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Alert! Tories plan law on pension transfers

Ontario's Tory government is set to table a new law that will affect the pensions – and pension plans – of hundreds of thousands of Ontario workers. It may affect yours.

The proposed new law relates to workers with pension plans at one employer who are transferred to a new employer with a new pension plan. Under the planned law, employers would have the power to trigger the transfer of all funds connected to the pensions of transferred workers from their old pension plan to their new one.

But while the *money* attached to each member would be transferred, the pension *benefits* would not.

This is very important to people who transfer from a pension plan with better benefits to one with lesser benefits. For example, the OPSEU Pension Plan administered by the OPSEU Pension Trust (OPT) offers several features found in few other plans. This is thanks largely to the fact that its plan members have control over how their pension surpluses are spent. The OPT plan has features like the Factor 80 early retirement plan.

What happens when members transfer to a plan like the Ontario

Municipal Employees Retirement System, known as OMERS? All of the money attached to their OPT pension goes to OMERS, but the pension plan they get is the OMERS plan. No Factor 80. **Same money. Less pension.**

Who is pushing for this?

The real push for the new law is coming from the Association of Canadian Pension Management (ACPM), an employer lobby group, and some of the larger public sector pension plans. Plans for the new law were worked on when Jim Flaherty was Minister of Finance. New Minister Janet Ecker is forging ahead with Flaherty's plan.

In a letter to Flaherty last January, the ACPM protested that the Financial Services Commission of Ontario (FSCO) was blocking pension asset transfers. That's because FSCO was enforcing the *Pension Benefits Act* (PBA), which states that, in ACPM's words, "the Superintendent [of Pensions] must be satisfied that the accrued benefits of the affected employees must be protected...."

Since when is protecting

pension benefits a bad thing? *The Pension Benefits Act* is supposed to protect employees and pensioners, not employers. Much of the PBA was written in 1986, after unscrupulous employers tried to loot employee pension plans. The new law would partly undo those protections. It would let "receiving" pension plans drain assets from "exporting" plans.

While the proposed law affects all pension plans, some might say the real target of the legislation is the OPT. Three big public sector plans support the new law: the Public Service Pension Plan (PSPP), OMERS, and the Hospitals of Ontario Pension Plan (HOOPP). These are the three plans most likely to see workers transferred in.

Where do these workers transfer *from*? In Tory Ontario, they come from the public service. They come from the OPT.

By the end of 2003, the OPT says it will have about 14,000 divested or "deferred" members. Moving their assets to another plan could take **\$1 billion** out of the \$8-billion OPT.

It could happen. Under the

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proposed law, new employers would be able to order the handover of assets **retroactively**. They could transfer pension funds from divestments and mergers that happened as far back as 1995.

Not all of these assets would necessarily be directly connected to workers' pensions. They could be part of a reserve to protect the fund against future investment downturns. Last month, the OPSEU Executive Board cautiously set aside \$149 million worth of gains in the OPT for exactly this purpose.

"There is no reason why plan members... should be penalized for the degrees of conservatism in the funding basis by having to transfer out of these margins of conservatism or future gains in the plan that would normally be used to offset future losses," the OPT wrote in a letter to the Ministry of Finance in September.

Basically, the proposed law would let "receiving" employers grab part of any surplus from the "exporting" plan!!!

Do pension plan members get a say?

Employees with assets in two plans do have some options under the new law. In fact, the government claims to be proposing this change because more plan members want a choice. However, one possibility on the table is that the law will offer only a "negative option" choice. Under such a scheme, employers would trigger the transfer of funds; employees who wanted their funds to stay where they were would have to opt out. If they didn't, their funds will move automatically.

"Negative option" billing made

cable TV subscribers furious. How could it be any better for transferring your retirement funds?

It's time for action – again

The Ministry of Finance has so far declined to release the draft text of the legislation, but it has communicated with some of the players in the Ontario pension game. The Tories say one of the reasons for the law is all the letters they've been getting from employees who want to merge their years of service into one plan. This could, admittedly, be good for employees who transferred from one plan to another and got a big raise at the same time, e.g., OPSEU members promoted out of the OPS bargaining unit and into management. In pension calculations, this would allow them to apply their best five years of service to **all** their years in a pension plan. The way it works now, the earnings from each pension plan are calculated separately.

For many employees, though, the transfer of pension funds will mean less pension for the same money. It's time Janet Ecker, the Minister of Finance, got some letters showing her the other side of the story. Some things you might want to say to her:

- Why is this legislation being planned in secret? Why don't you put out a consultation paper so we can see what you're planning?
- Why should my new employer be able to scoop part or all of the surpluses

in my old plan, but not transfer their value to me?

- Why would I want to take my pension out of a plan that has better benefits?
- Why is the transfer of funds a one-way street? Why shouldn't I be able to transfer my pension to the fund of my choice – like the one I *used* to be in?
- Do you honestly think it is fair to pension plans to let other plans grab their assets retroactively?

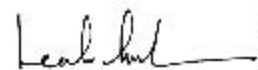
Contact Ms. Ecker as follows:

Janet Ecker, Minister of Finance
Frost Building South, 7th Floor,
7 Queen's Park Crescent
Toronto M7A 1Y7
Telephone: (416) 325-0400
Fax (416) 325-0374
E-mail: janet_ecker@ontla.ola.org

Send a copy to David Tsubouchi, too:

David Tsubouchi, Chair
Management Board of Cabinet
Ferguson Block, 12th Floor,
77 Wellesley St. W.
Toronto M7A 1N3
Telephone: (416) 327-2333
Fax (416) 327-3790
E-mail:
dave_tsubouchi@ontla.ola.org

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Leah Casselman, president