

***Bill 206: An Act to revise the
Ontario Municipal Employees
Retirement System Act, 2005***

A submission to the Standing Committee on
General Government

November 2005

***Association of Municipalities
Of Ontario***

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SUMMARY OF PROPOSED RECOMMENDATIONS:

In view of the above AMO offers the following proposed recommended revisions to Bill 206:

AUTONOMY ON THE FOLLOWING BASIS:

- **Exclude non-governance matters.** The government must not mandate features concerning plan design (i.e., supplemental plans) in a Bill that proposes to devolve governance to the sponsors. This proposal is consistent with the theme of OMERS autonomy.
- **Require unanimous consent** of sponsors to make fundamental plan changes (i.e., changes to benefits and/or changes affecting contribution rates) to OMERS. A high level of consensus should be obtained from plan sponsors on changes that can have a fundamental impact on plan design or contributions. The governance structures of other devolved public plans are consistent with this proposal. Also, the OMERS Report on Governance in 2002 recommended that there be a high level of consensus to make changes to the plan.
- **Plan Changes and Governance must be made by the Sponsors – not a non-member Arbitrator.** Decisions on these significant matters must only be made by agreement of the sponsors. Arbitration might only be suitable as a dispute resolution mechanism for limited purposes (i.e., surplus issues). The majority of other devolved public plans are consistent in this respect.
- **Plan design cannot be prescribed** by government, but must be left to the sponsors to determine. This is consistent with the principle of devolution and the proposed future role of the sponsors as the governors of OMERS. This proposal is also generally consistent with other devolved public plans.
- **Financing is required** by OMERS sponsors to assist them in preparing for OMERS autonomy. The governance of the OMERS plan will require significant sponsor resources that are not presently available. The government provided financial assistance in the devolution of the Ontario Teachers' Pension Plan and OPSEU Pension Trust. Devolution without the resources to manage these new responsibilities would be reckless. The 2002 OMERS Report recommended that the Province provide financial assistance to sponsors.
- **Implementation** of autonomy must be delayed to allow sponsors to prepare and train for their governance responsibilities – autonomy means that sponsors must have a whole new level of understanding of OMERS and pension issues and this expertise takes time to retain and develop. There is no sound public policy rationale to be hasty with devolution. A methodical, due diligence approach to devolution would be one that transferred responsibility when the plan members are ready. The

2002 OMERS Report recommended that sponsors be provided a long transition period so that they might have the time adequately prepare for full devolution.

- **Selection of Sponsor Representatives** must at all time be determined by the sponsors themselves. There should not be a transitional period where appointments are made by government. The current provision for direct appointments by the government is at odds with basic notions of “autonomy”.
- **A Moratorium on Plan Changes** is needed until the sponsors are able to establish by-laws for the Sponsors Corporation. This was the recommendation made in the 2002 OMERS Report.

INTRODUCTION:

The Association of Municipalities of Ontario (AMO) is pleased to have the opportunity to make a written submission to the Standing Committee on General Government on Bill 206, *An Act to revise the Ontario Municipal Employees Retirement System Act, 2005*.

AMO has been representing the interests of Ontario's municipal governments and advocating on behalf of Ontario's property tax payers for more than a century. AMO has almost all of Ontario's 445 municipal governments as members. To put that into perspective, AMO's members govern and provide vital municipal services to 10 million of Ontario's 12 million residents – one third of Canada's population.

Municipalities are no longer seen as mere wards of the Province. They are elected. They serve the same voter and taxpayer as other orders of government. They are a mature order of government. Municipal governments are not only recognized as far more than just important stakeholders, but as a partner with the Provincial and Federal Governments. And, over 380 of AMO's members are OMERS employees.

Municipal governments, particularly those who are OMERS employers, are profoundly concerned about the impact of Bill 206, and the potential for significant costs arising from proposed changes to the OMERS Pension Plan to be funded by municipal taxpayers. To date, AMO has received 95 responses from municipalities across Ontario citing concerns regarding the proposed Bill 206 (see Appendix "D"), with many of the municipal concerns reflective of the attached model resolution from AMO (see Appendix "E").

When devolution was first proposed based on recommendations from the OMERS Board in 2002, the OMERS Plan had a surplus and contribution holiday. Now it has a \$2.5 billion funding deficit, necessitating a 9% increase in contribution rates or \$137 million in combined municipal employer and employee expenditures, with similar increases projected for future years. This increase is a new \$137 million burden on property taxpayers and employees – and not one penny will find its way into any service improvements for the public.

Whenever new legislation or regulation is contemplated, the effects on municipalities – particularly the financial affects – must be considered and discussed. As part of the public hearings on Bill 206, AMO is providing our comments and recommended considerations on a legislative framework that is terribly flawed and fundamentally wrong.

AMO maintains that the Province is rushing to reform one of Canada's most important pension funds without a reasonable understanding of the potential repercussions and without sufficient regard to the best interests of employees, retirees, employers, communities, taxpayers or Ontario's economy.

In the absence of any indication that the government has considered the implications of the Bill, AMO respectfully suggests to this Committee that it tread carefully and consider sending this Bill back to the drawing board.

CONTEXT:

A Report on Governance: 2002

Bill 206 purports to represent a long-standing interest to move OMERS towards an autonomous governance model and responds to the desire of the provincial government to remove itself from the role of OMERS plan sponsor. In 2002, the OMERS Board advised the then Minister of Municipal Affairs and Housing on a new framework for the governance of the OMERS pension plan. The approach detailed a governance framework reflecting the recommendations of the jointly managed OMERS Plan Administration Board.

As part of the development of this report, the OMERS Board undertook extensive consultation with Plan stakeholders, including AMO, on particular key areas such as support for a two-tier governance structure. The 2002 report set out recommendations in those areas where it achieved consensus, and identified some further issues necessitating additional analysis and dialogue to ensure that consequences would be fully understood by all parties. For example, at the time of the 2002 consultations, police and fire and retiree representatives requested a separate Sponsors Corporation for their members – something the Board did not achieve consensus on.

In 2002, the OMERS Board cautioned the government to continue to seek involvement and consensus among OMERS Plan Sponsors on several outstanding critical issues including: dispute resolution for the Sponsors Committee; representation of “other” employee and employer groups on the Sponsors Committee; and, issues with respect to supplementary agreements for police and fire sectors.

