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Official Report of Debates (Hansard)

Thursday 15 April 2010

Journal des débats (Hansard)

Jeudi 15 avril 2010

**Standing Committee on
Finance and Economic Affairs**

Pension Benefits
Amendment Act, 2010

**Comité permanent des finances
et des affaires économiques**

Loi de 2010 modifiant la Loi
sur les régimes de retraite

Chair: Pat Hoy
Clerk: William Short

Président : Pat Hoy
Greffier : William Short

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
FINANCE AND ECONOMIC AFFAIRS**

**COMITÉ PERMANENT DES FINANCES
ET DES AFFAIRES ÉCONOMIQUES**

Thursday 15 April 2010

Jeudi 15 avril 2010

The committee met at 0900 in room 151.

**PENSION BENEFITS
AMENDMENT ACT, 2010**

**LOI DE 2010 MODIFIANT LA LOI
SUR LES RÉGIMES DE RETRAITE**

Consideration of Bill 236, An Act to amend the Pension Benefits Act / Projet de loi 236, Loi modifiant la Loi sur les régimes de retraite.

The Chair (Mr. Pat Hoy): The Standing Committee on Finance and Economic Affairs will now come to order. We are here this morning for clause-by-clause consideration of Bill 236.

Our first motion this morning is a government motion. Mr. Arthurs?

Mr. Wayne Arthurs: If I could just, before I read the motion, indicate that there are obviously a number of government motions, most of which are obviously technical in nature given the context of a pension bill. We do have officials from the ministry here, so as we go through this, if members have questions on the technical side of it in particular, we'll certainly call those officials forward to provide that level of expertise, as they can make their living, in part—in part only—working in this part of the ministry field. It's just to pre-empt the conversation around a number of amendments with that.

I move that the definition of "prescribed retirement savings arrangement" in subsection 1(1) of the act, as set out in subsection 1(6) of the bill, be struck out.

The Chair (Mr. Pat Hoy): Any comment?

Mr. Norm Miller: If the parliamentary assistant could give a brief explanation of the reasoning behind it, please?

Mr. Wayne Arthurs: The proposed motion is a correction to limit the application of subsection 14(4). The change will allow successive plans to provide plan members, but not former members or retirees, with different benefits. Under the original plan, asset transfers under sections 79.1, 80, 80.1, 80.2 or 81 and the value of the accrued benefits of a member who transferred to a successor plan is protected by the asset transfer provisions.

You'll get the context of why we may want an official or two to be brought forward at times, to put it in some lay terms.

Mr. Norm Miller: Thank you.

The Chair (Mr. Pat Hoy): Mr. Miller.

Mr. Paul Miller: Okay, let's bring them forward—because that was quite a mouthful and I didn't quite catch it all. I'd like a hard copy of that, like, why the correction, why the removal of it, and a slower, layman's terms explanation of that.

Mr. Wayne Arthurs: I may have misspoken in the context of my comments as I was flipping through my notes to a subsequent motion, but let's bring the officials forward at this point and get the accurate information from the standpoint of their comments.

The Chair (Mr. Pat Hoy): If someone can come? Just identify yourself before you begin.

Ms. Celia Harte: I'm Celia Harte. I'm a senior policy adviser at the Ministry of Finance.

The rationale for this is that the term "prescribed retirement savings arrangement" is also defined in the regulation and has a different definition in the regulation. It's not absolutely necessary in the act, so to avoid confusion, this would just remove it.

Mr. Norm Miller: That's a very good explanation. I understand that one much better than your explanation.

Mr. Wayne Arthurs: There you go. Hopefully, the next—I'll wait.

The Chair (Mr. Pat Hoy): Are there any other comments?

Mr. Paul Miller: Yes. Mr. Arthurs is now out, and we'll get comments from the—

Interjections.

Mr. Paul Miller: That's a lot better. Thank you.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, all in favour? Opposed, if any? Carried.

Shall section 1, as amended, carry? All in favour? Opposed? Carried.

Sections 2 through 7 inclusive do not have any amendments. Shall those sections carry? All in favour? Opposed? Carried.

The next one on page 2 of your packet is also a government motion. Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 14(4) of the act, as set out in subsection 8(2) of the bill, be struck out and the following substituted:

"Same

"(4) Subsection (1) does not apply with respect to an amendment that relates to a transfer of assets authorized by section 79.1, 80, 80.1, 80.2 or 81 and that affects the transferred members."

The Chair (Mr. Pat Hoy): Any comment?

Mr. Wayne Arthurs: Very briefly, Chair. I think I misspoke when I was flipping pages in the beginning, so those words may show up in Hansard as being very similar to the words from my first set of comments, but you can appreciate why I was indicating that we would have our officials here. I want to thank Celia for her opening comments, and Mr. Miller's suggestion that the ministry staff probably have a higher degree of expertise than I certainly would ever be able to bring to this particular table.

The Chair (Mr. Pat Hoy): Any other comment?

Mr. Paul Miller: Can I have recorded votes on these, please?

The Chair (Mr. Pat Hoy): On all?

Mr. Paul Miller: On all of them.

The Chair (Mr. Pat Hoy): Yes, we can do that.

Mr. Paul Miller: Thank you.

The Chair (Mr. Pat Hoy): Will we agree that there will be recorded votes from henceforth, rather than calling it out on every motion?

Interjection.

The Chair (Mr. Pat Hoy): Or you just ask at the time.

Mr. Paul Miller: If you want to put me through the aggravation, I'll be more than happy to comply.

The Chair (Mr. Pat Hoy): Mr. Arthurs.

Mr. Wayne Arthurs: Chair, I'm happy to have the member just ask for recorded votes with the motions as they come forward, rather than a blanket motion at this point to call for recorded votes throughout the day. I know we had an earlier committee meeting in which I spent some time, and I think Mr. Miller may even have assisted me, in asking for recorded votes for a period of time. I don't think we're unfamiliar with that practice.

The Chair (Mr. Pat Hoy): I'm advised that we probably should have a request for a recorded vote at the time of the vote.

Mr. Paul Miller: Suit yourself. I'd like a recorded vote.

Mr. Norm Miller: To the parliamentary assistant: I gather on this amendment that the only change is the last five or six words: "and that affects the transferred members." That's the difference?

Mr. Wayne Arthurs: The value of the accrued benefits of the members, when transferred to a successor plan, is protected by the asset transfer provisions. Those group benefits of the members, when they make the transfer, are protected.

The Chair (Mr. Pat Hoy): Any other point?

Mr. Paul Miller: This is far too broad, and I will not support this. It's too broad.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, I'll put the question. A recorded vote is requested.

Ayes

Albanese, Arthurs, Johnson, McMeekin, Murray.

Nays

Paul Miller.

The Chair (Mr. Pat Hoy): The motion is carried.

Shall section 8, as amended, carry? All in favour? Opposed? Carried.

Section 9: It has no amendment, and neither does 10. Shall sections 9 and 10 carry? All in favour? Opposed? Carried.

Now we come to the first PC motion in your packet. Mr. Miller, if you'll read it into the record.

Mr. Norm Miller: I move that subsection 11(1) of the bill be struck out and the following substituted:

"11. (1) Subsection 24(1) of the act is repealed and the following substituted:

"Mandatory advisory committee

"(1) Every pension plan is required to establish an advisory committee, and it shall include retired members of the pension plan."

The reason for this amendment is that members of a plan should know what the status of their plan is. In many cases—in most cases—they've contributed into the plan for their entire working life. Many different groups and presenters came before the committee to ask that pension advisory committees be made easier to form. I personally met with groups like the Canadian Federation of Pensioners, which told about how difficult it is to create a pension advisory committee and how, in many cases, the plan sponsors consider it a nuisance and find ways to obstruct the creation, or at least not be of assistance in the creation of pension advisory committees.

It's certainly my feeling that those who have contributed and those who have most at risk with the pension plan should be able to know what the status of it is and be involved with the pension plan. That is the purpose of this amendment.

0910

The Chair (Mr. Pat Hoy): Any other comment? Mr. Arthurs.

Mr. Wayne Arthurs: Just a couple of things, Chair. The government caucus won't be supporting the particular amendment that's before us at this time. The legislation is intended to make it easier for those committees to be established, but pension advisory committees are not mandatory in any jurisdiction within Canada. One of the government motions certainly ensures that advisory committees would include at least two retired members or their representatives. So there are provisions to make it easier for this to happen but there are no jurisdictions where it's currently mandatory for them to be established. We hope it's done through the co-operation, obviously, of retired members and the plan sponsor.

Mr. Norm Miller: If I may, you say there are amendments that will make it easier but still there's a possibility they might not happen?

Mr. Wayne Arthurs: Not mandatory.

The Chair (Mr. Pat Hoy): Mr. Barrett.

Mr. Toby Barrett: I want to commend Marta Kennedy, the research officer with legislative research service. I know on page 2 she has summarized the variety of recommendations, for example, with respect to the pension advisory committees. I just wanted to make mention of that because I feel for her, having to wade through this type of legislation and to winnow out the depositions that we heard at the witness table. I found that helpful in our deliberations, so I wanted to put that on the record.

The Chair (Mr. Pat Hoy): Mr. Barrett is speaking about the summary of recommendations and the notes that were in that, provided by research. I see some of you looking through trying to find out what he's citing, but that's what it was.

Mr. Toby Barrett: Yes, page 2. I hope everybody's gone through this as they try to make up their minds which way to vote today. As the Chair indicated, a summary of recommendations; our research officer put that together for us.

The Chair (Mr. Pat Hoy): Any other comment to the motion?

Mr. Paul Miller: Recorded vote.

Ayes

Barrett, Norm Miller.

Nays

Albanese, Arthurs, Johnson, McMeekin, Paul Miller, Murray.

The Chair (Mr. Pat Hoy): The motion is lost.

Now we are still within the same section and we have a government motion. Mr. Arthurs.

