

## **Significant Amendments to Ontario Pension Legislation**

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The Ontario Minister of Finance introduced in the Legislature for first reading Bill 236 on December 9, 2009, the Pension Benefits Amendment Act, 2009, a lengthy (82 section) statute comprising a number of amendments to the Pension Benefits Act, intended to benefit the major stakeholders in a pension plan.

There is clearly some balancing of interests in the Bill. If passed into law it will be the first major reform to Ontario pension legislation since 1987. Many of the amendments have arisen from recommendations in the 2008 Report of the Expert Commission on Pensions.

For employers, the new legislation will eliminate partial plan wind ups, facilitate asset and liability transfers between plans on corporate reorganizations and facilitate surplus distributions where the employers and members have come to an agreement. There will also be some changes to ease administration, including removing some filing requirements, and extending the time for refunding employer pension contributions made in error.

For members, there will be immediate vesting of accrued benefits, extension of grow-in to all involuntary terminations, more workable pension advisory committees and increased availability of plan information, including as to the funded status of the plan.

The Superintendent will receive enhanced powers to intervene where a plan is at risk, including the ability to order interim valuations without the cumbersome notice of approval process, and to approve arrangements under federal insolvency law.

If passed into law, Bill 236 will address some important concerns of employers who have been struggling to deal with the impact of the 2005 Monsanto decision, and of all parties who have had to deal with the existing costly and cumbersome surplus withdrawal regime. The Minister has indicated that Bill 236 is the first stage in pension reform and there will be another stage to come that will address the problem of low pension coverage.

Another helpful measure that has already been enacted through regulations by Ontario and by a number of other jurisdictions is the extension of the amortization of solvency funding from five years to ten years.

Meanwhile, a revised multi-jurisdictional agreement has been developed by the Canadian Association of Canadian Pension Authorities (CAPSA) after a long period of consultation and negotiation, that will give certainty to the law and administration governing multi-jurisdictional plans. It is important that Ontario sign on to this agreement. Bill 236 does not contain the enabling provisions to so permit, but the 2009 Budget announcement indicated that Ontario would support the agreement.

Minister Duncan will also have the opportunity to discuss pension coverage with his fellow Ministers in Whitehorse on December 17.

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This article is intended for general information purposes only and should not be relied upon as legal advice.

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