Bill 206 has been introduced without further consultation and has failed to include a number of the most critical recommendations made by the OMERS Board in 2002.

Understanding the Implications of Bill 206

Bill 206 includes significant and potentially costly changes to the governance structure of OMERS.

AMO asked but was unable to receive any financial analysis from the Province of the proposed changes in Bill 206. When asked, the Province indicated that they are relying on figures supplied by the OMERS Board based on the 2002 Governance Report. If that is the case, then the government understands that AMO's analysis of the cost implication is accurate. The key difference between the government's understanding of

the potential cost impacts and AMO's analysis is that AMO's analysis is up to date and AMO understands that when Bill 206 set out a menu of supplemental plans that these plans will become a reality for Ontario's property tax payers.

AMO has done its own homework on these costs. First, we asked OMERS and they undertook, at their own cost, a hypothetical analysis to provide interested members with current analysis of the impact of supplemental plans. Remarkably, OMERS had never been approached by the Province or any affected stakeholder to provide any current costing analysis of the projected changes based on Bill 206 until approached by AMO.

Based on the results of the analysis provided by OMERS, AMO asked our own municipal members to do a costing analysis based on the potential impact of supplemental plans. The template to calculate these projected costs included:

- NRA 60 (fire and police): move to a 2.33% accrual rate (future service only) and 25 and out, with no age limit; and,
- NRA 65 (all others): 30 and out, with no age limit.

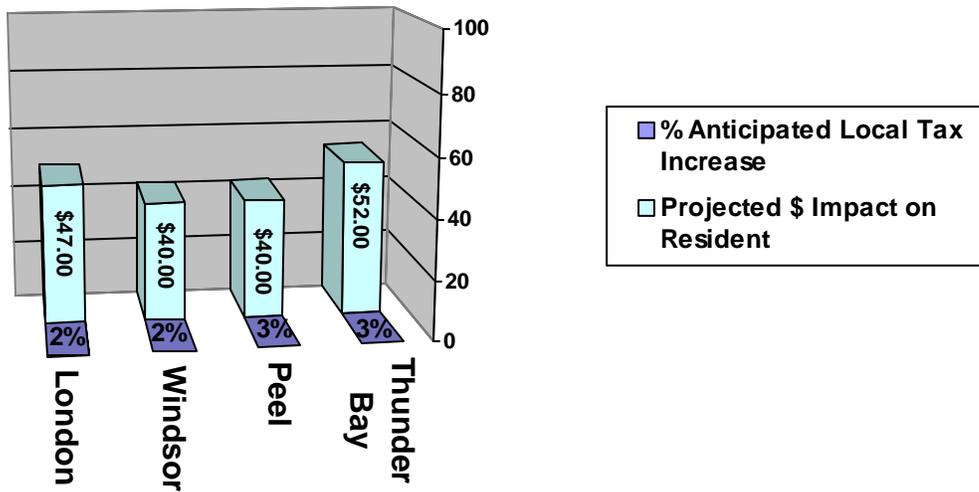
It did **NOT** include the Ontario Professional Fire Fighters Association (OPFFA) ask of best three years, or costs that may be incurred to extend supplemental benefits to other emergency workers such as paramedics.

Of those responding to the template (120 municipalities across Ontario) urban centres with professional fire departments, police services and higher salaries account for a significant portion of the projected impact. Smaller centres, while they have a smaller gross amount proportional to the property tax base, still experience a significant impact.

The municipal analysis confirms that proposed changes will significantly increase labour costs - changes municipalities cannot afford - that will create pressure to increase property taxes throughout Ontario.

In most communities it is estimated that the costs of supplemental plans will result in property tax increases of at least 3%, as per the selected municipal examples on the next page, and as illustrated in Appendix "A".

Cumulative Cost Implications of Supplemental Plans in Selected Municipalities:



On a province-wide basis, a 3% increase in property taxes represents approximately \$380 million dollars a year – without a single penny toward any enhancement to public services.

In context, that \$380 million is equivalent to:

- half of the total new revenue that municipal governments in Ontario will receive when gas tax revenue sharing under Canada's New Deal is fully annualized in 2009.
- more than the full amount of the annualized provincial gas tax revenue sharing for public transit.
- more than half of current employer contributions to OMERS.

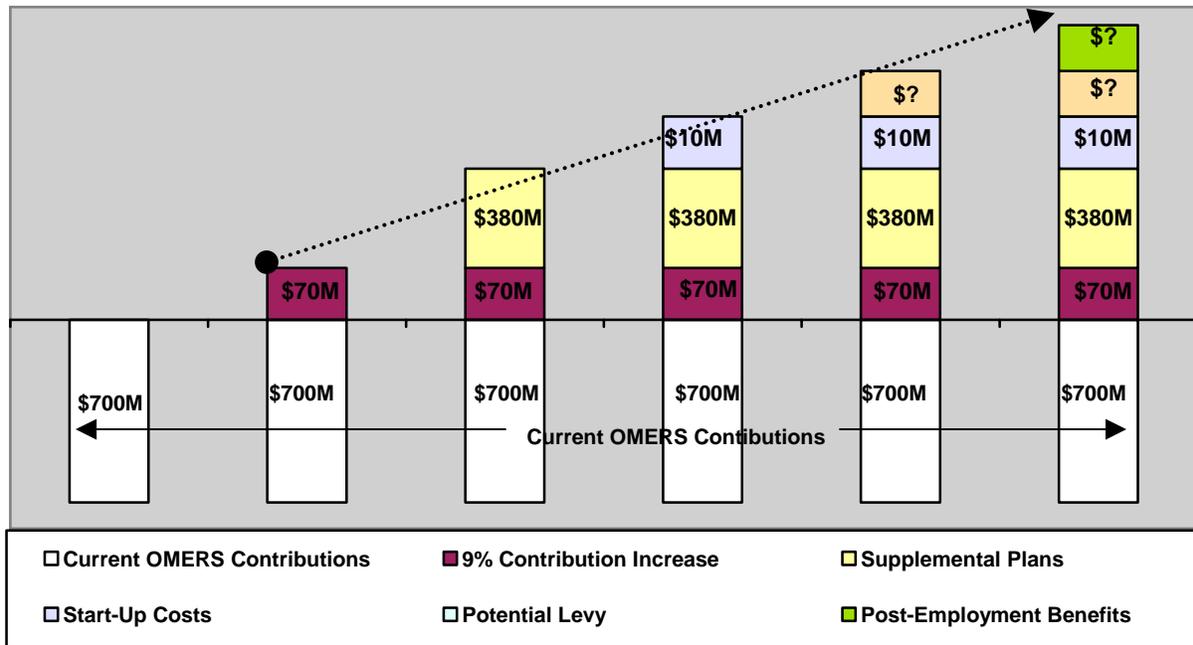
Tax dollars directed to a "devolved" OMERS would sap municipal funds away from infrastructure and service improvements in every part of Ontario. *Is this the desired intent of the Bill - to make \$380 million a year disappear out of the pockets of Ontario's property tax payers?*

