

A Fine Balance

Safe Pensions
Affordable Plans
Fair Rules

SUMMARY



Ontario

The summary that follows is designed to provide readers with a general sense of the recommendations contained in the Commission's report. However, the summary of recommendations is far from complete and does not include an extensive review of the analysis that underpins them. The full text of the report, the Expert Advisors' consensus recommendations on technical and operational issues, and detailed information concerning the Commission's publications, personnel, research studies and consultative activity are all posted on its website: www.ontario.ca/pensions. For the benefit of readers unfamiliar with occupational pensions, an appendix explaining frequently used pension terms, a description of the main pension players and a sketch of the pension system is found at the end of this summary.

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Background to the Commission's Work

The Ontario Expert Commission on Pensions was established in November 2006 by the Minister of Finance, the minister responsible for pensions. It was chaired by Harry Arthurs, former President of York University. The Commission's mandate was to review Ontario's occupational pension system, the first such review in over 20 years.

Occupational pension plans are an important feature of Ontario's social and economic landscape. Over three million Ontarians receive or expect to receive occupational pensions, which currently provide an estimated \$36.1 billion per year to Ontario retirees — about 20% of their overall income. Ontario pension plans hold assets with a total value of \$380 billion and, together with other Canadian pension plans, are the country's second largest source of investment capital, after the banks. They encourage saving for retirement, provide retirees with funds to buy the goods and services they need, and help to keep people off government income support programs that are paid for with tax dollars. And, very importantly, they are part of the compensation package used by employers to attract and retain the workers they need.

However, Ontario's system of occupational pensions — like similar systems in the United Kingdom and the United States — has been encountering difficulties, especially during the present decade.

- The percentage of the Ontario workforce covered by occupational pension plans has been slowly declining, from just under 40% of the workforce in 1985 to just under 35% today.
- Increasing numbers of workers with pension coverage — but still less than one in five — are now enrolled in defined contribution (DC) plans rather than defined benefit (DB) plans, though the latter are often seen as more attractive by workers.
- Many pension plans have failed in recent years, and many have been severely underfunded for extended periods for various reasons: financial difficulties encountered by sponsoring companies that are feeling the effects of global competition; declining long-term interest rates, equity prices and plan asset values; increasing numbers of retired members relative to the number of active members still contributing to their plan; and the rising cost of providing pensions to a workforce whose life expectancy has been increasing.
- The reconfiguration of pension plans triggered by the restructuring of Ontario's economy, as well as their actual or threatened failure, has given rise to considerable litigation.
- Other critical concerns include the rules governing the funding of plans; the ownership of surplus in plans when they are ongoing, wound up or reconfigured; and the protection of worker interests when sponsoring employers do not or cannot make good any deficiency in plan funding.

- Attempts to resolve these concerns by changes to Ontario's pension laws have faltered, either because they have been politically controversial or because they require legislation that only the federal government can constitutionally enact.
- These difficulties have also revealed shortcomings in the legal and regulatory framework governing pensions, in the agency responsible for pension regulation in Ontario, and in the architecture of plan governance.

The cumulative effect of these difficulties has been to shake the confidence of employers, unions, workers, pension professionals and policy analysts in the future of the occupational pension system in general, and especially in DB pensions. These developments help to explain why the Commission was mandated to “examine the legislation that governs the funding of DB plans in Ontario, the rules relating to pension deficits and surpluses, and other issues relating to the security, viability and sustainability of the pension system in Ontario.” *See Appendix 1 of the report for the full text of the Commission's mandate.*

The Commission's Personnel and Process

Harry Arthurs, the sole Commissioner, was advised by four pension experts — Bob Baldwin, Kathryn Bush, Murray Gold and Ian Markham — and supported by a small professional staff. *See Appendix 2 for detailed information on the Commissioner, Expert Advisors and staff.*

The Commission published its initial discussion paper in March 2007. In April, it initiated a series of direct discussions with representatives of the employer and union communities, of organizations of pension providers and professionals, and of retiree and other stakeholder groups. In the fall of 2007, the discussion broadened to include the general public. The Commission held 11 days of hearings across the province, and received 127 submissions by way of oral presentations or in the form of electronic or hard-copy briefs. During the winter and spring of 2008, the Commission resumed its close engagement with stakeholder organizations, culminating in a two-day meeting at the end of April that brought together representatives of virtually all groups with an interest in the pension system. In addition, on several occasions the Commission provided the Minister of Finance with progress reports, and briefed Ministry officials and representatives of the opposition parties on what it had learned and what options it was considering.