Mr. Wayne Arthurs: I move that section 11 of the bill be amended by adding the following subsection:

“(1.1) Subsection 24(1) of the act is amended by adding at the end ‘in accordance with such conditions and subject to such restrictions as may be prescribed’”.

The Chair (Mr. Pat Hoy): Any comment? Any question? Hearing none, I'll put the question. All in favour?

Ayes

Albanese, Arthurs, Johnson, McMeekin, Paul Miller, Murray.

The Chair (Mr. Pat Hoy): The motion is carried.

Page 4: We have a government motion, Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 24(3) of the act, as set out in subsection 11(2) of the bill, be struck out and the following substituted:

“Representation

“(3) The following rules govern the composition of the advisory committee:

“1. Each class of employees that is represented in the pension plan is entitled to appoint at least one representative to the advisory committee.

“2. If there is only one class of employees that is represented in the pension plan, that class is entitled to appoint at least two representatives to the committee.

“3. The retired members of the pension plan are entitled to appoint at least two representatives to the committee.”

The Chair (Mr. Pat Hoy): Any comment?

Mr. Norm Miller: Perhaps the parliamentary assistant could just explain exactly what you mean by “class of employees?”

Mr. Wayne Arthurs: Again, I'm going to ask the official whether “class” deals with particular existing employees or “class” being the retirees and current plan members.

Ms. Celia Harte: In this context, it's referring to class of employees within a pension plan. There can be notions of classes of members, which are normally classes of employees. So you can have a class of employees, for instance, in a bargaining group, a class of employees in an excluded group, a class of employees in a managerial group, all in the same pension plan. So that's what that's referring to.

Mr. Norm Miller: So it could be management, it could be—

Ms. Celia Harte: There can be various classes. If you have different employee groups that are all belonging to one plan, that's what this is about.

Mr. Norm Miller: Okay.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, all in favour?

Mr. Paul Miller: Recorded vote.

The Chair (Mr. Pat Hoy): Those opposed?

Interjection: Too late.

Mr. Paul Miller: Don't worry about me.

The Chair (Mr. Pat Hoy): Carried.

Government motion on page 5, Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsections 24 (4.1) and (4.2) of the act, as set out in subsection 11(4) of the bill, be struck out and the following substituted:

“Duties of the administrator

“(4.1) Upon receiving written notice from members, a trade union acting on behalf of, or retired members of their intent to establish an advisory committee, and if such conditions as may be prescribed are satisfied, the administrator shall do the following things to help them to establish the committee:

“1. Distribute the notice and such other information as may be prescribed to the members and retired members.

“2. Provide such other assistance as may be prescribed.

“Same, to assist the committee

“(4.2) Once the advisory committee has been established, the administrator has the following duties:

“1. To meet with the committee as required by the regulations.

"2. To provide such assistance to the committee as may be prescribed to help the committee carry out its purposes.

"3. To give the committee or its representative such information as is under the administrator's control and is required by the committee or the representative for the purposes of the committee."

The Chair (Mr. Pat Hoy): Any comment? Hearing none—oh, Mr. Norm Miller.

Mr. Norm Miller: I gather—I mean, it looks like this goes partway towards making it easier to form pension advisory committees. Because of that, I will be supporting this amendment.

The Chair (Mr. Pat Hoy): Mr. Arthurs, in the second line after "Duties of the administrator," you said "of retired members." Do you want it to be—

Interjection.

The Chair (Mr. Pat Hoy): Just read the first two lines, at (4.1).

Mr. Wayne Arthurs: "Upon receiving written notice from members, a trade union acting on their behalf, or retired members of their intent to establish an advisory committee"—is that what you're looking for, Mr. Chair?

The Chair (Mr. Pat Hoy): That's good. Any other comment? Hearing none, all in favour? Those opposed? Carried.

Number 6 is a government motion. Mr. Arthurs.

Mr. Wayne Arthurs: I move that section 11 of the bill be amended by adding the following subsection:

"(4.1) Subsection 24(6) of the act is amended by striking out 'or' at the end of clause (a), by adding 'or' at the end of clause (b) and by adding the following clause:

"(c) in respect of a jointly sponsored pension plan."

The Chair (Mr. Pat Hoy): Comment?

Mr. Norm Miller: It would be nice to have an explanation, Mr. Arthurs.

Mr. Wayne Arthurs: I'm going to ask Celia or the ministry staff again to provide the information the member will require.

The Chair (Mr. Pat Hoy): If you like, you could remain at that seat.

Ms. Celia Harte: Thank you.

The Chair (Mr. Pat Hoy): But it's entirely up to you. If you want to go back with the others, that's fine too.

Ms. Celia Harte: No, I will probably stay here.

Under the act currently, multi-employer pension plans don't have these provisions applied to them because they have member representation on their governing bodies. The same is true of the jointly sponsored pension plans, a number of which are multi-employer pension plans. So this is as much a clarification as anything that, where the members are already part of the governing body, there isn't a need to have an advisory committee as well.

The Chair (Mr. Pat Hoy): Any other comment? I'll put the question. All in favour? Opposed? Carried.

Now we're on to number 7, also a government motion. Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 11(5) of the bill be struck out and the following substituted:

"(5) Subsection 24 (7) of the act is repealed and the following substituted:

"Costs of the committee

"(7) Such costs associated with the advisory committee as may be prescribed are payable out of the pension fund, subject to the prescribed restrictions."

The Chair (Mr. Pat Hoy): Any comment? Hearing none, I'll put the question. All in favour? Opposed? Carried.

That's the end of that section, so shall section 11, as amended, carry? All in favour? Opposed? Carried.

There are no motions for sections 12, 13 and 14. Shall those sections carry? All in favour? Opposed? Carried.

Now we are on to 8.1, a PC motion—no?

0920

Interjection.

The Chair (Mr. Pat Hoy): I went too fast there; two pages turned at once.

Very good. Then it's a government motion on page 8. I'm sorry.

Mr. Paul Miller: Recorded vote, please.

The Chair (Mr. Pat Hoy): A recorded vote has been requested.

Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 26(4) of the act, as set out in subsection 15(1) of the bill, be struck out and the following substituted:

"Exception

"(4) In such circumstances as may be prescribed and despite subsection (1), the administrator may give the notice required by subsection (1) to the members, former members and retired members after the amendment to the pension plan is filed."

The Chair (Mr. Pat Hoy): Any comment?

Mr. Norm Miller: An explanation, please.

Mr. Wayne Arthurs: I'm going to turn to Celia again. It's just easier. It's easier than me replicating the comments.

Mr. Toby Barrett: When we use the term "may," does that mean that it's optional, versus "shall"?

The Chair (Mr. Pat Hoy): Perhaps you could answer that as well. Does the "may" mean it's optional?

Ms. Celia Harte: Yes. My understanding is it's optional.

The Chair (Mr. Pat Hoy): We're looking for perhaps a fuller explanation, unless that's the only word you were worried about.

Ms. Celia Harte: The reason for the amendment to the bill as it stands now is that there was a concern that it could be read that notice would never have to be given of an amendment that's an exception to ones filed in advance. This requires that even if it's in the group of exceptions of notices that have to be given in advance, eventually, there must be notice.

Mr. Norm Miller: Okay. I think I understand that.

Ms. Celia Harte: The circumstances that may be prescribed are at times, there are very, very minor or administrative kinds of amendments to the plan. We thought we would try to put those in regulations so that they don't

always have to be in advance, to reduce the burden to plan administration.

The Chair (Mr. Pat Hoy): Paul Miller?

Mr. Paul Miller: I think this is a bad idea and I think that to do any amendment to any pension plan, there should be notification to all pensioners. You shouldn't regulate amendments and then talk about it after. I will be voting against this and I want a recorded vote, please.

The Chair (Mr. Pat Hoy): Any other comment?

Ayes

Albanese, Arthurs, Johnson, McMeekin, Norm Miller, Murray.

Nays

Paul Miller.

The Chair (Mr. Pat Hoy): The motion is carried.

Shall section 15, as amended, carry? All in favour? Opposed? Carried.

Now we're on to that PC motion I wanted to do a minute ago. Norm Miller.

Mr. Norm Miller: I move that section 16 of the bill be amended by adding the following subsections to section 27 of the act:

"Internet access, personal information

"(3) The administrator of a pension plan shall ensure that information about an individual's benefits or entitlements under the pension plan is available to the individual over the Internet, and the administrator shall ensure that appropriate security measures are implemented to prevent unauthorized access to this information by others.

"Same, solvency valuations

"(4) The administrator of a pension plan shall ensure that any report filed with the superintendent concerning the most recent solvency valuation of the pension plan is available to its members and retired members over the Internet."

The intention of this amendment is to make it easier for those who are members of a pension plan, retired members or former members to be able to get information about both their benefits and entitlements, but also about the status of the plan. It seems to me to be a reasonably inexpensive way to provide access for all those members. I think it certainly is the case that someone who is a plan member should have access to both their entitlements and also the funded status of the plan. The intention is that the plan members would be able to go online and, through a secure access, get that information. That is the purpose of the amendment.

The Chair (Mr. Pat Hoy): Any other comment?

Mr. Paul Miller: A recorded vote, please.

The Chair (Mr. Pat Hoy): Mr. Arthurs.

Mr. Wayne Arthurs: While I appreciate the motion as it's brought forward, and the explanation by the member, the bill does allow, under its current structure, for

this to occur. It allows it in a secure way. The member has already stated that security is required.

Among the issues would be small plans in particular. They may find it onerous to establish and supply the degree of security necessary for people to get privacy information available to them. As a result, we feel, the bill currently is permissive in that way and allows for it to occur, but we don't support the provision that would make it mandatory for secure Internet access, as a matter of practicality, particularly as it might relate to the small plans.

Mr. Norm Miller: I think this is probably the most inexpensive way for the plan sponsors to make information available to their members. I certainly believe that it's the right of the plan members to be able to get that information. That's why the amendment does say "shall" and makes it mandatory. That's the logic behind it.

Mr. Paul Miller: Recorded vote.