In addition to the anticipated increased costs associated with supplemental plans per Bill 206, additional anticipated costs (per illustration below) not captured include:

- a pending increase in contribution rates in 2006 (9%);
- potential increases in post employment benefits associated with adopting supplemental plans;

- sponsor costs that will be recovered from employers to support the work of the Sponsor Corporation (estimated at \$5-10 million start-up costs);
- anticipated higher administrative costs associated with the increased complexity of administering the primary plan and various supplemental plans; and,
- other costs associated with the potential future extension of supplemental benefits to other emergency workers (e.g., paramedics).

Estimated Potential Cumulative Costs under Bill 206: Costs to Employer



Originally, OMERS devolution discussions in 2002 were about increasing efficiencies in decision-making and streamlining OMERS Board appointments. Bill 206, however, has been drafted to ensure that employers will be required to provide additional (i.e., supplemental) benefits and which will lead to higher contributions for both employers (representing taxpayers) and employees.

These supplemental benefits, which are described more fully below, would be accessed through local bargaining or could be imposed upon employers in the fire and police sectors through the local interest arbitration process.

AMO's view is that our member municipalities participating in OMERS and their employees deserve all the facts about the government's proposed changes to the OMERS plan – yet, any substantive detailed analysis of costs related to the proposed changes has not been provided by the Province.

PRIORITY AMENDMENTS TO PROPOSED OMERS GOVERNANCE UNDER BILL 206:

Below, AMO provides detailed comments and suggested amendments that we believe are necessary before any consideration to move Bill 206 forward toward the next step in the legislative process:

1. Governance

The government is fond of saying that OMERS is just like other pension plans and should be devolved. It is not. OMERS has an extremely diverse number of employees and employers, including municipal governments, school boards, libraries, police and fire services, children's aid societies, and electricity companies. If devolved, OMERS would be the only pension plan in Ontario with such diverse employer and employee groups that has no Provincial involvement. To be fair, OMERS should be compared to municipal employee plans in other provinces (see attached Appendix "A").

A Question of Fair Representation:

The governance changes proposed in Bill 206 would separate the roles of sponsor and administrator (fiduciary) by establishing a Sponsors Corporation and an Administration Corporation. As with the Sponsors Corporation, appointments to the Advisory Committees would be on a representative basis, with equal appointments drawn from participating employer and employee groups.

In addition, two additional "Advisory Committees" would be established, one of which would be dedicated solely to the police (11% of OMERS active members) and fire (5%) sectors. The other Committee would be for all other sectors and responsible for advising and making recommendations to the Sponsors Corporation on OMERS benefits.

Employer and employee groups that are not specifically identified fall into the "other" category and will only have the ability to appoint representatives on the corporations on a rotational basis. There will be many years between such rotational appointments, and for the many years in between these "other" groups will have no effective representation. Many OMERS employers and employee groups will be without any permanent representation on the Sponsors Corporation, the Administration Corporation and the Advisory Committees, and that the interests of others will be promoted at the expense of those who, at the time, fail to have any representation. Representation for all OMERS sponsors is necessary to ensure that the plan is not manipulated to satisfy the particular interests of any special interest group(s). This would also be more consistent with best practices of other devolved public plans.

All OMERS sponsors should be provided with representation on the governing bodies. Recognizing the large number of sponsors that need representation, AMO recommends a structure whereby (some or all) representatives of the governing bodies (i.e., the

Sponsors Corporation and the Administration Corporation) are made responsible for considering and supporting the respective interests of all employer or employee sponsors that are otherwise not represented. Representation for all OMERS sponsors, or a governance structure that promotes the inclusion of all sponsor interests, is necessary to ensure that the plan is not used to satisfy the particular objectives of any special interest group(s). This would also be more consistent with best practices of other devolved public plans and is consistent with the 2002 Report of the OMERS Board.

Simple Majority Rule:

The challenge of fair representation also calls into question the proposed decision-making structure of the Sponsors Corporation using a simple majority vote. Only one vote from a dissenting member of an employer or employee group could result in a decision being affirmed that is opposed by all other employee or employer members from that group. In other words, a minority interest could easily impose an outcome on the majority. It seems reckless to allow key plan changes to be approved without total consensus.

Other devolved pension plans, such as the Hospitals of Ontario Pension Plan, the Ontario Teachers' Pension Plan, and the B.C. Municipal Plan require unanimous agreement of the appointed parties to implement a fundamental change to the plan (see Appendix "C"). In the list of recommendations in the OMERS Report on Governance (2002), it is recommended that the voting protocol for the Sponsors Corporation be that of a two-thirds majority of all voting Sponsors Committee members to ratify all decisions of that committee. Bill 206 has proposed a simple majority vote structure, ignoring this important consensus-based recommendation.

Also of note in the transitional provisions of Bill 206 are the mandatory mediation and arbitration mechanisms that would apply, pending the Sponsor Corporation's creation of its own by-laws. If the Sponsors Corporation cannot reach a decision on changes to benefits, contribution rates, or the contribution rate reserve level then a binding arbitration process kicks in. It is AMO's position that Bill 206 is designed to devolve governance to an arbitrator with a governance structure designed for deadlock.

If devolution is truly the desire of the government, then AMO believes that a unanimous agreement decision-making process must be required of the Sponsors Corporation for all key decisions.

Transitional Funding:

In the list of recommendations in the OMERS Report on Governance (2002), it is recommended that the government provide one-time funding in equal shares to the employer and employee sponsors for the start-up costs associated with the new OMERS governance model. However, funding to enable stakeholders to adequately prepare for

devolution is not addressed under Bill 206 – critical funding that the government provided in the devolution of the Ontario Teachers' Pension Plan and OPSEU Pension Trust. Again, while purporting to model Bill 206 on the 2002 OMERS Report, the government has ignored an important consensus-based recommendation.

