



Office of the Provincial Controller

**DRAFT- Ontario
Teachers'
Pension Plan
Asset - Options**

Objective



- Identify considerations with approaching the Ontario Teachers' Federation (OTF) to negotiate changes to the Plan's terms in order to meet the Auditor General's (AG) interpretation of the standard to recognize a pension asset.

Overview of AG concerns



[OPCD Placeholder]

- 1) Unfettered access to a pension asset;
- 2) Access to the pension asset on March 31st of each year for inclusion in the Province's Public Accounts. [OPCD to confirm that this is a part of the test]

Context



- 1) The expert panel's advice could influence the next steps taken by the Province:
 - a) The panel confirms the existing practice/ interpretation.
 - Limits the grounds to approach OTF to negotiate changes.
 - Does not mean AG will reverse her position on the issue.
[OPCD PLACEHOLDER]
 - b) The panel agrees with the AG.
 - [OPCD PLACEHOLDER] what change(s) would need to be negotiated to satisfy the AG's concerns?
 - c) The panel recommends a change. [in accounting treatment or to pension plan?]
 - [OPCD PLACEHOLDER]

- 2) The pension surplus/deficit and corresponding asset determined by the accounting valuation does not align with the surplus/deficit determined by the funding valuation. The partners can only make decisions regarding the funding valuation.
- Surplus or deficit exists once a funding valuation is filed.
 - Members can use surplus to reduce contributions and/or improve benefits. The government can only reduce contributions.
 - The partners are responsible for determining how to use a surplus or address a deficit identified in a funding valuation based on the guidelines set out in the Funding Management Policy (FMP).

- 3) The Public Sector Accounting Board (PSAB) has established a task force to review the standards on pension plans. Should its review result in changes to the standards, these new standards would apply to the province.
- Any change to the plan governance should contemplate change to accounting standards.
[PLACEHOLDER OPCD]

Potential Options

If it is determined that the government should implement changes to the OTPP, this could be approached in two ways:

- 1) Negotiate a change to the existing language in the plan terms with the OTF (i.e. the FMP):
 - [OPCD Placeholder] What would be required to satisfy the AG's concerns? How extensive an amendment?
- 2) Legislative changes (unilateral action that does not require OTF support)
 - Probability that option would satisfy AG's concerns [OPCD Placeholder].

Note: Each option has considerable operational and implementation issues. In addition, these options would require internal legal advice before exploring any further to evaluate the risk and impact of any potential legislative change.

Considerations



- TPP is managed by the Partners' Committee
 - The Board members are appointed jointly by the partners.
 - Decision on funding of deficits and application of surplus is jointly made in accordance with the FMP.
 - Both Partners and the Board are required by the governance structure of the plan to work towards a common purpose, a fundamental reason why the plan is the best managed and best funded in the public sector. For example:
 - The partners must annually determine the extent of indexation that the plan will provide, based on its funded status; and
 - The Board determines the discount rate that is used to establish the funding level.

Considerations



- The AG has suggested that the government requires unilateral access to surplus before it can report an asset.
 - This fundamentally changes the existing governance where partners focus on the plan, as a whole, rather than an individual amount.
- It is likely the OTF will expect similar unilateral access to surplus and/or changes to the portion of CIP that is currently not matched by the government.
- This would change how the two Partners interact with each other and could affect each Partner's decision making with respect to the plan overall.
 - If each sponsor is motivated by its own “unilateral rights”, there is less incentive to consider their common purpose.
- This would also impact the way the Board interacts with the Partners.

- Stakeholder risk
 - The Ministry of Education is currently engaged in negotiations with the teachers' federations on two fronts:
 - 1) Negotiating a 'remedy' in response to the Superior Court decision against the Crown related to the Putting Students First Act (PSFA), 2012 Charter challenge.
 - 2) Negotiating extensions to the current collective agreements.
- Negotiating or legislating change to the pension plan terms could adversely impact these on-going negotiations and compromise the ministry's ability to deliver on these key priorities for the government.

- Risk of negotiating pensions as part of labour negotiations.
 - Currently, pension issues are negotiated between the government and the OTF (with affiliate representation).
 - Recent negotiations have been very civil between government and the OTF and there is risk that if drastic changes are forced upon the OTF, conversations could become more adversarial and could also result in pension issues being negotiated as part of labour negotiations.

- Reputational risk
 - The OTPP attracts and retains high performing executives, staff and Board members with extensive experience in a wide range of disciplines required to oversee a complex pension plan.
 - Over the past ten years, the OTPP has had the highest total returns of the biggest 330 public and private pension funds in the world. The main factors behind the success and high performance of the Plan are strong governance and competitive salaries.
 - Depending on the scope of legislative changes being considered, there may be potential impacts on the Plan's existing governance structure and the long term sustainability of the Plan's recruitment and retention strategy.

- Timing risk
 - The most recent review of the FMP lasted almost three years (2012-2015).
 - If all parties agree that a review is required, a committee could be assembled by the sponsors to evaluate the impact of potential changes while ensuring the Plan's long-term sustainability.
- It is unlikely the government could either have an agreement with employee sponsors on “unilateral right” before March 31, 2017, or introduce legislation to that effect without, at a minimum, a constitutional and / or legal challenge from employee sponsors or other stakeholders, such the Board and other beneficiaries of the plan.
 - As such, the same accounting issue will likely repeat for the upcoming budget, based on the AG's opinion as stated in her September 13 letter.