The Chair (Mr. Pat Hoy): Yes, that already has been requested. Any other comment? Hearing none, all in favour?

Ayes

Barrett, Norm Miller.

Nays

Albanese, Arthurs, Johnson, McMeekin, Paul Miller, Murray.

The Chair (Mr. Pat Hoy): The motion is lost.

Shall section 16 carry? All in favour? Opposed? Carried.

Section 17, page 9: NDP motion, Paul Miller.

Mr. Paul Miller: I move that subsection 29(5) of the act, as set out in subsection 17(6) of the bill, be repealed and the following substituted:

"Same, by mail or electronically

"(5) If the administrator receives a written request from a person described in subsection (1), the administrator shall provide prescribed records by mail or electronically to the person in such circumstances as may be prescribed."

A slight explanation here. Reporting requirements, access to plan information: We have concerns about the impact of this section of the bill in a small minority of cases. The requirement to have payment and written requests at the same time could be used to delay access to information for plan members.

The Chair (Mr. Pat Hoy): Any other comment?

Mr. Wayne Arthurs: The government, in their preparation of the bill, certainly doesn't feel that providing for a nominal fee for the processing of the information is inappropriate and thus won't be supporting the amendment. We feel it's appropriate, and that if a small fee is required for that information, that's not unreasonable

The Chair (Mr. Pat Hoy): Mr. Miller?

Mr. Paul Miller: As the government knows, a lot of people who are on fixed incomes and in a situation that requires payments for such things as hydro bills and other things may not have the money to find out the area of their pension that they're concerned about. To charge additional costs to the elderly and people on fixed incomes is not the way to go.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, all in favour?

Mr. Paul Miller: Recorded vote, please.

Ayes

Paul Miller.

Nays

Albanese, Arthurs, Johnson, McMeekin, Murray.

The Chair (Mr. Pat Hoy): The motion is lost.

Shall section 17 carry? All in favour? Opposed? Carried.

Section 18 has no amendments. Shall section 18 carry? All in favour? Opposed? Carried.

These are notices, which aren't actual motions. We don't read these in, then.

Shall section 19 carry? All in favour?

0930

Mr. Paul Miller: Wait a minute. I have a problem with this.

The Chair (Mr. Pat Hoy): Mr. Paul Miller.

Mr. Paul Miller: This has to be read. I can read it, on section 19.

The Chair (Mr. Pat Hoy): If you want to debate section 19, you could, but it's not required that these be read. They are not motions.

Mr. Paul Miller: All right. I would like to debate it.

The Chair (Mr. Pat Hoy): That's fine, then. We'll begin with Paul Miller.

Mr. Paul Miller: The New Democratic Party recommends voting against this section.

Reason for notice rather than motion: If the committee wishes to remove an entire section from the bill, the rules of parliamentary procedure require that the committee vote against the section, rather than pass a motion to delete it.

Section 30.1: We are concerned about the potential for broad interpretation of "prejudice the economic interests of an employer or the competitive position of an employer." This could prevent or delay members' access to plan information. We therefore recommend deleting this section of the bill. Therefore, we are moving to delete section 19.

The Chair (Mr. Pat Hoy): You can't move to delete a section, but you can vote against the whole section.

Mr. Paul Miller: Okay. That's what we're doing. We're just giving you notice that that's what we're doing. We're being polite, here.

The Chair (Mr. Pat Hoy): Just so we all understand, including myself.

Norm Miller.

Mr. Norm Miller: I'd just like an explanation from the government as to why they are recommending doing away with this section that would take away the superintendent's ability to, I guess, protect the economic interests of the employer, is what I gather, in the section that's being removed: "if the superintendent is of the opinion that the disclosure could reasonably be expected to prejudice the economic interests of an employer or the competitive position of an employer." Perhaps the government could explain how, if they're suggesting voting against this section, they are going to ensure that the economic interests of the employer and the competitive position of the employer are protected. I gather this section would just give this superintendent the discretion to use some judgment.

Mr. Wayne Arthurs: Yes. Obviously, a number of stakeholders, including the regulator, did express concerns regarding the provision about the capacity, lack of notice and appeal mechanism that would be required to make this a workable provision. Maybe again Celia or another staff member can provide a little more information. That would be helpful.

Ms. Celia Harte: Section 19 introduced a new provision into the Pension Benefits Act. There wasn't currently any such provision. I can't say much more than that there was concern and criticism from a variety of stakeholders from very different perspectives for different reasons about the particular section and it just not being workable, including by the regulator.

Mr. Norm Miller: Can you let me know if there are any other jurisdictions in the country that have provisions like this?

Ms. Celia Harte: Not off the top of my head. It wouldn't be common, if it's there at all.

Mr. Norm Miller: Okay. Thank you.

The Chair (Mr. Pat Hoy): Mr. Miller.

Mr. Paul Miller: Let me get this right, now. We're voting against it if we're against the section. We want it deleted. We don't want it there, correct?

The Chair (Mr. Pat Hoy): That would be right. When I ask, "Shall it carry?" you make up your mind.

Mr. Paul Miller: Well, the debate is kind of getting a little confusing, here, who wants it out, and who doesn't. So we're going to do a recorded vote on that?

The Chair (Mr. Pat Hoy): Yes, we can.

Mr. Paul Miller: Okay. Thank you.

The Chair (Mr. Pat Hoy): Are we finished the discussion, then?

Nays

Albanese, Arthurs, Barrett, Johnson, McMeekin, Norm Miller, Paul Miller, Murray.

The Chair (Mr. Pat Hoy): It is lost.

Mr. Paul Miller: I'd just like to make a comment. This is quite a moment in my life. The government actually agreed with me.

Interjection.

Mr. Paul Miller: It's not in the House; it doesn't count. It's very historic for me.

The Chair (Mr. Pat Hoy): Sections 20, 21 and 22 inclusive do not have any amendments. Shall those sections carry? All in favour? Carried.

Page 12 in your packet: government motion, Mr. Arthurs.

Mr. Wayne Arthurs: Chair, I move that subsection 35.1(1) of the act, as set out in section 23 of the bill, be amended by striking out "A pension plan may provide a phased retirement option" at the beginning and substituting "A pension plan that provides defined benefits may provide a phased retirement option".

The Chair (Mr. Pat Hoy): Any comment?

Mr. Norm Miller: Yes. An explanation, please, of why you wish to make it more specific, to be only defined benefits.

Mr. Wayne Arthurs: Yes. This is certainly in response, at least in part, to stakeholders' requests for clarification that the intent was for it to be for defined benefit plans as opposed to all plans. That was the intent, but there was the need for clarification.

Mr. Norm Miller: Okay, thanks.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, all in favour? Those opposed? Carried.

Government motion on page 13, Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 35.1(2) of the act, as set out in section 23 of the bill, be amended by striking out "A member may apply" at the beginning and substituting "A member whose pension benefit is a defined benefit may apply".

The Chair (Mr. Pat Hoy): Any comment? Hearing none, all in favour? Opposed, if any? Carried.

NDP motion on page 14, Paul Miller.

Mr. Paul Miller: I move that subsection 35.1(2) of the act, as set out in section 23 of the bill, be amended by adding the following paragraph after paragraph 2:

"2.1 The collective agreement, if any, that applies with respect to the member provides for the phased retirement option."

The explanation I'll give for that is that the phased retirement—the NDP has a number of concerns about phased retirement and its impact on workers who are phasing into retirement, those who are not offered phased retirement and those who would otherwise replace them. It's an impact on pension plan finances.

We would recommend that the government engage in a fuller study prior to implementing phased retirement, as suggested by the OECF. If the government does proceed, we support the requirement that the phased retiree have reduced work hours. This is unlike the federal tax legislation and the BC Pension Benefits Standards Act section 38.1, which do not require it. We recommend that the bill be amended to require negotiated provisions in the collective agreement governing phased retirement.

The Chair (Mr. Pat Hoy): Thank you. Mr. Arthurs.

Mr. Wayne Arthurs: I think the member's last comments are problematic, certainly for the government side. It's that within the legislation, the phased retirement would be required as part of a collective agreement. Certainly, we support and continue to support negotiated collective agreements. Should, through that normal process, one want to require this obligation, that would be up to the parties to do. But we don't support the inclusion in the legislation that it would necessarily have to be part of a collective agreement.

Mr. Paul Miller: A recorded vote, please.

The Chair (Mr. Pat Hoy): Any other comment? A recorded vote is requested.

Ayes

Paul Miller.

Nays

Arthurs, Albanese, Barrett, Johnson, McMeekin, Norm Miller, Murray.

The Chair (Mr. Pat Hoy): That motion is lost.

Page 15: government motion, Mr. Arthurs?

Mr. Wayne Arthurs: I move that section 35.1 of the act, as set out in section 23 of the bill, be amended by adding the following subsection:

"Approval

"(2.1) The administrator shall approve an application that satisfies the requirements of this section and the regulations and shall do so within such period as may be prescribed."

The Chair (Mr. Pat Hoy): Any comment?

Mr. Norm Miller: Explanation, please?

Mr. Wayne Arthurs: The basic premise is that it requires plan administrators to approve a phased retirement arrangement within a prescribed period of time once the requirements are met. This is responding to stakeholder concerns about potential delays in approving the arrangements, so it does set out some specified time so it can't just be an open-ended clause.

Mr. Norm Miller: Thank you for that.

0940

The Chair (Mr. Pat Hoy): Any other comment?

Hearing none, I'll put the question. All in favour? Those opposed? Carried.

Number 16 is also a government motion. Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 35.1(4) of the act, as set out in section 23 of the bill, be struck out and the following substituted:

"Accruing pension benefits, etc.

"(4) During that period, the member continues to accrue pension benefits under the pension plan in the prescribed manner and all contributions shall continue to be made as required under the pension plan."

The Chair (Mr. Pat Hoy): Any comment?

Mr. Norm Miller: Explanation, please.

