

Torys on Pension and Employment

P&E 2010-3
August 25, 2010

Ontario Announces “Round Two” of Pension Reforms

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Building on pension reforms passed earlier this year, the Ontario government announced a second set of reform proposals on August 24, 2010. Key areas of reform include adjustments to funding and investment rules and changes to the Pension Benefits Guarantee Fund (PBGF).

The new proposals aim to clarify the rules regarding plan surplus, permitting contribution holidays and reasonable plan expenses to be paid from the pension fund unless prohibited by the plan terms. However, we have been advised that the government is still considering whether current plan terms will be determinative, or if historical plan terms will need to be considered as well.

The new proposals include a plan to parallel the federal government’s recent changes to its pension fund investment rules. The Ontario government also pledged to continue reviewing the appropriateness of the 30% rule, but for now, the rule remains in place.

A multi-part strategy was proposed to mitigate the financial risks of the PBGF. While the PBGF already received a \$500 million government grant earlier this year, the government also plans to increase PBGF revenue by increasing employer premiums, including raising the base fee per plan member from \$1 to \$5, raising the maximum fee per plan member in underfunded plans from \$100 to \$300 and eliminating the overall assessment cap for underfunded pension plans. Further proposals include extending the exclusion period from three to five years for new plans and benefit enhancements. The government is not proposing to increase the maximum monthly top-up of \$1,000 per member at this time.

There are several other notable proposals. Jointly Sponsored Pension Plans will enjoy more funding flexibility, as they will no longer be required to fund plans on a solvency basis, provided that certain requirements are met (including enhanced member and retiree disclosure). The proposed arbitration process for surplus distribution on plan wind up is also an interesting concept, however, the mechanics of this process have not been disclosed at this time. The government has also proposed requiring that the *Pension Benefits Act* be reviewed every five years.

We have been advised that these proposals will be subject to an as-yet undisclosed transition period. Regulations providing greater detail regarding these proposals will also be forthcoming. 

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