Such funding would be particularly important to municipal employers who are appointed to and support the Administration Corporation, the Sponsors Corporation and the Advisory Committees to develop the skills and ability to manage the significant new responsibilities transferred to them in order to protect municipal employee and tax payer interests.

Furthermore, there will likely be a need to retain additional staff and to hire outside advisors due to the fact that there will be a constant turnover in the representation on the Sponsors Corporation through the transitional period (i.e., until by-laws are passed at the Sponsors Corporation concerning its governance). Having subject matter experts as appointees and employing full-time staff and/or external professionals at the local level and/or at the Sponsors Corporation will facilitate the transition between these appointments and serve to inform the comprehensive negotiations that will transpire at the Sponsors level.

Failing receipt of this funding from the government, start-up costs for the Sponsor's Corporation anticipated between \$5 - 10 million will be downloaded to OMERS members.

Autonomy:

Ultimately, Bill 206 is fundamentally at odds with basic notions of devolution or autonomy. The government has characterized Bill 206 as an "autonomy Bill" while controlling through legislation detailed requirements on matters such as supplemental plans and a permanent prohibition against the introduction of defined contribution plans. The Bill goes as far as to have the Province provide for direct appointment rather than the plan sponsors to the initial Sponsor's Corporation or Administrative Corporation.

Transitional Moratorium:

The OMERS Board wisely recommended that there be a moratorium on any plan changes until the sponsors negotiate a sponsors agreement (i.e., by-laws) or a date 3 years into the future, whichever is earlier. This is needed to allow for the governance transition to be accomplished with minimal disruption and to ensure the security of OMERS during this period of change. In the intervening period the government should retain the authority to make changes in response to an emergency or a critical issue. Good governance dictates that this recommendation be adopted.

Recommended Changes:

- Require unanimous agreement of both the employee and employer representatives to the Sponsors Corporation for any plan changes that would change the current contribution formula.
- Employers and employees without direct representation must be provided with access to a representative that is required to consult with them.
- Require transitional funding for the sponsors.
- Require a moratorium on plan changes until the Sponsors Corporation establishes its by-laws.

2. Supplemental Plans

Bill 206 restructures OMERS into a system comprised of a primary plan and inevitable additional supplemental plans. These supplemental plans would be standalone pension plans operated under the OMERS umbrella in conjunction with the primary plan.

The Sponsors Corporation would have the power to implement the supplemental plans, which would provide for optional additional pension benefits, such as enhanced early retirement benefits or an increased benefit accrual rate of up to 2.33% (rather than the current 2.0% maximum). It would be naïve not to acknowledge the potential for provisions such as earlier retirement benefits through supplemental plans to impact the Base Plan (i.e., rebound costs) and whipsaw across the entire public sector, including provincial services. One such example is the Ontario Provincial Police (OPP), since the OPP provides much of the policing services in rural Ontario.

The anticipated result is that each employer (of the 900 potential employer groups as members of OMERS) could conceivably have a number of different supplemental plans under a number of collective agreements which would all have to be managed and administered by OMERS. It is even conceivable that an employee who changes employers over the course their career could have access to several different supplemental benefits under a number of collective agreements. Although the cost of supplemental benefits would be borne equally by employers and members, anticipated local costs for employers and employees alike are potentially significant.

It is notable that Bill 206 specifically directs the Sponsors Corporation to consider providing supplemental plan benefits to *police and fire fighters*. Given the no-strike restrictions in these sectors as emergency services, interest arbitrators would have the ability to award access to such plans if the issue of access to a supplemental plan were raised in local collective bargaining. Given recent bargaining/interest arbitration outcomes, employers should be concerned about the future possibility of being ordered to participate in a supplemental plan (see Appendix "B").

Needless to say, the logistical challenges of supplemental plans are considerable and complex. All would all have to be managed and administered by OMERS on behalf of the employer groups, of which there are 382 municipal employers, and not to mention the anticipated significant increase in actuarial and technology costs. Further compounding this risk is the fact that these futures costs do not factor in the anticipated 9% OMERS contribution rate increase for 2006 (an anticipated \$137 million in combined municipal employer and employee expenditures).

Municipalities are dependent on property tax revenues, and are prevented from running a deficit. Unlike most other public sector employers, they do not have the budget flexibility to accommodate supplemental benefits, and arbitrators in the past have not considered the ability to pay within the terms of a binding settlement.

Recommended Changes:

- Remove supplemental plans from Bill 206 altogether. Establishment of supplemental plans should be at the sole discretion of the Sponsors Corporation.

3. Mediation/Arbitration

As has been noted above, Bill 206 includes a provision establishing a binding mediation/arbitration process. For example, if any interested party wanted the issue of establishing a supplemental plan addressed by the Sponsors Corporation, it would have to be resolved through this process if an agreement among the Sponsors could not be reached. Given the historic interests of labour, it is reasonable to assume that the Sponsor's corporation will be confronted with a variety of proposed benefit changes including the establishment of supplemental plans.

While there are some limitations on the orders that can be made by an arbitrator, an arbitrator's discretion remains broad, and orders could have very severe financial implications for Sponsors. For example, an arbitrator would be prohibited from making changes to benefits in the primary plan that would result in an increase in the required contribution rate of more than 0.5% of the pensionable earnings of a member of any of the plans. However, this limitation is not cumulative. Therefore, nothing would prevent a series of initiatives being referred to arbitration. More importantly, the 0.5% financial restriction on the scope of the arbitrator's authority would not apply to the establishment of supplemental plans. Thus, an underfunded primary pension plan would not be a barrier to the establishment of supplemental plan benefits.

In the last round of OMERS governance consultations in 2002, AMO and other employers recommended that Ontario follow British Columbia's lead and not impose an arbitration process upon the parties. If the default to compromise and a negotiated deal were access to arbitration, AMO submitted back in 2002, easy and speedy access to a binding dispute resolution process would only serve to discourage the parties from taking more reasonable positions in bargaining.

Given the wide array of interests that currently fall under the OMERS umbrella, a careful look at the implications associated with removing decision-making control from the hands of the proposed plan Sponsors ought to be seriously considered in future drafts of this Bill.

Recommended Changes:

- Eliminate arbitration as a dispute resolution mechanism.