The Commission adopted this approach to ensure that it was addressing all matters of concern to the public and to stakeholders, that the stakeholders in turn would have a better understanding of each other's concerns, and that they would be kept fully aware of the Commission's research findings and of the options it was considering. The Commission benefited greatly from stakeholder input at these meetings.

Of course, the Commission did not depend entirely on public and stakeholder input. After consulting with some 60 pension experts from Canada and abroad, representing many disciplines and points of view, it initiated 17 studies by leading independent and university researchers of specific aspects of Ontario's pension system, and of comparable foreign systems. These studies — arguably the most comprehensive analysis of pensions ever undertaken in Canada — contributed greatly to the Commission's understanding, as did the analysis developed by its professional staff and the insights provided by its Expert Advisors. *See Appendices 3 and 4 for details on the Commission's consultations, submissions and research program.*

Based on these formal submissions, direct engagement with stakeholders and its research findings, the Commission has submitted a 222-page report containing 142 recommendations for reforming and reinvigorating Ontario's pension system. In addition, the Commission has published a technical annex that provides references to sources cited in the main report and a separate memorandum on technical and operational matters, prepared by its Expert Advisors.

Chapter One of the report identifies the assumptions and principles on which it is based and acknowledges the tensions among them. However, the report is not just principles-based. It is evidence-based as well, and relies heavily both on stakeholders' perception of the pension system, and on the findings of Commission staff and researchers. And finally, in a domain of public policy that has been characterized by a good deal of conflict, the Commission has made every effort to ensure that its analysis and recommendations achieve "a fine balance." Of course, not everyone will agree with each section of the report or embrace every change proposed. However, the Commission anticipates that upon examination of the report as a whole, readers — and especially stakeholders — will come away with the sense that it constitutes a package of reforms that, if implemented, would represent a sensible way forward for Ontario's occupational pension system.

General Findings and Broad Recommendations

Data concerning the Ontario pension system is somewhat incomplete and unreliable. Consequently, the Commission devoted considerable effort to developing its own analysis of which workers are covered by what kind of plan and with what results:

- Workers who are unionized and who work in medium-sized and large companies, or in the public sector broadly defined, are far more likely to be enrolled in pension plans than those who work in smaller companies. Consequently, the two main causes of the overall decline in pension coverage have been the decrease in the percentage of Ontario's workforce represented by unions, and the significant loss of jobs in the manufacturing sector where pension coverage was relatively high.
- Pension coverage of male and female workers is almost identical, though women tend to receive lower benefits due to their lower lifetime earnings. While the data is not entirely reliable, it seems likely that recent immigrants and members of racial minority groups have lower-than-average coverage and receive lower levels of pensions.

- Pension plans established, funded and administered by a single employer for its own workers — virtually the only form of plan in the early days of the pension system — now account for a smaller and smaller proportion of plan membership. Today, some 70% of all DB plan members, and 60% of all workers with occupational pensions, are enrolled in plans that are jointly governed by the employer and the members; many of these are multi-employer pension plans (MEPPs). In addition, a majority of plan members — including virtually all in the public sector — contribute to their own pensions.
- Large pension plans generally achieve better results than small plans or individuals who manage their own investments (as they often do in DC plans). Large plans are able to employ extensive teams of financial analysts, pay lower investment management fees, and gain access to private equity placements and other investment opportunities not available to smaller plans or individuals. Moreover, large plans are able to spread the risks inherent in pension plans across a larger member base. And finally, these plans can achieve significant economies of scale in their administration and in providing service to their members.
- In the two decades since its pension system was last comprehensively reviewed, important changes have taken place in Ontario's economy and society, as well as in pension design and funding. These changes have been acknowledged or responded to by government only on a piecemeal basis, if at all. The *Pension Benefits Act* (PBA) and its regulatory apparatus are out of date in many respects. So, too, is thinking about pension policy.