Mr. Wayne Arthurs: The motion clarifies that members participating in phased retirement arrangements can continue to accrue pension benefits, and any member and employer contributions continue to be made in accordance with the terms of the plan.

The Chair (Mr. Pat Hoy): Any comment? Hearing none, all in favour? Carried.

Number 17, to the same section. Mr. Arthurs.

Mr. Wayne Arthurs: I move that section 35.1 of the act, as set out in section 23 of the bill, be amended by adding the following subsection:

“Same

“(7.1) Subsection (7) does not prevent the refund of additional voluntary contributions and interest thereon to the member.”

The Chair (Mr. Pat Hoy): Explanation, perhaps?

Interjection.

The Chair (Mr. Pat Hoy): Yes, Mr. Miller is requesting it.

Mr. Wayne Arthurs: The motion, as proposed, provides clarification that payment of members’ additional voluntary contributions, referred to as AVCs, to those members is permitted during the phased retirement period. This is consistent with provisions elsewhere in the act.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, all in favour? Carried.

Number 18, a government motion. Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 35.1(10) of the act, as set out in section 23 of the bill, be amended by striking out “within 30 days after receiving the request” at the end and substituting “within such period as may be prescribed”.

The Chair (Mr. Pat Hoy): Any comment?

Mr. Norm Miller: Yes, if the parliamentary assistant could explain this, please?

Mr. Wayne Arthurs: The current provision speaks to a 30-day time frame. That time frame will be specified in the regulatory process as opposed to in the bill.

Mr. Norm Miller: Are you expecting a longer time or a shorter time will be required?

Mr. Wayne Arthurs: At this point, I don’t know. As I said, that will obviously be a regulatory provision.

Mr. Norm Miller: So are you intending, in the regulations, to set a specific time or are you going to leave it less precise?

Mr. Wayne Arthurs: Specified time frames are normally prescribed in regulations, so one would anticipate at this time—and I don’t know what the regulations will say—that there would be a specified time frame within the regulations, as opposed to within the legislation, which would certainly allow, if required at a future time, adjustments to that, if it was found that that time frame was either too long or too short for some reason. But it would be easier, obviously, to amend a regulation than to amend legislation.

The Chair (Mr. Pat Hoy): Paul Miller.

Mr. Paul Miller: It’s too vague; it’s leaving too many doors open. If you’re going to do it right, do it right the first time. I will be voting against this. Recorded vote.

The Chair (Mr. Pat Hoy): Any other comment?

Ayes

Albanese, Arthurs, Barrett, Johnson, McMeekin, Norm Miller, Murray.

Nays

Paul Miller.

The Chair (Mr. Pat Hoy): The motion is carried.

Shall section 23, as amended, carry? All in favour? Opposed? Carried.

There are no amendments to sections 24, 25 and 26, inclusive. Shall those sections carry? All in favour? Opposed? Carried.

Now we are at 19 in your packet. Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 27(3) of the bill be struck out.

The Chair (Mr. Pat Hoy): Mr. Paul Miller.

Mr. Paul Miller: Why is this being struck out?

Mr. Wayne Arthurs: As I understand, this is a correction: Bill 236 currently includes the subsection that is being struck out here, so it would be a duplication. Again, if I’m incorrect in my commentary, certainly Celia can correct me.

Ms. Celia Harte: It’s certainly correct that it’s being struck out. This subsection has a notion of a limitation of a member’s entitlement to a lump sum payment. In fact, there is no such limitation and that’s why the subsection should be deleted. It’s a correction.

Mr. Paul Miller: So the wording of the present motion is exactly the same as the one that’s already there? This is what you’re telling me?

Ms. Celia Harte: There isn’t one already—

Mr. Paul Miller: There isn’t.

Ms. Celia Harte: There’s a notion of a prescribed limitation in 4.1 in the bill, which refers to a section under the regulation. That section under the regulation does not apply to this general issue, so it’s just inappropriate that it talk about there being a prescribed limitation. It’s a mistake.

Mr. Paul Miller: So this has no relation to it. It’s null and void, and it’s just a duplication. Is that what you’re saying?

Ms. Celia Harte: It just shouldn’t be there. It has no meaning where it is.

Mr. Paul Miller: Okay.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, all in favour? Opposed? Carried.

Shall section 27, as amended, carry? All in favour? Opposed? Carried.

There are no amendments to sections 28, 29 and 30, inclusive. Shall those sections carry? Carried.

Government motion number 20, Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 44(7) of the act, as set out in subsection 31(5) of the bill, be amended by adding “or” at the end of clause (a), by striking out “or” at the end of clause (b) and by striking out clause (c).

The Chair (Mr. Pat Hoy): Norm Miller.

Mr. Norm Miller: So the clause that’s being struck out is, “the prescribed conditions are met”? Would the parliamentary assistant explain the logic, please?

Mr. Wayne Arthurs: Apparently, there are no prescribed conditions contemplated, so the clause should be deleted. It refers to other prescribed conditions, but no other prescribed conditions are contemplated.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, all in favour? Opposed? Carried.

Shall section 31, as amended, carry? All in favour? Carried.

There are no motions to sections 32, 33, 34, or 35, inclusive. Shall those sections carry? All in favour? Carried.

We’re up to 21 in your packet, a government motion. Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 50(1) of the act, as set out in subsection 36(1) of the bill, be amended by adding “or” at the end of clause (a), by striking out “or” at the end of clause (b) and by striking out clause (c).

The Chair (Mr. Pat Hoy): Any comment?

Mr. Norm Miller: Yes, if the parliamentary assistant could explain the logic behind this amendment, please?

Mr. Wayne Arthurs: This is very much the same, if not the same, as the motion that we just dealt with, that there are no prescribed conditions contemplated. This refers to other prescribed conditions, so it’s an unnecessary clause.

The Chair (Mr. Pat Hoy): Any further comment? Hearing none, all in favour? Carried.

Page 22 in your packet, an NDP motion. Paul Miller.

Mr. Paul Miller: I move that subsection 50(3) of the act, as set out in subsection 36(3) of the bill, be struck out and the following substituted:

“Right to transfer amount

“(3) Payments described in subsection (1) or (2) shall be transferred into a locked-in registered retirement savings arrangement.”

The explanation for this is that we are concerned about the impact of section 50 on the retirement incomes of precarious workers. From a policy perspective, immediate vesting acknowledges the increased turnover in labour markets and encourages plan members’ retirement savings from each employer.

This section of the legislation increases the amounts that can be paid out in cash. We are concerned that this section of the bill will contribute to decreased retirement security for Ontarians. We propose this amendment as a means to retirement savings.

0950

The Chair (Mr. Pat Hoy): Any other comment? Mr. Arthurs.

Mr. Wayne Arthurs: The government caucus members won’t be supporting this particular amendment. It requires that small amounts, in relative terms, be transferred to locked-in retirement savings arrangements. Some of those obviously attract fees that don’t make a terribly efficient way for a member to have a choice to do business. The provisions are available for amounts to be transferred to RRSPs on a tax-deferred basis. As well, locked-in accounts in very small dollars would certainly provide, at the end of the day, very small pensionable amounts to a member. So for these small amounts, it’s preferred to have a higher degree of flexibility than putting them into a locked-in account.

Mr. Paul Miller: Could I have a recorded vote, please?

The Chair (Mr. Pat Hoy): Any other comment?

Ayes

Paul Miller.

Nays

Albanese, Arthurs, Barrett, Johnson, McMeekin, Norm Miller, Murray.

The Chair (Mr. Pat Hoy): The motion is lost.

Shall section 36, as amended, carry? All in favour? Carried.

Sections 37 through to 49, inclusive, have no amendments. Shall those sections carry? All in favour? Carried.

Now we are on page 23, which deals with subsection 50. Mr. Arthurs.

Mr. Wayne Arthurs: I move that clause 68(2)(c) of the act, as set out in subsection 50(4) of the bill, be amended by adding at the end “or that, on the date of the wind up, represented the members, former members or retired members of the pension plan”.

The Chair (Mr. Pat Hoy): Any comment? Mr. Paul Miller.

Mr. Paul Miller: I’d like to ask the parliamentary assistant why former and retired members are included in this.

Mr. Wayne Arthurs: I think the broad explanation is that this clarifies that the plan administrator must provide written notice to the trade unions which represented members. We feel it’s obviously appropriate to include all those who would be impacted, both current and retired members.

The Chair (Mr. Pat Hoy): Any other comment? Norm Miller.

Mr. Norm Miller: Yes, to the parliamentary assistant: I don’t see anything about trade unions in this. We’re talking about former members, retired members, and members. I thought it was more of a technical clarification. Perhaps Celia could explain.

Mr. Wayne Arthurs: And I think she certainly can. This is, in part, in response to some stakeholder concerns that some trade unions have not received notice of the

surplus distributions in the past. So it's an effort to respond to some of those stakeholder concerns, and maybe Celia, again, can help us with that.

Ms. Celia Harte: There are some instances where trade unions represent retired members, although not under the Labour Relations Act, but have actual contractual memberships where they represent people. It's also the timing of notices and the process around windup, and it comes up again under a surplus issue, that by the time notices are happening some of your members who were your members at the time are already former members or retired. It's just to make sure the trade union gets the notice.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, all in favour? Carried.

Shall section 50, as amended, carry? All in favour? Opposed? Carried.

Sections 51 to 54, inclusive, do not have any amendments. Shall they carry? All in favour? Carried.

Now we're at 24 in your packet: government motion, Mr. Arthurs.

Mr. Wayne Arthurs: I move that section 55 of the bill be amended by adding the following subsection:

"(2.1) Subsection 72(2) of the act is amended by striking out 'clause 74(1)(b)' at the end and substituting 'clause 74(1.3)(b)'."

The Chair (Mr. Pat Hoy): Any comment? Mr. Norm Miller.

Mr. Norm Miller: If the parliamentary assistant could explain the logic behind this amendment, please?