4. Implementation

The legislation, while containing several transition provisions respecting certain governance matters, anticipates that a vast majority of the plan's governance rules will be established by the Sponsors Corporation through the creation of mutually agreed by-laws.

In order to inform such deliberations and negotiations of the Sponsors Corporation, appointees will likely require the guidance and advice of a wide array of service providers including actuaries, lawyers and consultants. Although some of the costs (i.e., those related to plan administration) may be charged to the pension fund, there will be on-going costs associated with the negotiation of benefits and general servicing of employers that will be chargeable to the employers themselves.

Recommended Changes:

- Require the Province to provide funding to enable stakeholders to adequately prepare for devolution – the governance of the OMERS plan will require significant sponsor resources that are not presently available. The government provided such funding in the devolution of the Ontario Teachers' Pension Plan and OPSEU Pension Trust.
- Implementation of autonomy must be delayed to allow sponsors to prepare and train for their governance responsibilities – there is no sound public policy rationale for a hasty devolution.

5. Plan Design

Bill 206 would enshrine in legislation the requirement that all pension plans established under OMERS be a defined benefit plan. In other words, the legislation would preclude the Sponsors Corporation from even exploring the establishment of a defined contribution pension plan. Similarly, an arbitrator would be denied the opportunity to explore the merits of establishing a defined contribution plan even if the financial state of the plan warranted such a consideration. This provision substantially undermines the credibility of the government's position on "autonomy".

A feature that challenges sponsors and members of defined benefit plans is the very volatile nature of their funding obligation. The funding extremes experienced by OMERS in recent years, which quickly went from a period of contribution holidays to the current situation of increasing contribution rates, exemplifies this risk. This funding volatility has recently served to motivate large numbers of public and private sector sponsors to migrate or consider migrating towards defined contribution plan arrangements. This type of plan limits sponsor exposure to specified contribution rates and therefore facilitates the cost certainty that is needed by so many.

In view of the degree of autonomy Bill 206 purportedly seeks to give plan Sponsors, the cost certainty that defined contribution plans provide for employees and employers alike, the serious cost implications associated with supplemental plans, the decision making power that would be vested with a third-party arbitrator and the current financial state of the OMERS plan, it would be prudent and reasonable for the future governors of this plan to have a full array of options available to facilitate the ongoing viability of the plan, including an unrestricted ability to determine plan design.

Given the import of the changes noted above, the government must be put to the challenge of demonstrating that it has carefully completed and reviewed an independent and comprehensive financial analysis of the changes proposed in Bill 206. The magnitude of this pension plan, its importance to municipal employees and their personal financial planning and the significant role OMERS plays in the provincial economy ought to have warranted such study and due diligence before Bill 206 was introduced. If such studies were not completed, the government must explain the appropriateness of such sweeping reforms at this time. Employers and employees alike understand that there will only be one opportunity to get the governance and administration of this plan right.

Recommended Changes:

- Remove the limit that all OMERS pension plans be “defined benefit “ plans.

CONCLUSIONS:

In its last Budget Speech the Province said, "*...We (the province) watched every penny. So the deficit is smaller. But it has not disappeared. Far from it. We are still working our way through a structural deficit that continues to threaten our ability to fund the public services our people depend upon*".

The province may be watching its pennies, but it is not helping municipal government try to manage their pennies.

Bill 206 only adds more to the municipal structural deficit in a manner that is unaccountable and within a legislative framework that is terribly flawed and fundamentally wrong.

In the absence of any indication that the government has considered the implications of the Bill, AMO suggests to the Committee that it tread carefully and consider sending this Bill back to the drawing board. AMO requests that you send the Bill back for further analysis of the potential costs and financial implications for employers and employees, and further consultation with stakeholders and pension experts with a view to unintended consequences. Beyond that, at the very least, AMO requests that the government hold further public hearings at Second Reading of this Bill.

Hasty implementation of such fundamental changes of this magnitude would be reckless and irresponsible.

Appendix A: Potential Costs for Supplemental Plans Under Bill 206

The Task:

- Municipalities were provided a template to assist in estimating increased OMERS pension costs associated with supplemental plans with a view to calculating:
 - % increase on the residential property class to finance this initiative; and,
 - tax impact on an average assessed residence.
- This template includes: NRA 60 (fire and police): move to a 2.33% accrual rate (future service only) and 25 and out, with no age limit; and, NRA 65 (all others): 30 and out, with no age limit. It does **NOT** include:
 - The OPFFA ask of best three years; or,
 - Assorted other costs anticipated with supplemental plans such as: increased contribution rates for future years; potential increases in post employment benefits; costs to support the Sponsors Corporation; higher costs associated with administering supplemental plans; or, costs that may be incurred to extend supplemental benefits to other emergency workers such as paramedics

Summary of Results (see below):

- There were approximately 120 submitted templates from the full range of municipalities across Ontario (large and small, north and south, two tier and single tier). This sample result is but a fraction of the full impact if the supplemental plans were adopted across Ontario.
- Based on the 120 submissions across all types of municipal governments (excluding costs of some major urban centres such as Toronto), impacts amounted to over \$155 million that would be incurred in each of the first five years that the options are in effect. Over 5 years this amounts to \$775 million.
- Of those considered more “representative” of the Provincial average, the percentage increase in residential tax rate increases was around 3% (see attached) - Based on a province-wide \$12.6 billion in property tax revenues, a 3% increase represents approximately \$380 million dollars a year. Over 5 years this amounts to \$1.9 billion.
- Urban centres with professional fire departments, police services and higher salaries account for a significant portion of the projected impact.
- Smaller centres, while they have a smaller gross amount proportional to the property tax base, still experience a significant impact.