Based on these findings, the Commission has made a number of broad recommendations for reinvigorating Ontario's pension system. The first set of recommendations stresses the need for innovation in the pension system.

- Innovation requires active promotion and facilitation by a Pension Champion — a new government agency that would assume responsibility for collecting and disseminating reliable information about the pension system, for thinking creatively about new pension strategies and policies, and for working with stakeholders to improve the pension system. It also requires an adaptable legislative and regulatory framework. *Recommendations 9-1 and 10-5*
- The best hope for maintaining, and ultimately expanding, pension coverage is to facilitate the development of large plans, to encourage cooperation among small- and medium-sized plans, and to promote target benefit plans that might be affordable for Ontarians who do not now have pension coverage. *Recommendations 9-2 and 9-3*

- In addition, the government should investigate the advantages and disadvantages of expanding the Canada Pension Plan, or creating a comparable provincial plan, so as to enhance pension coverage, control costs and improve benefit portability. It should also support the call for a national pension summit to investigate all ideas that might produce such outcomes, including those contained in this report.
Recommendations 9-4 and 9-5

A second set of recommendations points to the need to improve the process of pension policy making.

- The government should enhance its capacity to collect and analyse pension data; to use this data and analysis to support ongoing and periodic reviews of pension policy and the performance of the pension system; and to share it with stakeholder, professional and academic users. A new Pension Community Advisory Council should be formed representing all these groups, and it should be invited to advise government on all significant policy initiatives and to serve as a forum for the exchange of views. This new approach to pension policy making should be led by the Pension Champion, which should be given adequate staff and resources.
Recommendations 10-1, 10-2, 10-5 and 10-6
- Pension legislation should be drafted in such a way as to facilitate the introduction of new plan designs as well as new regulatory initiatives. Pension legislation should be comprehensively reviewed every eight years. *Recommendations 10-3 and 10-4*
- The government should support efforts to avoid further divergence in pension policy, legislation and regulation among Canadian jurisdictions; seek cooperation with other provinces to secure necessary changes in federal tax and insolvency legislation; and attempt to secure greater standardization of technical and procedural requirements among pension regulators. *Recommendation 10-7*

And finally, the Commission makes two proposals concerning consideration of the report and implementation of its recommendations.

- The government should determine as rapidly as possible whether and to what extent it wishes to implement the recommendations in the report, and should identify those to which it wishes to give priority. However, in the Commission's view, priority should be given to putting in place appropriate agencies and officials to carry the work forward. *Recommendation 10-8*

- While arguments in favour of phased implementation of the recommendations and transitional measures are fully justified in many instances, the government should take care to ensure that these arguments are not used to obstruct necessary and appropriate reforms. *Recommendation 10-9*

The Funding of Pension Plans

Issues relating to the funding of pension plans are at the core of the Commission's mandate and recommendations. Indeed, in the view of some stakeholders, the fate of Ontario's pension system depends on "fixing" the funding rules. Many employers feel that their funding obligations are too onerous or uncertain; many workers, retirees and union representatives feel that existing funding rules fail to ensure the financial security of pension plans. The Commission addresses both of these concerns in a series of recommendations designed both to encourage full funding and to discourage practices that lead to under-funding.

- Actuarial valuations used to set the sponsor's contributions should be more transparent and all-inclusive, and less subject to discretionary judgments. Increased costs to sponsors attributable to more comprehensive valuations should be offset by extended amortization periods and/or by selective relief from contribution increases for well-funded plans. The Superintendent should be empowered to stop the use of inappropriate valuation methods, and to require new valuations in the event of a material misrepresentation. *Recommendations 4-1 to 4-3*
- Valuations should continue to be filed every three years. Delays in filing valuations should be aggressively discouraged. Plans whose valuations show that their funding has fallen below a specified threshold should be required to file an annual valuation. The Superintendent should have the power to order an interim valuation if a plan is at risk of failure. *Recommendations 4-4 to 4-7*
- Different funding rules should apply to different kinds of plans. *Recommendation 4-8*
- The temporary rules that now permit Specified Ontario Multi-employer Pension Plans to be funded solely on the basis of going concern valuations, rather than solvency valuations as well, should be reviewed, amended if necessary, made permanent and extended to all MEPPs, to jointly sponsored pension plans (JSPPs) and to proposed new jointly governed target benefit plans. *Recommendations 4-9 to 4-12*