Mr. Wayne Arthurs: As I understand, the proposed amendment corrects an incorrect cross-reference, again, somewhat technical. If you require further, Celia will be happy to clarify that.

Mr. Norm Miller: Thank you.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, all in favour? Opposed? Carried.

Shall section 55, as amended, carry? All in favour? Carried.

Page 25, government motion: Mr. Arthurs?

Mr. Wayne Arthurs: I move that subsection 73(5) of the act, as set out in subsection 56(5) of the bill, be re-numbered as subsection 73(6) of the act.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, all in favour? Carried.

Shall section 56, as amended, carry? Carried.

Now we're on to number 26 in your packet, NDP motion. Paul Miller.

Mr. Paul Miller: I move that paragraph 2 of subsection 74(1) of the act, as set out in subsection 57(1) of the bill, be struck out and the following substituted:

"2. The termination of the member's employment, if the effective date of the termination is on or after January 1, 2012."

The explanation for that would be that the NDP strongly supports the grow-in provisions in the legislation. We believe that they will increase equity and mitigate the loss of plan members' rights through elimination of partial windups. However, limiting eligibility as it is in

subsection (1.1) is problematic. It is frequently unclear whether termination is voluntary. Pension legislation does not generally differentiate between voluntary and involuntary terminations. This is not an issue in which the regulator has any special competence. Attempting to differentiate between the voluntary and involuntary quits adds to cost, complexity and inequity.

The grow-in provisions must not be limited in this way. This is a very critical part of this plan, and I suggest that the government take a good, hard look at this, because this could cause major problems.

I would like a recorded vote on this, please.

The Chair (Mr. Pat Hoy): A recorded vote is requested. Any other comment? Mr. Arthurs.

Mr. Wayne Arthurs: Just very quickly, Chair, obviously, government is looking at these kinds of issues and would express a concern where Bill 236 does provide grow-in provisions for those whose employment is ended on an involuntary basis, other than for cause. If there is removal for cause, it would be problematic to provide grow-in provisions in that instance, so government won't be supporting the NDP motion.

The Chair (Mr. Pat Hoy): Mr. Miller?

Mr. Paul Miller: The government will be supporting or will not?

Mr. Wayne Arthurs: Will not.

Mr. Paul Miller: Well, I think that this is going to cause a major problem. I think surmising and speculating is not a good way to handle this section, and I think it's going to come back and bite you.

The Chair (Mr. Pat Hoy): Any other comment?

Ayes

Paul Miller.

Nays

Albanese, Arthurs, Johnson, McMeekin, Murray.

The Chair (Mr. Pat Hoy): The motion is lost.

We have a number of motions in this section. Number 27 in your packet: Mr. Arthurs.

Mr. Wayne Arthurs: I move that paragraph 2 of subsection 74(1) of the act, as set out in subsection 57(1) of the bill, be amended by striking out "January 1, 2012" and substituting "July 1, 2012".

Mr. Norm Miller: If the parliamentary assistant could explain the time change?

Mr. Wayne Arthurs: The proposed amendment will defer the implementation of the grow-in provisions and lengthen that transition period for pension plans, by a further six months, obviously. There's a desire to ensure that employers and employees have adequate time for a full discussion of issues around grow-in provisions. We just felt that an additional provision here for transition would be helpful.

1000

The Chair (Mr. Pat Hoy): Any other comment? Mr. Paul Miller?

Mr. Paul Miller: Well, that kind of conflicts with the last thing that you just passed. Now you're giving people time to discuss it, but you're moving ahead with a critical thing in the last motion, which I'm not discussing now; I'm just commenting. It's kind of a 180 that you're doing here. I will be voting against this—to extending the time. They didn't think about extending the time on the last one, so I'm a little concerned about that.

The Chair (Mr. Pat Hoy): Any other comment? Mr. Arthurs.

Mr. Paul Miller: And a recorded vote, please.

Mr. Wayne Arthurs: I don't think there is any inconsistency in this regard. My comments on the last motion, which is now behind us, had to do with removal for cause. This deals with an opportunity for a transitional time that provides the necessary time for employees and employers to give consideration to matters under their collective agreements and under their jurisdiction.

Mr. Paul Miller: With all due respect to the parliamentary assistant, he mentioned that they were “going to look at” and they were “going to discuss” in the last motion. That involves time also. I'm wondering why he gives an extension in this one and doesn't give one in the last one. It's a little bit conflicting.

The Chair (Mr. Pat Hoy): Very good. Any other comment? A recorded vote has been requested.

Ayes

Albanese, Arthurs, Barrett, Johnson, McMeekin, Norm Miller.

Nays

Paul Miller.

The Chair (Mr. Pat Hoy): The motion is carried.

We're now on page 28: NDP motion, Paul Miller.

Mr. Paul Miller: I move that subsection 74(1.1) of the act, as set out in subsection 57(1) of the bill, be struck out.

I'll reiterate my explanation. This falls in with 26, which we just dealt with. The NDP strongly supports the grow-in provision in this legislation. We believe that it will increase equity and mitigate the loss of plan members' rights through the elimination of partial windups. However, limiting eligibility, as in subsection (1.1), is problematic.

Once again, it is frequently unclear whether termination is voluntary. Pension legislation does not generally differentiate between voluntary and involuntary terminations. This is not an issue in which the regulator has any special competence. Attempting to differentiate between voluntary and involuntary quits adds to costs, complexity and inequity. The grow-in provision must not be limited in this way.

The Chair (Mr. Pat Hoy): Any other comment?

Mr. Paul Miller: Recorded vote, please.

The Chair (Mr. Pat Hoy): Hearing none, all in favour?

Ayes

Paul Miller.

Nays

Albanese, Arthurs, Barrett, Johnson, McMeekin, Murray.

The Chair (Mr. Pat Hoy): The motion is lost.

We're on 28.1 in your packet: PC motion, Norm Miller.

Mr. Norm Miller: I move that subsection 74(1.2) of the act, as set out in subsection 57(1) of the bill, be struck out and the following substituted:

“Exceptions

“(1.2) This section does not apply with respect to a jointly sponsored pension plan or a multi-employer pension plan.”

This amendment has been made on the recommendation of many different groups that came before the Legislature—one of them being, for example, the Ontario Catholic School Trustees' Association—that talked about the fact that the grow-in provisions of Bill 236, as they currently stand, would cost up to a billion dollars for multi-employer pension plans like OMERS, and that plans like OMERS that are public sector MEPPs or jointly sponsored pension plans require a different regulatory regime than single-employer pension plans because of their joint-governance structure. Two corporate boards, each with half of board members representing the employers and half representing the employees, are the best joint decision-makers to determine the benefit composition and subsequent contribution rates of the OMERS plans. This governance structure must not be overridden with provincial legislation.

I might point out that the 2008 report of the Expert Commission on Pensions in Ontario specifically proposed that multi-employer plans and jointly sponsored plans like OMERS be exempted from the grow-in requirement.

The rationale for this recommendation is that when parties jointly sponsor and govern a plan, share risks and bargain collectively on early retirement benefits, there is no need for additional legislative protection.

The Chair (Mr. Pat Hoy): Any other comment?

Mr. Wayne Arthurs: Save and except to say that Bill 236, I think, is permissive in that it would allow these plans to elect not to provide grow-in benefits, if it was agreed upon, obviously, by the parties. So there are provisions where they could opt out.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, all in favour? Opposed? The motion is lost.

Number 29, NDP motion. Paul Miller.

Mr. Paul Miller: I move that subsection 57(6) of the bill be struck out and the following substituted:

“(6) Subsection 74(8) of the act is repealed and the following substituted:

“Use in calculating pension benefit

“(8) A benefit described in clause (1.3)(a), (b) or (c) for which a member has met all eligibility requirements under this section shall be included in calculating the member’s pension benefit or the commuted value of the pension benefit for the purposes of this section as well as for the purposes of section 84 (Guarantee Fund).”

The reason for this is the grow-in rights in the PBGF. We are also concerned with the amendments made to 74(8). Under current legislation, it is very clear that the PBGF coverage extends to grow-in benefits; however, the proposed legislation makes no reference to the PBGF coverage when calculating pension benefits. Clearly, this has to be an oversight during the drafting of Bill 236.

I’d like a recorded vote on this, please.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, all in favour?

Ayes

Paul Miller.

Nays

Albanese, Arthurs, Johnson, McMeekin, Murray.

The Chair (Mr. Pat Hoy): The motion is lost.

That ends section 57. Shall section 57, as amended, carry? All in favour? Opposed? Carried.

There are no amendments to sections 58, 59 and 60. Shall those sections carry? All in favour? Carried.

Number 30 in your packet, an NDP motion: Mr. Miller.

Mr. Paul Miller: I move that section 61 of the bill be amended by adding the following subsection:

“(2) Section 77 of the act is amended by adding the following subsections:

“Multi-employer pension plans

“(2) Subject to subsection (3), in the case of a multi-employer pension plan, the commuted value of the benefits for terminated members is reduced in a manner that reflects the most recently determined transfer ratio.

“Superintendent approval

“(3) If the administrator of a multi-employer pension plan has reason to believe that the funding has deteriorated since the most recently determined transfer ratio, any payment out of the pension plan is subject to superintendent approval.”

The explanation for this one is as follows. Partial windups and MEPPs: Under current rules, a partial windup would result in the payment of reduced commuted value to affected members based on the most recent transfer ratio without a requirement to pay 100% of the commuted value within five years. This is an important

qualification in that there is no ability for the plan administrator to collect additional contributions to make up the shortfall that would result if paying out a 100% benefit from an underfunded MEPP.

In the absence of a partial windup, if an employer with a significant number of members in the total plan membership withdraws from the plan, the requirement to pay 100% of the benefit could reduce subsequently determined transfer ratios to the point where a full windup is triggered. Moreover, such a policy will favour the terminating members over the remaining members of the MEPP.

