

Intelligence MEMOS



From: Randy V. Bauslaugh
To: Vic Fideli, Ontario Minister of Finance
Date: February 26, 2019
Re: **END DISCRIMINATION AGAINST NON-UNION WORKPLACES**

How can Ontario avoid harm or expand and improve the predictability, security and sustainability of workplace pensions for Ontario workplaces? Simple – change target-benefit pension plan (TBP) funding rules that discriminate against non-union workplaces.

TBPs in Ontario have been around for decades. Like defined-contribution plans, they provide accounting and funding certainty for employers. Like defined-benefit plans, they provide lifetime pensions, not just savings. And like DB plans, those lifetime benefits are predictable and cost efficient – about half the cost of DC plans.

TBPs are also sustainable. Unlike DB plans, TBPs can bend, not break, in the winds of economic or demographic adversity. The keys to success are good governance and scale achieved through multi-employer participation.

In May 2018, the then-Liberal government implemented a new funding framework that exempts multi-employer TBPs from solvency funding, but only if every single employer participates pursuant to a collective agreement. Other jurisdictions like Alberta and B.C. do not make these distinctions. This proposed nonsensical funding framework not only causes harm, it misses an opportunity to expand pension coverage.

Because contributions are fixed in these types of TB plans, a solvency deficit can result in immediate cuts to benefits. In one 50-year-old plan sponsored by a non-profit representative organization that is not a union, the new framework will result in 15 to 20 percent cuts in accrued benefits. In another case, it will result in the expulsion of a handful of non-unionized employers that participate in a largely “union plan” in order to preserve the solvency exemption for the plan as a whole.

For multi-jurisdictional plans, the results are more bizarre. Take a plan where the plurality of plan members are in Ontario but the majority are in B.C. and Alberta. Even though that plan is a perfectly sustainable multi-employer, multi-jurisdictional TBP, Ontario’s new rules will cause that plan to either cut benefits for everyone, cut Ontario membership so the plurality switches to B.C. or Alberta, or split the plan.

Another bizarre result – some non-union Ontario workplaces could join a TBP registered in Alberta or B.C. As long as the plurality stays in Alberta or B.C., the result would be that some non-union workplaces in Ontario will be able to participate in a TBP that does not inflict solvency funding. That does not sound like fair or just pension policy for Ontarians.

Discrimination against non-union workplaces doesn’t just inflict harm or strange results. It misses a tremendous opportunity to expand workplace pension coverage to small and medium sized, non-union workplaces in Ontario, workplaces that typically have no pension coverage.

Is expansion of private sector pension coverage a pipedream? Several representative industry-wide associations that are not unions wrote letters to the Ministry of Finance expressing interest in such plans and concern that the proposed funding framework continues to discriminate against non-union workplaces. These included associations of lawyers, architects, pharmacists and others. Why does Ontario want to erect walls to exclude them?

Ontario’s 2008 Expert Commission on Pensions concluded that solvency funding was inappropriate for these types of plans; but recommended that the trade-off for a solvency funding exemption should be to give plan members a voice in governance. In several places, the report recommends that jointly governed target-benefit plans be available where workers both (a) belong to a trade union “or other representative organization”, and (b) are represented on the plan’s governing body. But the “other representative organization” language failed to appear in the funding framework announced last May.

Governance success in TBPs isn’t going to be achieved through a collective bargaining dispute resolution model. Success is more likely to come through collaborative fiduciary oversight with a focus on purpose, not dispute resolution.

Ontario should travel the road taken by Alberta and B.C. – make no distinction between union and non-union workplaces. But if Ontario can’t go that far, at least it should provide a more finely tuned regulation to recognize, as the Expert Commission did, that not only unions, but “other representative organizations” can be part of the trade-off for solvency exemption. One hopes Ontario’s new government will tear down this barrier to participation by non-union workplaces.

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