if any, represent any of the applicable members of the OMERS pension plans and to determine how many of those members each organization represents.

"2. The administration corporation shall rank the organizations according to the number of those members that each of them represents, and the organization representing the greatest number of those members is the largest organization.

"3. The administration corporation shall invite the largest organization to choose the person within the period specified by the Administration corporation.

"4. If the organization fails to choose a person within the specified period, the administration corporation shall invite the next-largest organization to choose the person within the period specified by the administration corporation. This step is repeated until the person has been chosen.

"5. When a person's term of office expires, the administration corporation shall invite the organization that is the next-largest at the time the replacement person is required to choose the person. This step is repeated when replacement persons are required until all the organizations have been invited to choose a person.

"6. When all the organizations have been invited to choose a person, the administration corporation shall invite the largest organization to choose the next replacement person, and the steps described in paragraphs 3 to 5 are repeated with necessary modifications.

"Representative of former members

"(6) The person referred to in paragraph 11 of subsection (1) is to be chosen as follows on behalf of former members of the OMERS pension plans:

"1. The administration corporation shall make inquiries to determine what organizations, if any, represent any of the former members of the OMERS pension plans and to determine how many former members each organization represents.

"2. The administration corporation shall rank the organizations according to the number of those former members that each of them represents, and the organization representing the greatest number of those members is the largest organization.

"3. The administration corporation shall invite the largest organization to choose the person within the period specified by the administration corporation.

"4. If the organization fails to choose a person within the specified period, the administration corporation shall invite the next-largest organization to choose the person within the period specified by the administration corporation. This step is repeated until a person is chosen.

"5. When a person's term of office expires, the administration corporation shall invite the organization that is the next-largest at the time the replacement person is required to choose the person. This step is repeated when replacement persons are required until all the organizations have been invited to choose a person.

"6. When all the organizations have been invited to choose a person, the administration corporation shall invite the largest organization to choose the next replacement person, and the steps described in paragraphs 3 to 5 are repeated with necessary modifications.

"Term of office

"(7) The term of office of the members of the Administration corporation is three years.

"Same

"(8) Despite subsection 33(4) and subsection (7) of this section, each of the first members of the administration corporation appointed under subsection (2) shall be appointed to hold office for a period not to exceed three years, as specified by the Lieutenant Governor in Council.

"Vacancy

"(9) If a person appointed under subsection (2) ceases to hold office before his or her term of office expires, the person or organization that chooses the members of the administration corporation under the paragraph of subsection (1) under which the first member was appointed shall choose his or her replacement to hold office for the remainder of the unexpired term.

"Same

"(10) If a person who was not appointed under subsections (2) or (9) ceases to hold office before his or her term of office expires, the same person or organization that chose the person may choose his or her replacement to hold office for the remainder of the unexpired term.

"Chair

"(11) The chair of the administration corporation is to be chosen by the members of the administration corporation from among the members."

That's it.

**The Chair:** I don't suppose you want to explain it, do you?

**Mr. Duguid:** I'm happy to explain it. The chart is in front of everybody. Do members wish a further explanation?

**Mr. Hardeman:** I'm not sure which paragraph it was in, so if you could read it again.

No, I have a couple of questions, if I might. It's not the way it's written, but it's the issue of the two persons for AMO and one person for the city of Toronto, recognizing the size and corresponding need to be represented on the board of the city of Toronto. Also, at this point in time, Toronto is not part of AMO. If it was to change its mind next year, would it be possible then to have AMO appoint a member from Toronto and also Toronto get another appointment?

**Mr. Duguid:** It wouldn't be possible for AMO to increase its representation. Oh, do you mean, would it be possible for AMO to appoint a representative from Toronto?

**Mr. Hardeman:** Yes. Like AMO gets to appoint two members—

**Mr. Duguid:** AMO will be entitled to appoint whomever they wish. They may appoint somebody from

Toronto anyway. They could do that now. I would expect, yes, they could do that. Staff may have further comment.