If partial windups are no longer contained in the law, special rules on the computation and payment of commuted values to terminating members of the MEPPs should be enacted to ensure that, when the MEPP is underfunded, the commuted value will reduce to reflect the most recently determined transfer ratio; or, where the administrator has reason to believe that the funding has deteriorated since the last determined transfer ratio, payment should be subject to superintendent approval. That is what this amendment attempts to do.

I’d like a recorded vote on this, please.

The Chair (Mr. Pat Hoy): Any other comment?

Mr. Norm Miller: I’d just like the government’s opinion about this amendment.

The Chair (Mr. Pat Hoy): Mr. Arthurs.

Mr. Wayne Arthurs: I think the bill continues to speak to the entitlement to payment from the pension fund, that the employees receive the benefits to which they’re fully entitled and not some reduced amount.

1010

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, a recorded vote is requested.

Ayes

Paul Miller.

Nays

Albanese, Arthurs, Barrett, Johnson, McMeekin, Norm Miller, Murray.

The Chair (Mr. Pat Hoy): The motion is lost.

Shall section 61 carry? All in favour? Carried.

Section 62 has no amendments. Shall section 62 carry? All in favour? Carried.

Government motion 31. Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 63(1) of the bill be amended by adding the following clause to subsection 78(2) of the act after clause 78(2)(b) as set out in subsection 63(1) of the bill:

“(b.1) each trade union that represents the members, former members or retired members of the pension plan on the date of the wind up, if the pension plan is being wound up;”

The Chair (Mr. Pat Hoy): Any comment?

Mr. Norm Miller: Explanation, please?

Mr. Wayne Arthurs: The motion requires plan administrators to provide written notice to trade unions that represented members, former members and retirees of the employer's application to the superintendent to withdraw surplus funds from the pension plan. So it's a requirement for written notice if there's an effort to take surplus funds out of the plan.

The Chair (Mr. Pat Hoy): Paul Miller.

Mr. Paul Miller: So this strictly deals with notification of all acting participants in the plan: That's what you're saying?

Mr. Wayne Arthurs: It requires written notice to the trade unions that represented those members.

Mr. Paul Miller: Okay.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, all in favour? Opposed? Carried.

Shall section 63, as amended, carry? All in favour? Carried.

Now we're at 32, an NDP motion. Mr. Paul Miller.

Mr. Paul Miller: I move that clause 79(3)(a) of the act, as set out in subsection 64(3) of the bill, be struck out and the following substituted:

"(a) the pension plan provides clear entitlement for payment of surplus to the employer on the wind up of the pension plan; or"

We seem to have lost a sentence here. Anyways, I'll give the explanation for this—

The Chair (Mr. Pat Hoy): We're okay.

Mr. Paul Miller: Okay. Sorry, it ended with "or." It ended with a preposition. Interesting.

Anyway, surplus sharing: Payments into pension plans are the deferred wages of employees. They represent a sacrifice of current wages and consumption for future wages and increased security in retirement. Therefore, any surplus that accumulates into a pension plan rightly belongs to those employees. Any access to surplus by an employer should therefore result from the consent of the plan members or their representatives. The proposed change to the act is instead a significant loss of entitlement for plan members from the current legislation. Currently, section 79 requires both that there be an agreement for surplus distribution and that the employer entitlement to surplus must be established.

We acknowledge that there has been difficulty in the applications of this section of the act. Therefore, the bill should be amended to incorporate the Ontario Expert Commission on Pensions or OCP recommendation that employers should only have access to surplus in the absence of surplus-sharing agreement, where the employer had clear—I repeat, clear—entitlement to the surplus.

I would ask for a recorded vote on this.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, all in favour?

Mr. Norm Miller: I'd like to hear the government's feeling about this amendment.

Mr. Wayne Arthurs: The government caucus won't be supporting the motion. Certainly, the government will be looking at matters of surplus issues as part of the broader discussion around pension reform. We do have

subsequent legislation coming forward. We think that's a good time to be doing some of that in regard to this particular matter.

The Chair (Mr. Pat Hoy): Any other comment?

Ayes

Paul Miller.

Nays

Albanese, Arthurs, Johnson, McMeekin, Murray.

The Chair (Mr. Pat Hoy): The motion is lost. Number 33, a government motion. Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 79(3.1) of the act, as set out in subsection 64(3) of the bill, is struck out and the following substituted:

"Same, partial wind up

"(3.1) Subject to section 89, the superintendent shall not consent to payment of surplus to an employer out of a pension plan that is being wound up in part unless all of the criteria set out in subsection (3.2) are satisfied and,

"(a) the pension plan provides for payment of surplus to the employer on the partial wind up of the pension plan; or

"(b) a written agreement of the employer and the members, former members and other persons entitled to payments on the date of the partial wind up is made in accordance with such conditions as may be prescribed and authorizes payment of surplus to the employer."

The Chair (Mr. Pat Hoy): Any comment?

Mr. Norm Miller: If we could have an explanation from the government, please.

Mr. Wayne Arthurs: This extends surplus-sharing agreements to partial windups during which time partial windups are still in play, which is only for a relatively short period of time.

The Chair (Mr. Pat Hoy): Paul Miller.

Mr. Paul Miller: I'd like a recorded vote on this and I'd like to make the comment that 32 that we just dealt with was far more efficient than this motion and it's a pity that it didn't go through.

The Chair (Mr. Pat Hoy): Any other comment? A recorded vote is requested.

Ayes

Albanese, Arthurs, Johnson, McMeekin, Norm Miller, Murray.

Nays

Paul Miller.

The Chair (Mr. Pat Hoy): The motion is carried.

Page 34, government motion. Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 64(6) of the bill be struck out and the following substituted:

“(6) Clause 79(3.1)(b) of the act, as enacted by subsection (3), is amended by striking out ‘the members, former members’ and substituting ‘the members, former members, retired members’.

“(6.1) Subsection 79(3.1) of the act, as amended by subsection (6), is repealed.”

The Chair (Mr. Pat Hoy): Any comment?

Mr. Norm Miller: The usual.

Mr. Wayne Arthurs: This proposed motion adds the term “retired members” once the regulations are in place, and it was certainly something that was raised consistently.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, all in favour? Opposed? Carried.

Shall section 64, as amended, carry? All in favour? Carried.

There are no amendments to section 65 and section 66. Shall they both carry? All in favour? Opposed? Carried.

I think at this point committee will recess until 2 o'clock this afternoon.

The committee recessed from 1017 to 1402.

The Chair (Mr. Pat Hoy): The committee will come to order once again, and we'll continue with our clause-by-clause.

I believe we're on page 35 in your packet. It's a government motion. Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 79.2(7) of the act, as set out in subsection 67(1) of the bill, be amended by striking out “The administrator of the pension plan” at the beginning and substituting “The administrator of each pension plan”.

The Chair (Mr. Pat Hoy): Any comment?

Mr. Norm Miller: I'm sure that Mr. Arthurs has an explanation. It seems like a relatively minor technical change.

Mr. Wayne Arthurs: That's right. It really is a correction, and you can note the clarification: It speaks to each pension plan rather than pension plans, so it covers if there's more than one involved.

Mr. Norm Miller: Fine.

The Chair (Mr. Pat Hoy): No other discussion? I'll put the question. All in favour? Opposed? Carried.

Page 36 is also a government motion. Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 79.2(12) of the act, as set out in subsection 67(1) of the bill, be amended by striking out “for the transferred members, former members, retired members and other persons” and substituting “for the transferred members”.

Mr. Norm Miller: And the explanation, Mr. Arthurs?

Mr. Wayne Arthurs: The proposed motion removes references to persons other than transferred members. This motion would ensure that benefits provided to retirees and former members cannot be changed in the successor plan. It protects those retirees and former members as their plans existed at the time.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, all in favour? Carried.

Number 37 is an NDP motion—I've got to end up that section here first.

Shall section 67, as amended, carry? Carried.

Now we get to 37, Paul Miller.

Mr. Paul Miller: This is a rather large one. I wanted to tell the committee that—

The Chair (Mr. Pat Hoy): Oh, I'm corrected again. We had a bunch of sections in between there.

Section 68 had no amendments. Shall section 68 carry? All in favour? Carried.

Now we are at—

Mr. Paul Miller: Wait a minute. With all due respect, section 68.1 has an amendment, and you said section 68 doesn't? It's a separate section?

The Chair (Mr. Pat Hoy): This is a new section that you have.

Mr. Paul Miller: You've totally confused me now, Chairman.

The Chair (Mr. Pat Hoy): Section 68 had no amendments. Now you're entering a new section, 68.1.

Mr. Paul Miller: So we're in a new area now. Okay.

I'd like to start off by saying that this is a crucial part of this bill—

The Chair (Mr. Pat Hoy): Read it first and then we'll—

Mr. Paul Miller: Okay.

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

“Transfers under the Major Ontario Pension Plans Reciprocal Transfer Agreement

“79.3(1) Expressions used in this section have the same meaning as in section 80.

“Circumstances

“(2) This section applies in connection with the sale of a business if the original pension plan and the successor pension plan are both parties to the Major Ontario Pension Plans Reciprocal Transfer Agreement on or before the effective date of the sale.

“Divestment agreement

“(3) The pension plan administrators that are parties to Major Ontario Pension Plans Reciprocal Transfer Agreement shall enter into a divestment agreement in connection with the sale of the business between employers each of which participates in a pension plan covered by the Major Ontario Pension Plans Reciprocal Transfer Agreement.

“Employees' choice

“(4) The divestment agreement must permit each employee of the original employer who becomes an employee of the successor employer in connection with the sale of the business to choose one of the following options:

“1. To maintain his or her benefits under the original pension plan in respect of employment before the effective date of the transaction.

“2. To transfer the value of his or her benefits under the original pension plan to the successor pension plan.

“Transfer value

“(5) The divestment agreement must establish the transfer value with respect to the employees who choose to transfer the value of their benefits under the original pension plan to the successor pension plan in a manner

that does not create or increase an unfunded liability or solvency deficiency in either the original or successor pension plan.