Potential Cost for Supplemental Plans - Sample Reporting Results

	NRA 60	NRA 65	% Increase in Res. Tax Rate	\$ Impact on Average Residence
	\$	\$		
Oshawa (Lower Tier)	1,185,052.31	453,252	1.97%	\$ 26.64
Greater Sudbury (Single Tier)	2,323,366.53	1,036,112	2.28%	\$ 38.00
Thunder Bay (Single Tier)	2,406,424.50	1,127,864	2.80%	\$ 51.93
Brockville (Single Tier)	567,737.52	87,022	4.58%	\$ 107.70
Peel (Upper Tier)		16,000,000	2.70%	\$ 40.00
Mississauga (Lower Tier)	4,538,857.00	2,762,398	3.30%	\$ 30.00
Ottawa (Single Tier)	14,996,000.00	7,310,250	3.30%	\$ 83.00
London (Single Tier)	6,988,068.20	1,387,277	2.26%	\$ 46.83
Region of Niagara (Upper Tier)	4,326,364.77	1,729,522	2.54%	\$ 31.43
City of Hamilton (Single Tier)	8,405,422.43	3,028,925	2.29%	\$ 54.88
Halton Region (Upper Tier)	4,420,087.38	956,223	2.00%	\$ 37.42
Durham (Upper Tier)	6,108,800.00	2,643,311	2.66%	\$ 32.53
Aylmer (Lower Tier)	99,468.93	20,455	3.85%	\$ 46.38
Brampton (Lower Tier)	2,560,694.42	1,242,461.49	2.48%	\$ 27.45
St. Thomas (Single Tier)	726,800.00	185,250.00	3.00%	\$ 60.00
AVERAGES:			2.80%	\$47.61

Appendix B: The Uncertainty of Arbitration: Conflicting Arbitration Decisions

First Ruling on Retention Pay, September 24, 2004

Oxford Community Police Services Board and Oxford Community Police Association

"...The Toronto Police Service had a problem retaining senior constables and its senior constable allowance was clearly intended to help deal with that Toronto problem. There was no evidence that this Employer (Oxford) has a problem retaining senior constables. Some officers have left, but some of those simply returned to the police force from which they had come. Many officers moved to the Ontario Provincial Police but that police force is currently not hiring. The rationale, which prompted the Toronto provision, is not applicable to this police service at this time. The Union did, however, suggest that it would become difficult to retain senior constables in this police force if improved senior constable pay were not included in the collective agreement.

Decision:

The fact that some other police collective agreements have a provision providing improved senior constable pay is not, in and of itself, persuasive that it should be added here. There was no persuasive argument as to why the senior constables need this salary increase, an increase which would alter the traditional salary structure in this collective agreement. I reject the Union request for this benefit."

Second Ruling on Retention Pay, February 9, 2005

A little over 4 months later, Mr. Howard Snow, in an arbitration decision related to North Bay Police Services, dated February 9, 2005:

"Several months ago in an award in Oxford (Oxford Community Police Services Board and Oxford Community Police Association, September 24, 2004, unreported) I declined a similar union request. At that time, the change in the salary system did not seem to me to have merit, in part because that force did not have a problem retaining senior police officers.

I remain unconvinced that there is a benefit to either employers or unison from this change in salary structure. Similarly this police force does not have a retention problem.

However, my concerns about the wisdom of the new system have not been widely shared in the Ontario police community, which has embraced this change. There are now so many police forces with this new salary system that I accept that it is the new salary norm, quite apart from any impact it may have upon any alleged retention problem. That is, while it was intended in Toronto to combat a retention problem, it has now simply become the new salary structure for police officers in Ontario. I conclude that my concerns should not prevent the employees in this force from having the benefit of this new allowance and therefore I award an allowance of the type first introduced in Toronto."

Appendix C: Features of Bill 206 & other Public Plans

We have compared certain important features of Bill 206 (identified below) with other provincial public plans that have been devolved from government, or with public plans where devolution was initiated but not implemented (i.e., the Alberta Local Authorities Plan).

In addition to OMERS (under Bill 206), the pension plans included in our review are as follows:

- Hospitals of Ontario Pension Plan (“HOOPP”)
- Ontario Teachers’ Pension Plan (“OTPP”)
- OPSEU Pension Trust (“OPT”)
- Colleges of Applied Arts and Technology Pension Plan (“CAAT”)
- B.C. Municipal Plan (“BCMP”)
- Alberta Local Authorities Pension Plan (“LAPP”)

The features that we reviewed are:

Sponsor Profile

Of the plans reviewed, only HOOPP, CAAT and OMERS (under Bill 206) exclude any direct governmental role. However, HOOP and CAAT are very different than OMERS in their employer profiles. Both HOOPP and CAAT have homogenous employer communities with the Ontario Government as the indirect sponsor. This is not true of OMERS, which has a wide variety of employers, with very different financial resources.

Governance (re decisions affecting benefits/contribution rates)

For plan changes that affect contribution rates (or a contribution formula), Bill 206 requires a level of agreement that is significantly lower than in any other of the devolved plans. The other devolved plans require unanimous consent of the stakeholders.

Bill 206

A decision of the Sponsors Corporation requires an affirmative vote of a majority of its members, excluding non-voting members (s. 26(1)).

HOOPP

Any amendment which changes any formula for contributions or funding (a Fundamental Change) requires the unanimous agreement of the Settlers (OHA and unions) in writing (see s. 4.02 of Declaration of Trust dated November 22, 1993, and the “Operating Structure” webpage on HOOPP site). There is no dispute resolution mechanism in place for Fundamental Changes.

OTPP

Minister of Education and Training & OTF (the “partners”) must agree on changes affecting plan. Referral to med/arb if no agreement on proposed changes to contribution rate or plan benefits (see s. 72-101 of partners agreement). Award of arbitrator is limited to making improvements that do not increase the contribution rate by more than .5% of pensionable salary.

OPT

Plan benefit improvements are collectively bargained. There is no separate dispute resolution process.

CAAT

Changes to plan benefits are presented to the Sponsors Committee for consideration if they have first been approved by a majority of the Board of Trustees. Proposals are adopted only if unanimously approved by the Sponsors Committee. If no agreement by Sponsors Committee, proposal fails and there is no recourse to a dispute resolution process.

BCMP

Any amendment, which would increase contribution rates, requires the unanimous agreement of the partners (the BC Government, the Union of BC Municipalities, and MEPC - the organization representing all of the participating unions). There is no access to the dispute resolution process for decisions of this nature.

LAPP

The Alberta LAPP was not devolved from government. The proposed governance arrangement (contained in a draft declaration of trust) required that certain changes, including a change that would require increased contributions, be first adopted by a board of trustees and receive the approval of at least $\frac{3}{4}$ of the employer group representatives as well as $\frac{3}{4}$ of the member group representatives.

Dispute Resolution Mechanisms

Most of the plans have dispute resolution mechanisms, but the ability to utilize these mechanisms to implement changes is generally very limited.