**Mr. Hardeman:** There are two things that have come—

**The Chair:** Mr. Hardeman, can we just get clarification on that question? I think staff wanted to respond.

**Ms. Hope:** Yes. The first corporation would be appointed according to this composition. However, subsequently, if there were a change, whether it was with AMO and Toronto or with other organizations that are named, the sponsors corporation would have the ability, by a two thirds majority vote, to adjust the composition, after the three-year period of that initial board. If there was a change in organizational structure, the sponsors corporation could reflect that in their composition, or the aministration corporation.

**Mr. Hardeman:** But it is inferred in this document that in fact they will not change the composition of the board, because of the fact it points out that after they've been appointed the first time, the replacements are picked in this way. So we're making the assumption that this is the format that they will continue to use.

**Ms. Hope:** This is the default format, but the sponsors corporation will have the capacity beyond the first three-year period to change this composition, if they so choose.

**1510**

**Mr. Hardeman:** If I could just go on, in the last page you talk about if the person is appointed and ceases to hold office, that same organization appoints someone else. So what's the requirement to hold office, to be appointed? I don't see anywhere else in the bill that talks about—

**Ms. Hope:** Are you asking about the term of office?

**Mr. Hardeman:** It's just to hold office. At AMO, the requirements for any appointments they make—if you want to be on the board of directors at AMO, you have to be an elected member of a municipal council. As soon as you lose your right to sit on municipal council, you also lose your ability to sit on the board of directors. Am I to infer from this that that's also true here?

**Mr. Duguid:** AMO would be entitled to appoint whomever they wish. They may go outside of their organization and appoint somebody who's involved in pension funds—an expert—or they may appoint a municipal councillor, if they so choose. That would be at their discretion.

**Ms. Hope:** The reference to "ceases to hold office" is referring to the corporation, not to political appointments.

**Mr. Hardeman:** Okay. Thank you.

Now, the other thing it relates to is that Toronto is not presently a member of AMO. There are other municipalities who are not members of AMO, so they are no longer represented in any form on the pension board. There are no municipal representatives for municipalities who are not members of AMO. So if you're not a member of the organization, you're not represented on the AMO board?

**Mr. Duguid:** I believe that would be correct. Toronto's representation—they represent 20% in terms of the members' population. What they're getting is about 14% representation. They're getting some representation, but it's certainly not based on the number of employees they have in the plan.

**The Chair:** Mr. Hardeman, staff would like to elaborate.

**Ms. Hope:** To further clarify, there are two positions on the administration corporation for other employers, so municipalities which were not members of AMO would be eligible to be considered in that rotation as part of other employers.

**Mr. Hardeman:** Municipalities who are not members of AMO would be eligible to be members of other employers?

**Ms. Hope:** They would be eligible to be appointed under the other employer seat, yes. They would be part of that rotation along with the other employers in OMERS who aren't part of one of these organizations that are named.

**The Chair:** Any further questions?

**Ms. Horwath:** I guess I'm going to start with a question, and that is, why is it that the government, in its composition of the administration corporation, maintained the position of the municipal clerks and treasurers of Ontario when they didn't do so in the sponsors corporation? What makes it different that, notwithstanding the representations that we heard—which, coming from the municipal sector, I agree with—treasurers and clerks are on the management side of the table and therefore, in my opinion, upset the balance? If you look at the administration corporation, even the way it's presented in this chart, employer representatives equal seven and employee representatives equal seven, although one of those seven is in fact more on the management side of the table than anything else. I think it was clear from the deputations that we received that this was a major sticking point for most of the unions, most of the employee representatives. So I'm just trying to figure out why it was acknowledged—I'm assuming it was acknowledged—as problematic in the composition of the sponsors corporation, but here in the administration corporation—in the effective fiduciary body, if that's the way the government has been describing it—that seat is maintained for management representation on the employee side of the equation?

**Mr. Duguid:** The Association of Municipal Clerks and Treasurers of Ontario is there to represent the interests of unaffiliated, non-unionized management, which makes up about 19.8% of the fund. We considered the concerns that were raised and we felt that the Ontario Secondary School Teachers' Federation, which contributed a great deal to discussions around this and has a great deal of knowledge in terms of pension funds, would be an appropriate representative to permanently have on the sponsors committee. So we elected to take AMCTO off the sponsors committee, but we still felt that they represent a great deal of employees, and given the fact that when you get to the administration corporation, you're there to perform a fiduciary duty, and your

allegiances in terms of your representation are to be left, really, at the door when it comes to performing that duty, they still have a role to play, and those employees should have some representation in there.