“If no divestment agreement

“(6) If the pension plans do not enter into a divestment agreement within such period as may be prescribed, the superintendent shall appoint a panel of experts who shall determine the transfer value and other terms of the divestment agreement.

“Report by the panel

“(7) The panel shall report to the superintendent its decision about the transfer value and other terms of the divestment agreement.

“Same

“(8) The pension plans shall enter into the divestment agreement containing the transfer value and other terms determined by the panel of experts and, if they do not enter into such an agreement within 30 days after the panel reports its decision to the superintendent, they are deemed to have done so.”

An explanation and a follow-up for the explanation: There are a number of problems with the way the asset transfers are currently interpreted in the act. Most significant, current provisions require the predecessor and successor plans to provide the same benefits and individuals are not given any choice with respect to transfers. As a matter of principle, the legislation should incorporate individual choice so that plan members can make a decision, based on full information, to stay in the original plan or move to the successor plan.

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The proposed changes to the act remove the requirement that benefits be identical. However, individual members still have no choice with respect to transfers.

Furthermore, in the public sector, the interest of the original employer in an asset transfer for past service is questionable. Currently, large, independently administered plans deal with individual transfers under a major Ontario pension plan—MOPP—reciprocal agreement that requires no employer expenditure of time or resources. We believe that a reciprocal agreement provides a better model for group transfers in the public sector than the proposed agreements between the original and successor employers. In order to avoid the problems that arise from delays in implementation, this agreement should include a provision for binding arbitration, should the plan administrators prove unable to reach an agreement in a timely manner.

I can't emphasize enough how important this section is. We did extensive research on this; we talked to some top lawyers and we've had their feedback. This is simply an important, big housecleaning item that has to be dealt with before this bill goes ahead and I would recommend strongly to the committee that they consider this and not just whitewash it and say no to it, because it is a critical part of this bill. This is non-partisan. It's good for the set-up of these pension plans. This is a good thing. I want you to take a hard look at this before you say no, because I think you're going to find this is beneficial to the

government's motivation, to our motivation, to everyone's. There's no trick here. This isn't a union-based plan to undermine the government.

This is something that's going to be good for Ontarians, good for everyone, and I strongly recommend, through the people and the sources we've dealt with, that you take a very serious look at this, because this could impact hundreds and hundreds of thousands of Ontarians. If you don't follow through with this, it would be a negative impact. So please, before you say no today, I would suggest that you take a good, hard look at it.

The Chair (Mr. Pat Hoy): Any other comment? Mr. Arthurs.

Mr. Wayne Arthurs: I'm going to ask Celia, if she's here, to maybe come to the table, because I suspect that she may want to add something or there may be some other questions, given the breadth of this.

As I understand it, in the amendment that's currently before us, the pension regulator would have no role in protecting the interests of the members, retired members or those who are transferring; that the only role for the regulator would be to appoint a panel of experts. There are no criteria proposed at this point, and those would be in specified circumstances. The transfers would include large numbers of plan members and large amounts of access, with effectively no public interest oversight at that point in time.

Bill 236, as it currently is envisioned, provides a framework for which asset transfer agreements are to be addressed involving the plan administrators, employers, affected plan beneficiaries and the regulator. Obviously, our concern is that the regulator has no effective engagement in the process as proposed under this motion.

I don't know, Celia, if you want to add anything to that or whether that kind of covers the commentary, save and except trying to respond to any more detailed questions that might arise.

The Chair (Mr. Pat Hoy): Paul Miller.

Mr. Paul Miller: I would like to ask the ministry people how you feel about this amendment. Our contacts seem to think that there is some merit to this. From your organization, how do you feel about what's being presented here?

Ms. Celia Harte: I don't think it's my role to talk about the merits of the motion. I can answer technical questions about what things mean, but that's not my role. Sorry.

Mr. Paul Miller: Okay, so the opportunity was given and not taken. I would suggest, then, that we move along.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, I'll put the question. All in favour? Those opposed? It is lost.

Now we move to section 69 of the bill. Number 38 is a government motion. Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 80(8) of the act, as set out in section 69 of the bill, be amended by striking out “for the transferred members, former members, retired members and other persons” and substituting “for the transferred members”.

The Chair (Mr. Pat Hoy): Any comment? Hearing none, I'll put the question. All in favour? Opposed? Carried.

The Chair (Mr. Pat Hoy): Number 39: a government motion, Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 80(9) of the act, as set out in section 69 of the bill, be amended by striking out "The agreement" at the beginning and substituting "The employers' agreement".

Mr. Paul Miller: Can I have a recorded vote on this, please?

The Chair (Mr. Pat Hoy): Okay.

Mr. Paul Miller: And I have a comment.

Mr. Norm Miller: Mr. Chair—

The Chair (Mr. Pat Hoy): Both Millers would like a chance, here.

Mr. Paul Miller: Both Millers are going to take a kick at the can.

Mr. Norm Miller: My cousin Miller here and I would like an explanation.

The Chair (Mr. Pat Hoy): Do you have some background for this one?

Mr. Wayne Arthurs: The motion as proposed replaces the term "agreement" with the terms "employers' agreement," which is a defined term. It's a correction to ensure consistency.

Mr. Paul Miller: I do believe we had a better transfer agreement, but once again, it was not accepted. That's all I'll say on that. A recorded vote, please.

Ayes

Albanese, Arthurs, Barrett, Jaczek, Levac, Norm Miller, Murray.

Nays

Paul Miller.

The Chair (Mr. Pat Hoy): The motion is carried. Number 40 in your packet is a government motion. Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 80(11) of the act, as set out in section 69 of the bill, be amended by striking out "The original employer, the successor employer or such other persons as may be prescribed" at the beginning and substituting "The administrator of either pension plan or such other person as may be prescribed".

The Chair (Mr. Pat Hoy): Any comment?

Mr. Norm Miller: Yes, just an explanation from the parliamentary assistant, please.

Mr. Wayne Arthurs: I'd be happy to do that. The motion as proposed changes the reference to "employer" to the "administrator of either pension plan" in order to reflect the normal practice, where plan administrators, rather than employers, deal with FSCO in the context of asset transfers.

Mr. Paul Miller: A recorded vote on this, please.

Ayes

Albanese, Arthurs, Barrett, Jaczek, Levac, Norm Miller, Murray.

Nays

Paul Miller.

The Chair (Mr. Pat Hoy): Motion carried. Number 41: a government motion, Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 80(12) of the act, as set out in section 69 of the bill, be amended by striking out "If the agreement" at the beginning and substituting "If the employers' agreement".

The Chair (Mr. Pat Hoy): Any comment? Hearing none, I'll put the question.

Mr. Paul Miller: Recorded vote.

Ayes

Albanese, Arthurs, Barrett, Jaczek, Levac, Norm Miller, Murray.

Nays

Paul Miller.

The Chair (Mr. Pat Hoy): The motion carries. Number 42: a government motion.

Mr. Wayne Arthurs: I move that subsection 80(13) of the act, as set out in section 69 of the bill, be amended by striking out "in accordance with the agreement" in the portion before paragraph 1 and substituting "in accordance with the employers' agreement".

The Chair (Mr. Pat Hoy): Any comment?

Mr. Paul Miller: A recorded vote, please.

Ayes

Albanese, Arthurs, Barrett, Jaczek, Levac, Norm Miller, Murray.

Nays

Paul Miller.

The Chair (Mr. Pat Hoy): The motion is carried. Number 43: a government motion.

Mr. Wayne Arthurs: I move that paragraph 4 of subsection 80(13) of the act be struck out and the following substituted:

"4. If the pension benefits and other benefits to be provided under the successor pension plan for the transferred members are not the same as the pension benefits and other benefits provided for them under the original pension plan, the commuted value of the benefits provided for the transferred members under the successor pension plan must not be less than the commuted value

of the benefits provided for them under the original pension plan, as adjusted for any payments made from the original pension plan to a prescribed retirement savings arrangement or directly to the transferred members in connection with the transfer of the assets.

“4.1 The commuted value of the benefits referred to in paragraph 4 is determined as of the effective date of the transfer of the assets.”

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The Chair (Mr. Pat Hoy): Any comment?

Mr. Norm Miller: Yes, an explanation, please.

Mr. Wayne Arthurs: The motion, as proposed, clarifies that only transferred members and not retirees or deferred members can be provided with different benefits in a successor pension plan. It also clarifies the references to the commuted value amount as to the effective date of the transfer of assets. This is in response to stakeholder requests for clarification.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, all in favour? Opposed? Carried.

Motion 44 is a government motion.

Mr. Wayne Arthurs: I move that subsection 80.1(4) of the act, as set out in section 69 of the bill, be amended by striking out the portion before clause (a) and substituting the following:

“Transfer agreement

“(4) The administrator of the original pension plan and the administrator of the successor pension plan or such other persons as may be prescribed may enter into an agreement,”

The Chair (Mr. Pat Hoy): Any comment?

Mr. Norm Miller: An explanation, please.

Mr. Wayne Arthurs: The motion replaces references to “employer” with “administrator” to clarify who is responsible for negotiating transfer agreements between pension plans.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, I’ll put the question. All in favour? Carried.

Motion 45 is a government motion.

Mr. Wayne Arthurs: I move that clause 80.1(4)(b) of the act, as set out in section 69 of the bill, be amended by striking out “for all or any of the transferred members, former members, retired members and other persons entitled to benefits under the original pension plan” at the end and substituting “for all or any of the transferred members”.

The Chair (Mr. Pat Hoy): Any comment? We’re okay on that one? I’ll put the question. All in favour? Opposed? Carried.

Motion 46 is a government motion.

Mr. Wayne Arthurs: I move that subsection 80.1(7) of the act, as set out in section 69 of the bill, be amended by striking out “for the transferred members, former members, retired members and other persons” and substituting “for the transferred members”.

The Chair (Mr. Pat Hoy): Any comment? Hearing none, I’ll put the question. All in favour? Carried.

Motion 47 is a government motion.