- Single-employer pension plans (SEPPs) should be funded on the basis of both solvency and going concern valuations (as at present) but should maintain a security margin of 5% above full funding. Once plans are funded at 95% or higher, they should be allowed a longer amortization period to meet their funding obligations. *Recommendations 4-13 to 4-15*
- Surplus remaining in a SEPP when it is wound up should be distributed in accordance with the plan documents, if they are clear. If not, the surplus should be distributed as proposed by the sponsor and agreed to by unions or other representative organizations (or, in their absence, by plan members themselves). Disagreements should be submitted for resolution by a method agreed to by the parties, or if they cannot agree, by the proposed Pension Tribunal of Ontario. Sponsors should be allowed to withdraw surplus from an ongoing plan if it is funded at more than 125%, subject to similar procedures. *Recommendations 4-16 and 4-18*
- Sponsors should be allowed to reduce or suspend contributions (take a “contribution holiday”) if the plan is funded at 105% or more, but must resume contributions immediately if funding falls below 95%. Sponsors who take or continue an unauthorized contribution holiday may be ordered to repay all amounts improperly withheld, as well as an administrative fine of up to \$1 million. *Recommendation 4-17*
- Every pension plan should contain a clause stating what provision, if any, has been made for indexation of benefits. The government should activate existing legislation that enables it to require indexation in the event of an inflation emergency. *Recommendations 4-20 and 4-21*
- Regulations should be developed that would allow sponsors to use letters of credit, and possibly asset pledges, to provide security for unpaid contributions. *Recommendations 4-22 and 4-23*
- The province should ask the federal government to increase benefit and contribution levels for registered pension plans under the *Income Tax Act* and to consider measures to encourage participation by workers and employers in DB plans. It should also ask the federal government to reform the rules governing investments by pension plans, and, if the federal response is inadequate, take steps to ensure that Ontario plans are governed by more appropriate rules. *Recommendations 4-24 and 4-25*

Pension Plans in a Changing Economy

The restructuring of Ontario's economy poses many challenges for workers, employers and pension plans. Present procedures for dealing with the impact of corporate change on pension plans are too slow and cumbersome for sponsors and offer inadequate protection for members who must leave their present plan and move to another or to none at all. The Commission's recommendations address both of these concerns.

- The province should establish an Ontario Pension Agency to receive, pool, administer, invest and disburse pension funds left stranded when plan members leave a plan, when the plan is wound up or when former plan members cannot be found or cannot find the plan to which they formerly belonged. *Recommendations 5-2, 5-4, 5-6 and 5-7*
- Transfers of members among plans should be facilitated by requiring employers to develop a standard policy dealing with the pension rights of newly hired employees, and by providing full information and a range of options to employees seeking to transfer their former pension rights to their new plan. *Recommendations 5-3, 5-4 and 5-6*
- The government should promptly address the situation of public service employees affected by the restructuring of government responsibilities and agencies in the late 1990s. *Recommendation 5-5*
- All involuntarily terminated workers in SEPPs (but not those in MEPPs, JSPPs or other jointly governed plans) should enjoy "grow-in" rights that provide access to early retirement benefits. However, such employees should be entitled to share in any surplus in the plan only if they have elected to remain in it as deferred members and if there is a subsequent surplus distribution. At the option of the plan sponsor, involuntarily terminated employees may have their benefits annuitized. *Recommendations 5-8, 5-9, 5-12 and 5-13*
- Ontario's pension laws should provide for phased retirement. *Recommendation 5-10*
- The pension rights of all active plan members should vest immediately on joining the plan. *Recommendation 5-11*
- When SEPPs or MEPPs are partially wound up, they should file a plan reduction report to enable the Superintendent to ensure that plan funding remains secure, and if not, to wind it up. *Recommendations 5-14 to 5-16*