**Ms. Horwath:** If I could just make a final comment on that, it seems to me that in all of the presentations that we heard from municipalities, my own municipality included—I heard from my local municipality as well—the reality is that in terms of commenting on this bill and what might occur as a result of it being implemented, the authoritative voice on all of these matters, in most cases indicating that the government was going down the wrong road when it came to the way they were dealing with the OMERS pension plan, was always the voice of the municipal treasurer or the general manager of finance and corporate services or whatever the title might be. Certainly, it would be that person who was representing the interests of the employer in all of the discussions we've had so far. So I think it's inappropriate, and quite frankly unbalanced, to say that, on the one hand, those people have been speaking with the voice of the employer, and then all of a sudden, in the government's decision on how to set up the administration corporation, they're listed as an employee representative, while through this whole process they've been raising the issues and in fact providing the information upon which these issues are being raised by municipalities with the hat of the employer on. It's really difficult, in my mind anyway, to understand the rationale of putting them as an employee representative, particularly since the entire history of this bill, from the first day of public hearings, has had those very people, those individuals, with the employer hat on. So when the criticism has come up in regard to putting those people on the employee side of the table, it would seem to me a no-brainer that the government would acknowledge that that's problematic.

Again, if the principle is that everybody goes in with a fiduciary duty, then there's no point in writing a chart that says "employee" and "employer." What's the point? Why characterize the administration corporation as being a balance of voices between seven employee and seven employer if in fact what we're saying is it really doesn't matter, because you all have a fiduciary responsibility to act in the best interests of the plan on the administration committee? You can't have it both ways. You're either all coming in with one hat on and nothing do with the affiliated organization, or you're not.

I still think the government could have been a lot more sensitive to the issues and concerns that were raised around having employer representatives characterized as employee representatives in the structure of the administration corporation. I think you missed the ball on this one completely, notwithstanding the rationale that you're bringing forward around the fact that everybody comes with their fiduciary hat on to fulfill those obligations in their role as appointees to this corporation. The bottom line is, even your own representations differentiate between employer and employee. It's apparent, particularly in terms of the Association of Municipal Clerks and Treasurers of Ontario, that they really come from an employer perspective.

Again, I think it's important that that gets stated clearly. I think it's still problematic. I can't support not only the specifics around that, but I can't support the philosophy that the government is bringing forward in regard to keeping them on the administration corporation as representatives of employees.

**1520**

**The Chair:** Any further discussion? Seeing none, all those in favour of the motion? This is the long one, folks. It was a while ago since we heard it. All those against? That's carried.

Shall section 44, as amended, carry? All those in favour? All those opposed? That's carried.

**Mr. Hardeman:** I outvoted them.

**The Chair:** Almost. Just by a hair.

Section 45: Ms. Horwath, you have the motion.

**Ms. Horwath:** I move that paragraph 5 of subsection 45(1) of the bill be amended by striking out "Three" and substituting "Four."

**The Chair:** Any debate or discussion? Seeing none, all those in favour of the motion? All those opposed? That's lost.

The next motion.

**Ms. Horwath:** I move that paragraph 7.1 of subsection 45(1) of the bill be struck out.

**The Chair:** Any discussion? All those in favour? All those opposed? That's lost.

Shall section 45 carry?

**Mr. Duguid:** Madam Chair, just a quick comment: I think, given the motions we've passed already, it makes section 45 redundant, so we'll be voting against the entire section. We've already dealt with it in previous amendments.

**The Chair:** Okay. All those in favour of section 45? All those against? That's lost.

Section 45.1, government motion; Mr. Lalonde.

**Mr. Lalonde:** I move that clause 45.1(1)(a) of the bill be amended by striking out "or the assumptions to be used in calculating."

**The Chair:** Any discussion?

**Ms. Horwath:** Can I just ask what that amendment in effect does?

**The Chair:** Mr. Duguid, can you respond?

**Mr. Duguid:** I have a note on this, but I think it would be best to refer it to staff. It's pretty technical.

**Ms. Hope:** Sure. Essentially, by removing these few words, we would remove the capacity for the Lieutenant Governor in Council, through regulation, to usurp the role of the administration corporation with respect to actuarial assumptions. So it leaves the actuarial assumption issue solely in the hands of the administration corporation.

