

DFA

Dalhousie Faculty Association

Seeking a Sector-Specific Approach

Comment on Pension Benefit Act Regulations
Issued December 7, 2011

By the Dalhousie Faculty Association

To: Minister of Labour and Advanced Education

Submitted January 19, 2012

Introduction

As Bill 96 (Amendments to the Pension Benefits Act) was proclaimed Dec. 15, 2011, the Dalhousie Faculty Association (DFA) would like submit this brief on the regulations that flow out of the Pension Benefits Act, particularly in regard to the treatment of Dalhousie University's pension plan. The brief supersedes the one submitted Dec. 5, 2011.

As the Ontario model has been cited by the Nova Scotia government while unveiling Jointly Sponsored Pension Plans (JSPP), it should be noted that the Ontario Pension Benefit Act regulations released June 2011 treat 'broader public sector' pensions (i.e. universities) differently than other pension plans, and do not require a JSPP for longer term solvency relief. Many other provinces also recognize universities as a different case, and have exempted their pension plans permanently from the solvency test, again without stipulating the governance structure. Universities are fully exempt from the solvency test in Alberta, Manitoba, Quebec and New Brunswick, and exempt under specific circumstances in British Columbia and Saskatchewan.

Linking solvency relief with a specified governance structure (a JSPP) rather than financial health and fitness fails to recognize how university pension plans differ in many aspects to plans in other sectors.

Key Points

1. The faculty, counsellors and librarians of Dalhousie University have **not ruled out contributing more** to the pension plan for the health of the plan. Faculty are very well aware of the global economic crises and that their pension plan arrangements are among the most favourable in the country.
2. The way universities are funded is sufficiently different than the private sector and therefore should be treated differently when it comes to pension sustainability. As Paul Genest, the president of the Ontario Council of Universities told the Ontario government during its consultation on JSPP's and pension amendments in 2010:

The manner in which universities are funded creates a completely different risk framework that makes a **sector specific** solution the only way to address this issue. We have differentiated universities from the private sector based on the fact that the risk of a university shutting down is small and the risk of a wind-up funding shortfall is also small given the university land, buildings and other assets that would be available to sell off in the event of institutional insolvency. However, there is also the issue of risk on an ongoing basis.

Compared to private sector companies, universities have much more fixed revenue which makes it difficult to deal with variability of pension cost because of the fixed nature of that revenue. Universities do not have retained earnings to draw from to deal with additional pension funding on short-term basis and they don't have "good times" where they can put more than the minimum funding in their pension plan. Universities may in fact be better able to deal with stronger going concern funding requirements than private sector companies but really have no ability to deal with the significant variability associated with solvency funding. In other words, universities may actually have more of an ability to deal with long-term funding risk than private sector companies but much less ability to deal with short-term funding risk.¹

Most groups in the province with defined benefit plans are not covered by Nova Scotia's Pension Benefits Act, therefore this structure appears to be aimed directly at Dalhousie. It is worth questioning why Dalhousie's administration is keen on a JSPP while Ontario's university presidents are not.

3. Introducing a JSPP as the only way that Dalhousie University can get solvency relief is interference in the collective bargaining process underway since last April, especially given the delay in introducing the legislation and the fact the regulations are not yet confirmed. As Genest said in the same letter to the Ontario government about JSPP's:

The "carrot and stick" approach being used to drive plan sponsors to new types of plan designs and financing/risk-sharing arrangement is not a practical approach for universities who would have limited ability to move to these new approaches unless legislated to do so. Furthermore, the recommendations severely penalize a plan sponsor who cannot get there because of, for example, existing collective agreements.²

4. Governance structure does nothing to ensure the sustainability of a plan or guarantee that employees who pay into a pension will actually come out with an income that can sustain them in their retirement.

¹ Paul Genest, President of the Council of Ontario Universities in a letter on Pension Changes, Feb 26, 2009. <Accessed Jan 13, 2012 <http://www.fin.gov.on.ca/en/consultations/pension/submissions/cou.html>>

² Ibid

5. JSPP's may give employees more say in pension governance, but there are already mechanisms at Dalhousie that do that, including through a pension advisory committee, and through collective bargaining.
6. Members of the DFA care very deeply about the health of the university. Faculty, counsellors and librarians are closer to the students than anyone else in the university, and do everything they can to maintain the quality of education and research. In an era of cutbacks, these efforts to maintain the quality of education often come from considerable sacrifice of personal and family time as student supports decrease and class sizes grow.

Recommendations

There are a number of avenues the province could take to protect its investment in Dalhousie University, which is a main economic driver of the province and the only university of its status east of Montreal. The Nova Scotia government could:

1. exempt "qualified" universities (ones that meet a financial stress test) with defined benefit plans to be exempt from solvency tests; or,
2. exempt "qualified" universities with defined benefit plans from **full** solvency, setting the limit at 70-80 per cent, the same for JSPP's; or,
3. allow a university to pay up to 30 per cent of its solvency gap with an irrevocable credit note; or,
4. reset the clock by adopting Ontario's approach: a two-stage process where a new valuation is done and universities get payment relief (but still have to contribute SOME special payments for solvency depending on going-concern payment levels) for five years. If they come up with a plan to improve sustainability that meets the province's approval then the solvency debt can be repaid over 10 more years.³

Any of these options would go a long way to recognizing the unique characteristics of a university and ensuring taxpayer money is not being diverted away from education. These approaches would respect the collective bargaining process and allow the faculty to bargain the total compensation picture without undue pressure, outside factors, and unrealistic timelines.

³ Ontario Regulation 178/11 Solvency Funding Relief for Certain Public Sector Pension Plans <Accessed Jan 13, 2012: http://www.e-laws.gov.on.ca/html/regs/english/elaws_regs_110178_e.htm>