THE REGIONAL MUNICIPALITY OF YORK

REPORT NO. 1
OF THE REGIONAL
COMMISSIONER OF CORPORATE SERVICES AND THE
REGIONAL SOLICITOR

For Consideration by
The Council of The Regional Municipality of York
on October 27, 2005

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PROPOSED AMENDMENTS TO THE *PENSION BENEFITS ACT*

1. RECOMMENDATIONS

It is recommended that:

1. The Regional Chair be authorized to forward a letter to the Ministry of Finance endorsing the OMERS recommendations for amendments to the *Pension Benefits Act*, relating to jointly-sponsored defined benefit pension plans.

2. PURPOSE

The purpose of this report is to seek Regional Council's approval for the Regional Chair to forward a letter to be sent to the Ministry of Finance in support of amendments to the *Pension Benefits Act* proposed by OMERS to address funding requirements for jointly-sponsored pension plans.

3. BACKGROUND

In August 2005, the Ministry of Finance released a discussion paper entitled "The Funding of Jointly-Sponsored Defined Benefit Pension Plans" to consider potential areas of conflict between the terms of these plans and the Ontario *Pension Benefits Act* (PBA). The PBA was drafted to govern traditional sole sponsorship defined benefit pension plans where the employer is solely responsible for making special payments in respect of a going concern on funded liability or solvency deficiency. The PBA assumes that plan members are not responsible for making such payments. The PBA has not been amended significantly since 1986 and since that time, a number of large jointly-sponsored pension plans such as OMERS have been established. In 2004, five of the largest jointly-sponsored pension plans account for one-third of the members of registered pension plans in Ontario.

Several inconsistencies exist between the requirements of the PBA and the terms of jointly-sponsored pension plans, particularly with respect to solvency funding requirements. OMERS has proposed a number of amendments to the PBA regarding funding compliance rules to allow OMERS to operate with a funding deficit and establish a schedule of special payments to amortize the deficit OMERS is seeking support from stakeholders for these recommended amendments to the PBA.

4. ANALYSIS AND OPTIONS

The Ministry's consultation paper addresses a number of OMERS recommendations regarding funding compliance rules for jointly-sponsored plans, including:

- An amendment to the PBA so that any requirement to adjust special payments following the completion of an actuarial evaluation will not apply retroactively, but will commence up to January 1st after the effective date the report is filed and the applicable amortization period will run from that point forward;

- The ability of jointly-sponsored plans to amortize any funding deficiency payments as a level percentage of projected future payroll;

- An exception to the transfer value restrictions contained in the legislation so that a jointly-sponsored plan can pay the full amount of committed value to a terminating employee, even if it has excluded certain benefits in the determination of its solvency liabilities.

OMERS supports these amendments and seeks to have them implemented effective by December 31, 2005 so that it can file its 2004 valuation with a funding deficit. If these changes to the PBA are not made, OMERS would not be able to fund a deficit in the manner prescribed in the PBA, and there would be a requirement to commence special payments retroactive to the valuation date.

OMERS seeks to file its 2004 valuation with a contribution rate increase of 0.6%. The 2004 valuation cannot be filed without the proposed changes to the PBA, and a contribution rate increase of 1.3% would result if OMERS must wait to file its next valuation.

In addition to the foregoing proposed amendments, OMERS is recommending the following on behalf of its stakeholders:

1. OMERS recommends an amendment to Regulation 909 of the PBA to exempt certain public sector pension plans (including OMERS and any future supplemental plans as contemplated in Bill 206) from solvency-based funding requirements. OMERS is concerned that without this regulatory change, there is the possibility of considerable fiscal pressure being placed on members of these plans as well as participating employers which OMERS does not believe is either necessary or intended.

   This exemption would mean that plan participants would not be faced with higher contribution rates to fund a solvency deficit. Solvency evaluations determine if a fund would be able to pay all current and future liabilities if it were to wind up today. It is extremely unlikely that OMERS and other public sector plans would ever be in a wind-up situation.

2. OMERS recommends that Regulation 909 of the PBA be amended to permit the transfer of assets from one pension plan to another in situations of divestments, mergers and acquisitions, without the need for approval from the Provincial regulatory board. This would allow members the ability to transfer their pension plan into one plan when their employer changes.

   This recommendation specifically impacts the Region's EMS and Housing employees whose employment was divested to York Region. These employees are currently unable to transfer their previous pensions (OPSEU and HOOPP) due to the existing PBA rules. They must receive pension benefits from two separate plans resulting in lower retirement income as they incur the CPP offset from both plans.

5. FINANCIAL IMPLICATIONS

If the proposed amendments to the PBA are not implemented, OMERS plan members and employers will face increased costs due to contribution rates, particularly if supplemental plans are introduced as contemplated in Bill 206.

6. LOCAL MUNICIPAL IMPACT

OMERS is the exclusive pension plan for all municipalities. Therefore, all of the local municipalities will be impacted by these recommendations in a similar fashion.

7. CONCLUSION

The proposed amendments to the pension funding regulations of the PBA will give OMERS more flexibility in its reporting requirements and will exempt such plans from the rigorous solvency-based funding requirements. These amendments will protect all OMERS stakeholders from the very real possibility of increased contribution rates. It is therefore recommended that Regional Council support OMERS recommendations regarding funding of the pension plan, and that a letter signed by Chair Fisch be forwarded to the Ministry of Finance to communicate this support.

The Senior Management Group has reviewed this report.

Respectfully submitted,

October 13, 2005
Newmarket, Ontario

J. Davidson
Commissioner of Corporate Services

Joy Hulton
Regional Solicitor

(Report No. 1 of the Commissioner of Corporate Services and the Regional Solicitor was adopted, without amendment, by Regional Council at its meeting held on October 27, 2005.)