**Ms. Horwath:** Devolves to it.

**Ms. Hope:** Yes.

**The Chair:** Okay. Clear as mud?

No more discussion? All those in favour of the motion? All those opposed? That's carried.

Shall section 45.1, as amended, carry? All those in favour? All those opposed? That's carried.

Shall section 46 carry? All those in favour? All those opposed? That's carried.

Shall section 47 carry? All those in favour? All those opposed? That's carried.

Shall section 48 carry? All those in favour? All those opposed? That's carried.

Shall section 49 carry? All those in favour? All those opposed? It carries.

Shall sections 50, 51, 52, 53, 54, 55 carry? All those in favour? All those opposed? Those carry.

Section 56: Mr. Duguid, do you want to do the next motion? It's page 48.

**Mr. Duguid:** I move that section 56 of the bill be amended by striking out "sections 38 to 45" and substituting "sections 38 to 44."

Section 56 provides for the transition sections of the bill, subsections 23(2) and 33(2) and sections 38 to 45, to be repealed on December 31, 2009. This motion would remove section 45 as one of the sections that need to be repealed on December 31, 2009.

**The Chair:** Any discussion?

**Ms. Horwath:** What is section 45?

*Interjection.*

**Ms. Horwath:** Oh, the one we just talked about. Okay.

**The Chair:** Any further discussion? Seeing none, all those in favour of the motion? All those opposed? That carries.

Shall section 56, as amended, carry? All those in favour? All those opposed? That's carried.

Shall sections 57 and 58 carry? All those in favour? All those opposed? Those carry.

Mr. Hardeman, you look puzzled.

**Mr. Hardeman:** You were going so fast.

**The Chair:** Sorry. There are no amendments within those sections, so I'm going to go right back to the beginning now. I'm just putting people on notice that all of the things that were—

**Mr. Hardeman:** You voted, Madam Chair, on section 58?

**The Chair:** Yes, I did.

**Mr. Hardeman:** That's the title of the bill?

**The Chair:** No, the title is separate. I did 58.

**Mr. Hardeman:** Short title of the bill.

**The Chair:** I guess so, yes. I did it, sorry.

**Mr. Hardeman:** I was a little concerned. I didn't like the title of the bill.

**The Chair:** We're going to get to the title. I'm going back to page 1, to amendment 1, which was stood down, as I recall. Ms. Horwath, you have the floor.

**Ms. Horwath:** Do I need to read it again?

**The Chair:** I believe it's already read into the record, so we're at the point where we would discuss it. I presume Mr. Duguid has a comment on it now.

**Mr. Duguid:** Yes. I spent a considerable amount of time with staff during the break trying to figure out whether this is something we could support. I was advised that it's overly broad because it replies to the main plan and not the supplementary plan, and allows employers to change the NRA for the main plan to 60 years. I think their conclusion was that this is something that should be left to the sponsors corporation. We spent a considerable time looking at it and unfortunately I couldn't reach a conclusion to be able to support it.

**Ms. Horwath:** My understanding of this motion is basically to as-of-right acknowledge or recognize the NRA 60 provision for paramedics, to put them on an even keel in an upfront way in the legislation as opposed to going through the process of the sponsors corporation, two thirds majority decision, which I understand is what would be required. This was a way to acknowledge, not only in theory but in action, the requests and what we thought were the commitments of the government around emergency workers, paramedics particularly.

**The Chair:** Any other questions or comments?

**Mr. Hardeman:** My understanding was that the debate we had with the paramedics dealt with this issue. In fact, presently it's 65 and the supplementary benefit through the NRA 60 wouldn't work unless this was changed in their act to make it a retirement age of 60. Am I correct in that assumption?

*Interjection.*

**Mr. Hardeman:** That's what this one does? Having said that, what happens to that if this is passed and there are no municipalities or no one who goes into the supplementary plan? Does retirement then go into the 60 anyway, without having sufficient contributions to get their full pension? I don't know whether we can get the two together and still keep them apart, recognizing that this is an amendment to the Ambulance Act, not to this act.