Mr. Wayne Arthurs: I move that subsection 80.1(10) of the act, as set out in section 69 of the bill, be amended by striking out “July 1, 2013” and substituting “July 1, 2015”.

Mr. Paul Miller: Can I get a recorded vote on this? I have a question. Why are you extending it two years?

Mr. Wayne Arthurs: The motion, as proposed, does extend the expiry date by two years, from July 2013 to July 2015, for resolving issues related to past divestments. This is in response to stakeholder requests for additional time to negotiate and implement transfer agreements.

Mr. Paul Miller: Which stakeholders would that be?

Mr. Wayne Arthurs: I don’t have the list in front of me for that purpose, but it was a result of some of the inputs we had.

Mr. Paul Miller: Okay. Maybe they can supply us with them.

Mr. Wayne Arthurs: Would anyone have that handily ready at this point? Is it part of the background information?

Ms. Celia Harte: I don’t have a list of specific names. I can say, though, that there were both stakeholders representing the employee union side and stakeholders representing employers.

Mr. Wayne Arthurs: If you’d like, we’ll undertake to try to be more specific before we complete the reading process if we can.

Mr. Paul Miller: Okay. Recorded vote.

The Chair (Mr. Pat Hoy): Any other comment?

Ayes

Albanese, Arthurs, Barrett, Jaczek, Levac, Norm Miller, Murray.

Nays

Paul Miller.

The Chair (Mr. Pat Hoy): That carries.

Shall section 69, as amended, carry? All in favour? Carried.

There are no amendments for section 70. Shall section 70 carry? Carried.

Section 71, page 48: government motion, Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 81(2.1) of the act, as set out in subsection 71(2) of the bill, be struck out and the following substituted:

“Same

“(2.1) Subsection (2) does not require the successor pension plan to provide the same pension benefits and other benefits for the transferred members that were provided for them under the original pension plan.”

The Chair (Mr. Pat Hoy): Comment? Did you have—

Mr. Norm Miller: Yes, could I just get an explanation?

Mr. Wayne Arthurs: I'll undertake, when we do the next motion, maybe to duplicate.

The Chair (Mr. Pat Hoy): All in favour? Opposed? Carried.

Number 49 is a government motion.

Mr. Wayne Arthurs: I move that subsection 81(5) of the act, as set out in subsection 71(4) of the bill, be amended by striking out "The employer or such other persons as may be prescribed may apply" at the beginning and substituting "The administrator of either pension plan or such other persons as may be prescribed may apply".

Mr. Norm Miller: An explanation, please.

Mr. Wayne Arthurs: I'll do two things. On motion 49, this motion changes the reference from "employer" to "the administrator of either pension plan" in order to reflect the normal practice where plan administrators, rather than employers, deal with FSCO.

I know there was a question with regard to motion 48. If you'd allow me to back up, that particular motion revises wording to make it consistent with similar subsections, particularly subsections 79.2(12) and 80(8), and clarifies that these provisions apply only to transferred members.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, all in favour? Opposed? Carried.

Number 50: a government motion.

Mr. Wayne Arthurs: I move that paragraph 2 of subsection 81(6) of the act, as set out in subsection 71(4) of the bill, be struck out and the following substituted:

"2. If the pension benefits and other benefits to be provided under the successor pension plan for the transferred members are not the same as the pension benefits and other benefits provided for them under the original pension plan, the commuted value of the benefits provided for the transferred members under the successor pension plan must not be less than the commuted value of the benefits provided for them under the original pension plan, as adjusted for any payments made from the original pension plan to a prescribed retirement savings arrangement or directly to the transferred members in connection with the transfer of the assets.

"2.1 The commuted value of the benefits referred to in paragraph 2 is determined as of the effective date of the transfer of the assets."

The Chair (Mr. Pat Hoy): Comment?

Mr. Norm Miller: Explanation, please, Mr. Parliamentary Assistant.

Mr. Wayne Arthurs: The proposed motion would clarify that only transferred members can be provided with different benefits in a successor pension plan and not retirees or deferred members. It clarifies that the references to the commuted value are as of the effective date of the transfer of assets.

The Chair (Mr. Pat Hoy): Any other comment? All in favour? Opposed? Carried.

Mr. Wayne Arthurs: Mr. Chairman, 51, if you're moving to that? Motion 51?

The Chair (Mr. Pat Hoy): No, I've got some work to do here.

Mr. Wayne Arthurs: Just when you get to 51.

The Chair (Mr. Pat Hoy): Shall section 71, as amended, carry? Carried.

There are no amendments for sections 72, 73 and 74. Shall those sections carry? Carried.

Now we're at 51, an NDP motion—

Mr. Wayne Arthurs: Can I ask whether motion 51 is in order, as this part of the act hasn't been opened up?

The Chair (Mr. Pat Hoy): I'll let the motion be put on the record first.

Mr. Miller, page 51.

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

"74.1 Paragraph 3 of section 85 of the act is repealed and the following substituted:

"3. The amount of any pension or pension benefit, including any bridging supplement, in excess of \$2,500 per month or such greater amount as is prescribed by the regulations."

An explanation is the pension benefit—

The Chair (Mr. Pat Hoy): Now I would make my ruling that the motion is out of order, because that section of the bill is not open.

Mr. Paul Miller: Mr. Chairman, with all due respect, did the pension act—this is part of the pension act.

The Chair (Mr. Pat Hoy): This part of the act is not open.

Mr. Paul Miller: It's because the government hasn't brought it forward until the fall, if they're bringing it forward at all, but there's no reason why this can't be put on record, because we deal—

The Chair (Mr. Pat Hoy): You can have it on the record but it's out of order.

Mr. Paul Miller: We deal with subsections that affect other subsections, but they're saying this is non-existent, then? It's not part of the pension act?

The Chair (Mr. Pat Hoy): It's not open.

Mr. Paul Miller: It's not open. Can you define the word "open" for me?

The Chair (Mr. Pat Hoy): Well, it's not—

Mr. Paul Miller: You mean you're not dealing with it, or it's—what do you mean it's not open?

The Chair (Mr. Pat Hoy): This committee is not, no—of this section. Section 85 is not amended by the bill as introduced.

Mr. Paul Miller: Is that the legislative counsel's opinion? Can I have an explanation from you on this, why this is not acceptable?

The Chair (Mr. Pat Hoy): It's my decision that it's out of order, so therefore it is out of order.

Mr. Paul Miller: It's your decision. Can I have a vote on that?

Interjection.

Mr. Paul Miller: That's your decision. Wow.

The Chair (Mr. Pat Hoy): It's out of order.

Mr. Paul Miller: In your opinion.

The Chair (Mr. Pat Hoy): This section is out of order.

Mr. Paul Miller: That's one for the records. Okay. All right.

The Chair (Mr. Pat Hoy): Now then, we'll move to section—no amendments to section 75. Shall section 75 carry? Carried.

Sections 76, 77, 78, 79 and 80 have no amendments. Shall those sections carry? Carried.

Now we're on page 52 in your packet, section 81. Mr. Arthurs.

Mr. Wayne Arthurs: I move that paragraph 17 of subsection 81(2) of the bill be amended by striking out "Subsections 55(1) and (3)" at the beginning and substituting "Subsections 55(1), (2.1) and (3)".

Mr. Norm Miller: Mr. Chair, if the parliamentary assistant could explain what this is about, please?

Mr. Wayne Arthurs: The proposed motion reflects the addition of subsection 55(2.1) of the bill, and the motion is needed if motion 24, which adds subsection 55(2.1), is passed. We dealt with motion 24 at an earlier point in the day, so we need to make the adjustment in the numbering sequence.

The Chair (Mr. Pat Hoy): Mr. Murray.

Mr. Glen R. Murray: If I understand this right, section 85 of the bill has not been introduced yet. Do I understand?

The Chair (Mr. Pat Hoy): I've ruled on that.

Mr. Glen R. Murray: Okay, that's all. I'm just trying to understand that, as a new kid here.

The Chair (Mr. Pat Hoy): Back to this motion: Any other comment? Hearing none, I'll put the question. All in favour? Opposed? Carried.

Number 53 is a government motion. Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 81(3) of the bill be amended by striking out "January 1, 2012" and substituting "July 1, 2012".

The Chair (Mr. Pat Hoy): Any comment?

Mr. Paul Miller: Recorded vote, please.

Mr. Norm Miller: Was that the six months' additional transition time, as previously one of the other amendments dealt with?

Mr. Wayne Arthurs: Yes, exactly.

The Chair (Mr. Pat Hoy): Any other points? A recorded vote is requested.

Ayes

Albanese, Arthurs, Jaczek, Levac, Norm Miller, Murray.

Nays

Paul Miller.

The Chair (Mr. Pat Hoy): The motion is carried.

Number 54 is a government motion. Mr. Arthurs.

Mr. Wayne Arthurs: I move that subsection 81(4) of the bill be amended by striking out "July 1, 2013" and substituting "July 1, 2015".

For the benefit of the members opposite, this also reflects the adjustment to the motion we passed earlier on the divestment issue.

The Chair (Mr. Pat Hoy): Any other comment?

Mr. Paul Miller: Recorded vote, please.

The Chair (Mr. Pat Hoy): A recorded vote is requested.

Ayes

Albanese, Arthurs, Jaczek, Levac, Murray.

Nays

Paul Miller.

The Chair (Mr. Pat Hoy): The motion carries.

Shall section 81, as amended, carry? Carried.

Section 82 has no amendments. Shall section 82 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 236, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Agreed.

We are adjourned.

The committee adjourned at 1434.

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Mr. Dave Levac (Brant L)

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Westdale L)

Mr. Paul Miller (Hamilton East–Stoney Creek / Hamilton-Est–Stoney Creek ND)

Also taking part

Ms. Celia Harte, senior policy adviser, Ministry of Finance

Clerk / Greffier

Mr. William Short

Staff / Personnel

Ms. Laura Hopkins, legislative counsel