- Procedures should be put in place to ensure that when plans are merged or split, unions or other representative organizations (or, in their absence, the members themselves) should have an opportunity to approve the new arrangements. If they do approve, normal regulatory procedures should be expedited. Splits and mergers should generally not result in a reduction of funding levels below 105%. However, surpluses over that amount should be available to be used for plan purposes. *Recommendations 5-17 to 5-20*
- If a DB plan is converted to a DC plan, any surplus should be used first to protect accrued entitlements to DBs and to preserve the plan's 5% security margin. Unions or other representative organizations (or, in their absence, the members themselves) should have an opportunity to approve the new arrangements. If they do approve, normal regulatory procedures should be expedited. *Recommendations 5-21 and 5-22*
- The Superintendent should have additional powers to ensure that plan splits, mergers, asset transfers or conversions — especially those involving related employers — do not compromise the financial prospects of the plan or its members. *Recommendation 5-23*

When Plans Fail

The Commission heard considerable evidence, especially from active and retired plan members, concerning the causes and effects of plan failure. The report proceeds on the assumption that plan failure should be avoided if at all possible, that if failure occurs it will have to be dealt with largely in the context of federal insolvency legislation over which the province has relatively little control, and that to the extent possible, plan members — victims of failure — should be buffered against the consequences of losing their pensions.

- The Superintendent should have the power to identify plans at risk of failure, to approve arrangements agreed to by the sponsor and union or other representative organization (or, in their absence, the members themselves) for resetting plan funding obligations and providing additional forms of security, and to condition such approval on the suspension or cancellation of plan improvements until full funding is restored. *Recommendations 6-1 to 6-4*
- When a plan fails, its assets should be distributed pro rata, but payments attributable to benefit improvements made within the previous five years should be postponed until after pre-existing benefits are paid. Payments relating to improvements made within the past five years should also be excluded from protection by the Pension Benefits Guarantee Fund (PBGF). *Recommendations 6-5, 6-9 and 6-15*

- A new office of compliance should be established by the regulator to deal with non-payment of contributions by sponsors and other violations of the PBA that imperil the security of a pension fund. An online register of delinquent sponsors should be maintained. *Recommendation 6-6*
- The Ontario government should support recent federal legislation that gives priority to unpaid current service costs in the event that a sponsor becomes bankrupt; explore the extension of this priority to missed special payments owing to the fund; permit the Superintendent to approve arrangements arrived at in bankruptcy and insolvency proceedings; allow the Superintendent, plan members and organizations representing them to intervene in federal bankruptcy and insolvency proceedings; and permit courts to award costs to them if their intervention succeeds in advancing the interests of the pension fund. *Recommendations 6-10 to 6-12*
- The PBGF should be continued for at least five years or until completion of a study of possible alternatives, whichever is later. The level of monthly benefits eligible for protection by the Fund should be raised from \$1,000 to \$2,500, and a report should be completed within one year on how levies should be assessed and benefits adjusted going forward. The Fund should be administered by an arm's-length agency with enhanced capacities to identify and manage risk, to fix levies (subject to ministerial approval), and to collect and invest them. *Recommendations 6-13 to 6-18*

Regulation and Governance

The Commission emphasizes the need to improve both regulation of the pension system by public authorities, and governance of individual pension plans by their sponsors and beneficiaries. It also asserts that the two are closely related: the better the quality of governance, the less the need for regulation.

The Commission's first objective was to consolidate responsibility for pension regulation in the hands of agencies with considerable pension expertise, and to provide those agencies with adequate powers and resources.

- So far as possible, the PBA should become the exclusive source of law governing the pension system. The Act, and regulations made pursuant to it, should comprise both general principles applicable to all types of pension plans, and comprehensive codes applicable to specific plan types. The legislation should authorize both rules-based and principles-based approaches and should contain a "purpose" clause that would include reference to the need to maintain a balance among stakeholder interests, to keep pensions both secure and affordable, to protect and promote the pension system, and to encourage innovation. *Recommendations 7-1 to 7-3 and 7-17*