**The Chair:** Any further discussion? Staff, do you want to jump in?

**Ms. Hope:** Let's see if I can help. The issue of accessing the benefits in the supplemental plan and the issue of whether individual groups of paramedics can move from NRA 65 to 60 aren't distinct issues. For example, the 2.33% accrual rate benefit that is going to be in the supplemental plan can be accessed by an individual regardless of whether they are NRA 60 or 65. So it's not necessary for an individual to be in the NRA 60 group to access the benefits in the supplemental plan. I'm not sure if that helps.

**Mr. Hardeman:** So then I guess the question becomes—maybe to the table—is this an appropriate amendment to this bill? It's not required for the function of the bill and it is just going into the Ambulance Act and changing the 65 to 60.

**Ms. Hope:** It doesn't change the Ambulance Act, as I understand it.

**Ms. Horwath:** What this amendment does is refer to the Ambulance Act, but it's language in this legislation that allows the paramedics, as of right—it's my understanding, anyway—to be considered for NRA 60 and not have to go through the hoop of the sponsors corporation making that determination or that decision. That's my understanding of why this is here.

**1530**

**The Chair:** Any further discussion? All those in favour of the motion? All those opposed? That's lost.

I believe the next motion that was stood down was government motion 2. Mr. Duguid.

**Mr. Duguid:** I'll read this motion into the record. I just want to make sure I've got the right one here. It amends just slightly the original motion we put forward.

**The Chair:** So whatever was 2, this is to replace 2?

**Mr. Duguid:** This is to replace 2.

**The Chair:** So the motion 2 that you have in your book, this is the replacement.

**Mr. Duguid:** It's fairly minor. I move that subsection 3(3) of the bill be struck out and the following substituted:

"Pension funds

"(3) The pension funds that are governed by the Ontario Municipal Employees Retirement System Act immediately before that act is repealed are continued."

The original motion continued and said, "as the pension funds for the primary pension plan." This was one of the recommendations made to the committee by OMERS. If you want an explanation for it, you will have to go to staff because I would not have any ability to explain this to you.

**Mr. Hardeman:** Looking at the two motions now, the yellow and the white, the difference is that the one just says, "are continued," and the other says, "are continued as the pension funds for the primary pension plan." Does that mean that to be continued, they would not have to stay as pension funds for the primary pension plan?

**Ms. Hope:** I believe the issue is that OMERS was concerned that by just referring to the primary pension plan, we were failing to also continue the other funds, such as the retirement compensation arrangement fund or the other funds that aren't about the primary pension plan. So I think this is the same intent but is most inclusive.

**Mr. Hardeman:** If I get this right, then, the other funds have now all become pension funds.

**Ms. Hope:** Retirement compensation arrangements are existing arrangements on top of pension funds. In legal terms, I think they're often described with different words.

**The Chair:** It's a test. You passed the test. Any further questions? All those in favour of the motion? All those opposed? That carries.

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

Moving on to section 4, the NDP motion that was stood down. Ms. Horwath.

**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 purpose of paying any optional benefit under a supplemental plan or funding the payment of any other liability of a supplemental plan.

"Same

"(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.

"Same

"(4) All costs related to the transfer of assets to the primary pension plan under subsection (3) shall be paid from the supplemental pension plan."

What these three pieces do is once again tighten the language around cross-subsidization, which has been an ongoing concern throughout the public hearings, throughout the deputations we've heard. There is still significant concern around that issue. In combination, these three pieces together cover off all eventualities and create a comfort zone for those deputants who were still concerned about the likelihood of cross-subsidization.

**Mr. Duguid:** We took a close look at this motion as well. Motions 3 and 4 we cannot support. The transfer of funds is generally prohibited under federal and provincial legislation. Section 14 of the act accomplishes this policy objective by clearly prohibiting rebound costs, by making people in the base plan who are members of the supplementary plan pay all costs associated with supplementary plans. So subsections (3) and (4) we cannot support.

Subsection (2), however, we can support. Staff have advised that, in their view, it's not necessary, but we don't have a problem with it, so we'll be happy to support it. However, we would ask that we vote on each of these sections separately.