The dispute resolution mechanism under the OTPP is the only one, other than the mediation/arbitration mechanism under Bill 206, that allows (subject to a cap) for plan benefit improvements affecting contribution rates/formulas. We note, however, the fact that OTPP and OMERS have very different stakeholder profiles. OTPP has a homogenous stakeholder profile, with only one employer (the Ontario Government) and

one employee group (the Ontario Teachers' Federation). OMERS is much more like the BCMP and LAPP in its employer and employee composition. LAPP was not made autonomous from government, and while the BCMP was devolved, access to the dispute resolution mechanism in that plan is limited to surplus issues.

Expenses associated with the respective dispute resolution mechanisms can, in most cases, be charged to the applicable pension fund. This is (generally) not the case under Bill 206.

We understand that no plan has yet to use their respective dispute resolution mechanism.

Restrictions on Plan Design

All of the plans are of a defined benefit design, but only the OTPP and Bill 206 specifically mandate this as an ongoing feature.

Funding Targets

Only Bill 206 sets a prescribed funding target (equal to 1.05 of market assets to liabilities and solvency assets to solvency liabilities of no less than 1.00). We understand that funding targets are instituted as policy positions under some other plans (i.e., OTPP policy is to target 1.07).

Supplemental Plans

Bill 206 is the only plan that facilitates the establishment of supplemental plans and that allows for local bargaining of supplemental benefits. The Alberta Urban Municipal Association has established a supplemental plan for its employees, which provides benefits that are additional to pensions accrued under LAPP, but these supplemental benefits are very narrow in scope, are provided on a prospective basis only, and are fixed (i.e., there is no ability to bargain benefits).

Comparative Analysis Chart

	HOOPP	OTPP	OPT	CAAT	BCMP	LAPP (proposals only)	Ontario Municipal Employees Retirement System (Bill 206)
Sponsor Profile	Ontario Hospital Association & 4 unions	Ontario Gov. & Ontario Teachers Federation	Ontario Gov. & OPSEU	Colleges, OPSEU & OCASA	Combo of BC Gov.t and other employers & unions	Combo of Alberta Government and other employers & unions	Various employer (non-governmental) & union appointments
Majority or Super Majority required for decisions of joint sponsors?	Majority vote - but changes that impact formula for contributions or funding require unanimous agreement of settlers (Agreement of November 1993, s. 4.02)	Negotiated agreement b/w parties (Partners Agreement, s. 10, 13, 14)	Majority Vote – but plan changes are collectively bargained	Changes to plan require unanimous consent of Sponsors (s. 11.24 of Sponsors Trust Agreement)	Majority Vote (Joint Trust Agreement article 5.6) - Changes affecting contributions requires unanimous agreement of partners	Super Majority (3/4 of each of employer group and employee group))	Majority of Sponsor Corporation Members, excluding non-voting members (s. 26(1))
At what level is dispute resolution conducted?	Board of Trustees	Partners Committee (Partners Agreement Articles 71-101)	Sponsors (OPSEU and the Province of Ontario)	Board of Trustees	Council of Partners	Sponsors Group	Sponsors Corporation (s. 26)
Dispute Resolution Mechanism?	11th Trustee appointed (Agreement and Declaration of Trust, November 22 nd 1993 Article 7.03)	Mediation followed by board of arbitration (Partners Agreement Articles 71-101)	11 th Trustee appointed (It is noted that benefit changes are collectively bargained along with all other wage ad benefit issues)	13 th Trustee appointed (s. 6.02, Sponsors Trust Agreement)	Arbitration (Joint Trust Agreement article 13.6)	Mediation	Transitional – mandatory mediation /arbitration (s.43)
Limitations on Dispute Resolution?	No matters involving a “Fundamental Change” (Agreement and Declaration of Trust, November 22 nd 1993, Article 7.01)	Awards cannot result in increase to contribution rate of more than 1/2% of pensionable earnings (Partners Agreement Article 79)	Trustees’ dispute resolution mechanism does not apply to benefit changes	Trustees’ dispute resolution mechanism does not apply to benefit changes	Limited scope (i.e. utilization of surplus) – not accessible re changes affecting contribution rates (Joint Trust Agreement Article 13.1(c), 13.6)	No access to arbitration	Awards cannot result in increase to contribution rate of more than 1/2% of pensionable earnings (s. 26(6))

	HOOPP	OTPP	OPT	CAAT	BCMP	LAPP (proposals only)	Ontario Municipal Employees Retirement System (Bill 206)
Expenses for Dispute Resolution process?	Paid from the Fund (Agreement and Declaration of Trust, November 22 nd 1993 Article 7.04)	Arbitrator paid from the Fund, although other costs are borne by Partners (Partners Agreement Article 99, 100)	Paid from the Fund	Paid from the Fund	Paid by sponsors (PBSA ss. 62(9))	Paid from the fund	Paid through fee levied upon employers and members (s. 28)
Application and issue?	Has not been used (<i>No confirmation</i>)	Has not been used (confirmed by Lee Fullerton - Director, Communications & Media Relations)	Has not been used (confirmed by Assistant Policy Director, Bob Breens)		Has not been used (<i>No confirmation</i>)	N/A	Not set up yet
Other Features -Restrictions on Plan Design?	DB – but not restricted by statute	Must be DB (Teachers' Pension Act, s. 2(2))	DB – but not restricted by statute	DB – but not restricted by statute	DB – but not restricted by statute	DB – but not restricted by statute	Must be DB (s. 9)
-Funding Targets?	No specified targets	Policy position is to target 1.07% (confirmed by Lee Fullerton - Director, Communications & Media Relations)	No specified targets Benchmark Policy set by Trustees (SIP&P article 4.02)	No specified targets	No specified targets	No specified targets	Ratio of the market value of assets to liabilities is not less than 1.05 and the ratio of solvency assets to solvency liabilities is not less than 1.00 (s.15)
-Supplemental Plans	No	No	No	No	No	Yes – implemented by AUMA – a LAPP sponsor – supplements LAPP basic benefits – fills 0.6% offset (up to YMPE) – prospective basis only	Yes (s. 4) – allows for 2.33% accrual for public safety personnel (prospective only), as well as other optional benefits that can be provided under the ITA (on a prospective and/or retroactive basis)