- The government should work with the governing bodies of relevant professions to ensure that the standards set for their members engaged in pension practice are consistent with Ontario pension law and policy. However, the government must accept ultimate responsibility for ensuring that the standards governing the conduct of pension professionals and other participants in the pension system are appropriate and in the public interest. *Recommendation 7-4*
- The current regulator, the Financial Services Commission of Ontario (FSCO), should be replaced by a new Ontario Pension Regulator — an agency with powers of self-management comparable to those of the Ontario Securities Commission. The Superintendent of Pensions should be the chief executive of the Regulator and, with four part-time commissioners, should be responsible for its operations. The Regulator should have greatly enhanced powers to regulate the pension system and a budget sufficient to ensure that it has the personnel and resources necessary for the purpose. It should improve its data collection, analytical and risk-management capacities, and be given power to make rules and to issue policy statements, opinion letters and advance rulings. *Recommendations 7-9 and 7-10, 7-18 to 7-25*
- The Superintendent should have the power to hold hearings and to make interim orders necessary to preserve the assets of a pension plan, and final orders necessary to secure compliance with the PBA. *Recommendation 7-15*
- The Financial Services Tribunal (FST) should be replaced by a new body, the Pension Tribunal of Ontario. The Tribunal would have exclusive and ultimate jurisdiction over all matters arising out of or incidental to the PBA, including plenary power to hear and decide specified matters at first instance, and to hear and decide all appeals from orders made by the Superintendent. It should have the power to make any order required to secure compliance with the Act, including the power to impose administrative fines for non-compliance. Orders of the Tribunal should be registered in and enforceable as orders of the Ontario Court of Justice. Decisions of the Tribunal should be final and binding, subject only to appeal to the Divisional Court in the event of a denial of natural justice, jurisdictional error or violation of the constitutional rights of a party. *Recommendations 7-26 to 7-31*

The Commission also made a number of recommendations designed to enhance the regulator's efficiency, transparency and accessibility to all parties affected by its decisions.

- Small- and medium-sized enterprises should have access to standard-form or template plans and the regulator should develop simplified registration and filing requirements for such plans. Simplified requirements should also be developed for individual pension plans for senior executives. *Recommendations 7-5 and 7-6*

- The regulator should adopt an electronic system to facilitate filings, risk assessment, compliance measures and systemic analysis. It should replace its present Notice of Proposal procedures with new procedures that will enable the Superintendent to process routine transactions more efficiently. *Recommendations 7-7 and 7-8*
- The regulator should more proactively monitor, audit, inspect and investigate plans whose profiles, sponsor profiles or sectoral locations suggest that they may be at risk. *Recommendation 7-11*
- The regulator should be more responsive to inquiries and complaints, and should appoint a complaints officer to assist complainants and persons making inquiries. Legislation should clearly establish the right of unions or other representative organizations, as well as individuals, to participate in regulatory proceedings. The Pension Tribunal of Ontario should have the power to order the sponsor or the plan to reimburse legal and other costs incurred in such proceedings where claims or complaints are meritorious. *Recommendations 7-12 to 7-14*
- The regulator should implement a rigorous program of self-evaluation with a view to improving its own performance, and should be given the necessary resources to do so. *Recommendation 7-16*


In addition, the Commission stressed the need for pension plans to improve the process, quality and transparency of their own decision-making, and to facilitate greater participation in plan governance by active and retired plan members.

- The regulator should establish and publish benchmarks so that sponsors, administrators, plan members and regulators can assess the relative performance of plans on a wide range of issues including funding, benefits, expense ratios, administrative costs and service levels. *Recommendation 8-1*
- Unions should be encouraged to negotiate for a greater role in plan governance for themselves, as well as active and retired plan members, and should develop their capacities to contribute to the governance process. *Recommendations 8-2 and 8-3*
- MEPPs and JSPPs should ensure the participation of representatives of both active and retired members, provide them with more extensive information regarding possible benefit reduction and improve their rules to prevent self-dealing. *Recommendations 8-4 to 8-7*
- Any plan with a form of joint governance and the requisite capacity to make complex investment decisions should be permitted to claim an exemption from the federal rule that limits pension plans to a 30% ownership stake in a business. *Recommendation 8-8*