**Mr. Hardeman:** In a question to the parliamentary assistant's comments, I wondered if the legal branch could explain to me what's wrong with (3) and (4).

**Ms. Hope:** As I understand it, federal pension law prohibits the transfer of money between pension funds except under very specific circumstances. So these provisions would not be permitted under federal law.

**Mr. Hardeman:** I guess my question would be, under pension law, if the supplemental plan creates the liability in the primary plan, the wording may be wrong, but it wouldn't be transferring funds, it would be covering its own liabilities, but outside their own fund.

**Ms. Hope:** Section 14 of the bill addresses this issue by saying that the costs that are created within the base plan because of the existence of supplemental plans have to be taken into account, and those costs need to paid for by the members of the main plan who are also members of the supplemental plan. Section 14 sets out a methodology for dealing with it within the main plan funds and not referring to a transfer of funds, as this motion does, which we understand is not permitted under federal law.

**Mr. Hardeman:** So it's reasonable for me to assume, then, that because of the other section, this will never be needed?

**Ms. Hope:** Yes.

**Mr. Hardeman:** So they will never be asked to supersede the law because it will never happen.

**Ms. Hope:** It should never happen.

**Mr. Hardeman:** I see no reason not to pass it. With that, Madam Chair, I'm going to support this motion. I think it's an insurance policy on all the other sections.

**The Chair:** I'm glad, but I think it's about to be withdrawn. Are you not going to withdraw it and reissue it?

**Ms. Horwath:** No. I was hoping that, as per the parliamentary assistant's suggestion, we could go section by section, if that's acceptable.

**The Chair:** That's the clerk's department.

**The Clerk of the Committee:** The motion on the floor is the whole motion, so we have to vote on the whole motion, or you can re-move it section by section. It's just not going to be very tidy if you—because you've moved the whole motion into the record and we've debated it, we should vote on the whole motion.

**Ms. Horwath:** But then once we vote on the whole motion, I can't re-table it section by section, is that right?

**The Clerk of the Committee:** If you move your other motion, which just deals with subsection (2), that's a different motion.

**Ms. Horwath:** But why just subsection (2)? Because the government's prepared to support that? I can't also re-move subsections (3) and (4) separately?

**The Clerk of the Committee:** You should have done them separately first and then—

**Ms. Horwath:** I guess my point is that either we can put them all in separately, because that's the fair way to treat it, or we just take them all together. It doesn't seem appropriate to me that we can say, "Well, because the government's prepared to support one piece, we can only re-table that one piece." We should be able to re-table all three. Do you know what I'm saying? That would be the only fair thing. If I'm able to then—

**The Clerk of the Committee:** Move each one separately.

**Ms. Horwath:** —move each one separately—

**The Clerk of the Committee:** Withdraw this one, move just subsection (2) and vote on that, and then move just subsection (3) and vote on that.

**Ms. Horwath:** That would be better, from my perspective.

**Mr. Lalonde:** On a point of order, Madam Chair: If we could unanimously support that we go section by section, would that be acceptable?

**1540**

**The Chair:** I don't think it wasn't acceptable, it just wasn't clean. I think that was the direction, that it was not as clean a motion. This is procedurally cleaner. I think it will still achieve the same purpose. The mover gets to move the motions and get support where she can.

**Ms. Horwath:** So then I'll withdraw the motion on subsections 4(2), 4(3) and 4(4) of the bill, and instead I move that section 4 of the bill be amended by adding the following subsection:

"Restriction on use of primary pension plan assets

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

**The Chair:** Any discussion? All those in favour? All those opposed? That's carried.

You have the floor for the following two motions.

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

"Restriction on use of primary pension plan assets

"(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 discussion? All those in favour? All those opposed? That's lost.

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

"Restriction on use of primary pension plan assets

"(4) All costs related to the transfer of assets to the primary pension plan under subsection (3) shall be paid from the supplemental pension plan."

**The Chair:** Any discussion? All those in favour? All those opposed? That's lost.

Shall section 4, as amended, carry? All those in favour? All those opposed? That carries.

The next area that we stood down was motion 15, section 10.1. That was a government motion. Mr. Duguid.

