RE: Pension Comparison

From: "Kaufman, Paul (TBS)" <paul.kaufman@ontario.ca>
To: "Petsche, Nadine (TBS)" <nadine.petsche@ontario.ca>, "Veinot, Cindy (TBS)" <cindy.veinot@ontario.ca>, "Hatzis, Len (TBS)" <len.hatzis@ontario.ca>
Date: Thu, 22 Sep 2016 14:19:29 -0400

Okay thanks will work with Len to flag these issues for MG.

Paul Kaufman
Counsel
Ministry of the Attorney General | Legal Services Branch | Treasury Board Secretariat
9th Floor, 77 Wellesley Street West, Ferguson Block, Toronto, ON M7A 1N3
Phone: 416-327-7012 Fax: 416-325-9404

From: Petsche, Nadine (TBS)
Sent: September-22-16 2:18 PM
To: Kaufman, Paul (TBS); Veinot, Cindy (TBS); Hatzis, Len (TBS)
Subject: RE: Pension Comparison

Paul,

I think Cindy is in meetings, so I will try to respond on her behalf in the interest of time.
I do think it is very important that the distinction between BC and ON be addressed (the note disclosure provided by Cindy is key in this regard…can Mr. Gold substantiate that there is difference between the respective government's ability to access.
With regards to the second item, this will be important to know as well, perhaps not as part of Mr. Gold's work if that would take too long, but certainly w.r.t. our ability to argue for the case of no impairment on the OPSEUPP as well (on the basis that most work has focused on the OTPP item due to its relative size).
Thx. n

From: Kaufman, Paul (TBS)
Sent: September 22, 2016 1:56 PM
To: Veinot, Cindy (TBS); Hatzis, Len (TBS); Petsche, Nadine (TBS)
Subject: RE: Pension Comparison

Cindy, see below in red for a couple of comments. Can you confirm that you want us to go back to Murray on pts 1 and 2? If so we'll ask him for changes if possible and a final version asap.

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From: Veinot, Cindy (TBS)
Sent: September-22-16 1:08 PM
To: Hatzis, Len (TBS); Petsche, Nadine (TBS)
Cc: Kaufman, Paul (TBS)

Subject: RE: Pension Comparison

I've finally had a chance to review this letter.

A few comments:

- There is a statement in the BC financial statement disclosure that I flipped to Paul when we asked Murray to prepare this opinion that says, " Provisions of these plans stipulate that the province has no formal claim to any pension plan surplus or asset." It is not clear what provision they are speaking to in the f/s, but I found it interesting that this did not come up in Murray Gold's opinion. Could you check with him on it. we can check with him, but I think the statement in the BC f/s is just referencing a big picture governing statement in the BC agreements regarding who the legal beneficiaries of the pension trusts are (i.e. the members). See the below which is from the BC teachers' agreement – it clarifies that the beneficiaries are the members, but clarifies that the pension board can use excess assets to reduce employer contributions. I think he'll tell us that under trust principles this is just clarifying who the trustees owe fiduciary obligations to, but can pursue it with him if you want.

"The Pension Fund is for the sole benefit of the Plan Members. The Partners and the Employers shall have no claim on the assets of the Pension Fund other than as expressly provided for in this Joint Trust Agreement. Without limitation, nothing in this Section 3.3 derogates from the Board's ability to apply excess assets [1] to the reduction of Employer contribution rates in accordance with Section 10.3, or pay surplus assets to the Employers pursuant to Section 13.5."

- If I'm reading the OPSEU summary correctly, it says that the Province does have a unilateral right to use the surplus because the surplus is divided into two pools. Is your read on that section the same. I've been totally focused on OTPP given its 20X the size of the OPSEU asset. I see what you are saying but his opinion doesn't quite say that we have an unfettered unilateral legal right to use this however we want (e.g. there may be something contextual in the OPSEU framework that would require us to go through a process in order to use the surplus – his opinion on this point is very high level). I think we'd need him to confirm this further in the opinion if you wanted to use this as a basis to address para 59 in the standard. Do you want us to do that? May impact timing of final opinion.
- The letter should either be addressed to one of the lawyers or Nadine since I'm not signing this year ok

Thanks all,

Cindy

From: Hatzis, Len (TBS)
Sent: September-20-16 8:01 PM
To: Veinot, Cindy (TBS); Petsche, Nadine (TBS)
Cc: Kaufman, Paul (TBS)
Subject: Fw: Pension Comparison

Please use this version in terms of any comments you may have on the draft. Thanks
Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Murray Gold <mgold@kmlaw.ca>
Sent: Tuesday, September 20, 2016 7:59 PM
To: Hatzis, Len (TBS)
Subject: Pension Comparison

Here is draft with more detail on the transitional periods, per our discussion.

Murray Gold
Partner
T: +1 416-595-2085 | F: +1 416-204-2873 | E: mgold@kmlaw.ca
Koskie Minsky LLP, 20 Queen Street West, Suite 900, Toronto, ON. M5H 3R3
kmlaw.ca