Appendix D: Municipal responses to Bill 206 OMERS

Addington Highlands, Township	November 9, 2005
Alnwick, Township	November 17, 2005
Aylmer Police Services Board	November 14, 2005
Bancroft, Town	November 10, 2005
Bayham, Municipality	November 8, 2005
Belleville, City	November 16, 2005
Bracebridge, Town	October 27, 2005
Bradford West Gwillimbury, Town	November 9, 2005
Callander, Municipality	November 8, 2005
Cambridge, City	November 3, 2005
Carling, Township	November 10, 2005
Cavan-Millbrook-North Monaghan, Township	November 8, 2005
Centre Hastings, Municipality	October 31, 2005
Chapleau, Township	November 14, 2005
Clarington, Municipality	November 15, 2005
Cramahe, Township	November 3, 2005
Dufferin, County	November 15, 2005
Durham Regional Police Services Board	October 11, 2005
Ear Falls, Township	November 3, 2005
East Ferris, Township	October 13, 2005
East Gwillimbury, Town	November 15, 2005
East Hawkesbury, Municipality	November 14, 2005
Eastern Ontario Wardens' Caucus	October 7, 2005

Edwardsburgh/Cardinal, Township	November 11, 2005
Elgin, County	November 9, 2005
Faraday, Township	November 2, 2005
Fort Erie, Town	November 16, 2005
Galway-Cavenish and Harvey, Township	November 10, 2005
Gananoque, Town	November 1, 2005
Georgian Bluffs, Township	November 3, 2005
Georgina, Town	November 11, 2005
Greater Napanee, Town	November 1, 2005
Greater Sudbury, City	November 15, 2005
Grimsby, Town	November 11, 2005
Guelph/Eramosa, Township	November 8, 2005
Halton Hills, Town	November 7, 2005
Halton, Region	November 16, 2005
Hamilton, Township	November 3, 2005
Hanover, Town	November 8, 2005
Hornepayne, Township	October 27, 2005
Huntsville, Town	November 2, 2005
Huron East, Municipality	November 3, 2005
Innisfil, Town	October 28/Nov 10, 2005
Kincardine, Municipality	November 7, 2005
Lanark Highlands, Township	Oct 14/Nov 15, 2005
Laurentian Hills, Town	November 15, 2005
Lucan Biddulph, Township	November 11, 2005

Macdonald, Meredith & Aberdeen Additional, Township	November 8, 2005
Marmora and Lake, Municipality	November 3, 2005
Mississauga, City	November 9, 2005
Mississippi Mills, Town	November 11, 2005
The Nation, Municipality	November 11, 2005
Newmarket, Town	November 15, 2005
Niagara Region Police Services Board	November 1, 2005
Niagara-on-the-Lake, Town	November 22, 2005
North Bay, City	November 15, 2005
North Bay, City	October 11, 2005
North Frontenac, Township	November 14, 2005
North Huron, Township	November 11, 2005
North Middlesex, Municipality	November 8, 2005
North Perth, Municipality	October 14, 2005
Orangeville, Town	November 9, 2005
Otonabee-South Monaghan, Township	November 10, 2005
Owen Sound Police Services Board	November 10, 2005
Owen Sound, City	November 10, 2005
Oxford, County	November 10, 2005
Parry Sound, District	November 15, 2005
Pelham, Town	November 11, 2005
Perth East, Township	November 2, 2005
Perth South, Township	November 4, 2005
Peterborough, City	November 10, 2005

Port Hope, Municipality	November 9, 2005
Quinte West, City	November 9, 2005
Ramara, Township	November 1, 2005
Rideau Lakes, Township	November 14, 2005
Sioux Narrows-Nestor Falls, Township	November 2, 2005
Smith Falls, Town	October 4, 2005
Smith-Ennismore-Lakefield, Township	November 10, 2005
South Dundas, Township	November 4, 2005
South Frontenac, Township	November 3, 2005
South Stormont, Township	November 10, 2005
South-West Oxford, Township	November 8, 2005
St. Joseph, Township	November 4, 2005
Stirling-Rawdon, Township	November 11, 2005
Temiskaming Shores, City	November 16, 2005
Thames Centre, Municipality	November 9, 2005
Thorold, City	November 3, 2005
Timmins Police Services Board	November 3, 2005
Timmins, City	November 11, 2005
Warwick, Township	November 3, 2005
Wellington North, Township	November 8, 2005
West Nipissing, Municipality	November 1, 2005
West Perth, Municipality	June 6, 2005
Wilmot, Township	November 10, 2005
Woodstock, City	November 4, 2005

Appendix E: AMO Model Resolution on Bill 206

WHEREAS the provincial Standing Committee on General Government is currently debating Bill 206, *An Act to revise the Ontario Municipal Employees Retirement System Act*; and,

WHEREAS the OMERS pension fund is currently equal to approximately 8% of Ontario's annual GDP; and,

WHEREAS the OMERS pension fund serves approximately 900 employers and 355,000 diverse employee groups including: current and former employees of municipal governments; school boards; libraries; police and fire departments; children's aid societies; and, electricity distribution companies; and,

WHEREAS Ontario's municipalities and their employees depend on the prudent management of the \$36 Billion plan and to ensure that employees and employers are paying for benefits they can afford; and,

WHEREAS OMERS employer and employee members are facing an increase in OMERS contributions in 2006 of approximately 9% as a result of a significant deficit in the OMERS fund; and,

WHEREAS the Bill includes significant, potentially costly and unnecessary changes to the governance structure of OMERS including a Sponsors Corporation structured to be governed by arbitration; and,

WHEREAS the Bill would permit the creation of expensive supplementary plans to provide optional enhanced benefits that will impose new collective bargaining obligations on municipalities, the operating costs of which cannot yet be fully assessed; and,

WHEREAS the Province has a responsibility to study the potential impact of the changes it is proposing and to share the results with employers and employee groups; and,

WHEREAS AMO and others have urged the government to consider the potential implications of Bill 206 and to ensure the proposed policy changes protect the interests of employers, employees and taxpayers; and,

WHEREAS the Government is moving in haste with a Bill, which in its current form raises significant technical, public policy and economic issues;

THEREFORE BE IT RESOLVED THAT (Name of municipality) does not support Bill 206, and requests the that the Government of Ontario reconsider the advisability of proceeding with Bill 206 in its current form; and,

FURTHER BE IT RESOLVED THAT (Name of Local MPP), the Honourable John Gerretsen, Minister of Municipal Affairs and Housing, the Honourable Dalton McGuinty, Premier of Ontario, and the Association of Municipalities of Ontario be advised that this Council does not support proposed changes to the OMERS pension fund contained in Bill 206.