**Mr. Duguid:** I'll read this motion out.

**The Chair:** Is this an amended motion?

**Mr. Duguid:** It is an amended motion.

**The Chair:** Can we wait till everybody has it in front of them, please? Just a second.

**Mr. Duguid:** Sure. The amendment simply strikes out the definition section at the end of the motion, so it's not too complicated.

I move that section 10.1 of the bill be amended by adding the following subsections:

"Amount of benefit under supplemental plan

"(7) The amount of a benefit available to a member under the primary pension plan shall be deducted from the amount of a benefit available to a member under a supplemental plan described in subsection (3) and the cost of credit or contributions for the benefit under the supplemental plan shall be reduced accordingly.

"Election to purchase credit for benefit in supplemental plan

"(8) A member may elect to purchase credit for a benefit in a supplemental plan described in paragraph 8 of subsection (3) only if,

"(a) the member is employed by an employer participating in the OMERS pension plans who has consented to provide the benefit;

"(b) the member makes the election within 24 months after the date the employer consented to provide the benefit; and

"(c) the member makes the election to purchase credit for the benefit subject to any conditions determined by the administration corporation on the advice of the actuary.

"Same

"(9) Subject to subsection (7), the purchase cost of a credit for a benefit described in paragraph 8 of subsection (3) shall be equal to the present value of that benefit."

**The Chair:** Any discussion?

**Ms. Horwath:** Could we get a brief description of the effect of the amended motion and why it needed to be amended?

**Mr. Duguid:** I'm definitely going to go to staff for that because it was sort of a legal interpretation between OMERS and our own staff.

**Ms. Hope:** The definition was removed at OMERS' advice. They felt that the definition deferred somewhat from the definition in the plan text, so it would be more appropriate to remove the definition here.

**Ms. Horwath:** So that's the amendment. What effect does the amended motion as a whole have on the bill?

**Ms. Hope:** It provides a bit of additional instruction to the administration corporation on the implementation of the supplemental plan that's outlined in 10.1. Because it makes reference to the parts that were amended on first reading to opportunity for buyback, this just provides a bit more direction on how that is to be undertaken.

**The Chair:** Any further questions? Seeing none, all those in favour of the motion? All those opposed? That carries.

Shall section 10.1, as amended, carry? All those in favour? All those opposed? That carries.

Our second-to-final motion is number 17.

**Mr. Duguid:** Motion 17 was a technical amendment and we're just going to withdraw it.

**The Chair:** Okay, 17 is withdrawn.

Shall section 11 carry? All those in favour? All those opposed? That carries.

I believe we're at your favourite part, Mr. Hardeman. Shall the title of the bill carry? All those in favour?

**Mr. Hardeman:** At this point, Madam Chair, I would request a recorded vote.

**The Chair:** A recorded vote has been requested on the title of the bill.

**Ayes**

Dhillon, Duguid, Lalonde, Matthews, Rinaldi.

**Nays**

Hardeman, Horwath.

**The Chair:** That's carried.

Shall Bill 206, as amended, carry? All those in favour?

**Mr. Hardeman:** Recorded vote.

**The Chair:** A recorded vote has been requested.

**Ayes**

Dhillon, Duguid, Lalonde, Matthews, Rinaldi.

**Nays**

Hardeman, Horwath.

**The Chair:** That's carried.

Shall I report the bill, as amended, to the House? All those in favour?

**Mr. Hardeman:** Recorded vote.

**The Chair:** A recorded vote has been requested.

**Ayes**

Dhillon, Duguid, Lalonde, Matthews, Rinaldi.

**Nays**

Hardeman, Horwath.

**The Chair:** That's carried.

This concludes our consideration of Bill 206. I'd like to thank all my colleagues on the committee for their work on this bill. The committee also thanks the ministry staff and members of the public who have contributed to this committee's work.

This committee now stands adjourned until the call of the Chair.

*The committee adjourned at 1546.*

# CONTENTS

Wednesday 1 February 2006



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**Also taking part / Autres participants et participantes**
Ms. Janet Hope, director, municipal finance branch,
Ministry of Municipal Affairs and Housing
Mr. Tom Melville, legal counsel,
Ministry of Municipal Affairs and Housing

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