- Plans, with the assistance of the proposed Pension Champion, should take steps to clarify, extend and enhance the rules governing conflicts of interest and compliance with other fiduciary duties by persons and organizations engaged in plan governance and administration. Special attention should be paid to the role of professionals who provide service or advice to pension plans. *Recommendations 8-9 to 8-15*
- The Pension Champion should lead efforts to provide better training for both professional and lay participants in plan governance and administration and the regulator should establish codes of best practice to guide them. *Recommendations 8-16 to 8-18*
- The regulator should provide, and require pension plans to provide, more and clearer information to active and retired members and their authorized representatives, including information on the possible effect of the plan's funded status on the level of pensions. *Recommendations 8-19 to 8-21*
- Plans should file with the regulator statements providing details of their governance, funding and investment policies, including socially responsible investment practices, if any. *Recommendations 8-22 and 8-23*
- Unless jointly governed, or administered by a joint advisory committee under a collective agreement, all plans should be required to establish pension advisory committees representing all constituencies of active and retired members, unless members vote against having one. The administrator should provide advisory committees with the information they require, some means of communication with their constituents, and the opportunity to participate in any votes or consultations designed to solicit the views of plan members. *Recommendations 8-24 to 8-26*
- Plan sponsors should be permitted to enter into an agreement with a union or similar representative organization to establish a jointly governed pension plan that will provide target benefits. Such plans should be governed by a board on which active and retired members hold not less than 50% of the seats, and should be subject to the same going concern valuations and funding as JSPPs and MEPPs. *Recommendation 8-27*
- Retirees should no longer be referred to as "former members" of plans, but rather as "retired members;" they should be given effective access to all information available to active members; and they should be eligible to participate in any plan governance process in which active members may participate. The manner and extent of their participation should be determined by the plan's governing body. *Recommendations 8-28 to 8-30*

Appendix – Pension Terms, Pension Players and the Pension System

- *Occupational pensions* are not required by law in Ontario. They are generally provided by employers to their employees either pursuant to a collective bargaining agreement, or because the employer believes that having a pension plan will assist it in attracting or retaining workers. (By contrast, all workers and employers must contribute to and are covered by the Canada/Quebec Pension Plan.) The two main models of occupational pension plans are *defined benefit* and *defined contribution* plans. Many variants and hybrids also exist.
- *Defined benefit* (DB) pension plans promise to provide employees on retirement with a pension calculated as a percentage of their career average earnings or of their average earnings during their final years of service, or as a fixed (*flat*) benefit per month for each month or year worked.
- *Defined contribution* (DC) pension plans promise to provide employees on retirement with a fund made up of a fixed monthly contribution by their employer (and sometimes by employees as well) plus any return on investment achieved by the fund prior to their retirement. In many DC plans, employees either select from a limited range of investment options or manage the investment of the fund themselves.
- *Contributions* to a DB plan must be made by the sponsor (and in many plans by the members as well) in an amount sufficient to ensure that the plan is fully funded as determined by an actuarial valuation, which is normally conducted every three years.
- Plans may be *in surplus* or over-funded (they have more assets than required to meet their anticipated obligations) or *in deficiency* or under-funded (they have insufficient assets to meet their anticipated obligations).
- If a plan is over-funded the sponsor may take a *contribution holiday* — may reduce or suspend contributions; if it is under-funded, the sponsor must eliminate the deficiency by making special payments that are spread (*amortized*) over a period of years. Plans with fixed contributions adjust for under-funding in other ways.
- The *Minister of Finance* is the minister responsible for pension policy and regulation in Ontario.
- FSCO is the body responsible for administering the PBA, the statute that regulates Ontario's occupational pension plans. FSCO's chief executive officer and primary regulator is the *Superintendent*. The *Financial Services Tribunal* (FST) approves rulings of and hears appeals from the Superintendent.
- The *sponsor* that initiates a pension plan is often a single employer but sometimes a union, or a group of employers, or employers and unions acting jointly. Employees currently covered by the plan are typically referred to as *plan members*, while members and retirees may also be referred to collectively as its *beneficiaries*.

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- Many plans have boards of *trustees* or governing bodies that make key decisions. Most large plans — especially multi-employer pension plans (MEPPs) and jointly sponsored pension plans (JSPPs) — include representatives of active (and occasionally retired) plan members on these bodies; in some, member representatives exercise effective or even total control.
 - Plan *administrators* ensure that the plan is properly funded, hold its assets separately from other funds, manage the plan's investments and disburse benefits to retirees. They are often assisted by professionals (actuaries, lawyers and accountants) and service providers (insurance companies and financial institutions). In many single-employer pension plans (SEPPs), the employer–sponsor serves as the plan administrator. In MEPPs, the trustees must function as the plan administrator.

