

16. Pensions

Our goal is to ensure a decent standard of living for everyone in their retirement years. It is with that goal in mind that we evaluate the latest attempt by the government to amend pension legislation in Ontario.

The Pension amendments, government's Bill 198, would have fundamentally altered the legal landscape regarding pension surpluses in favour of employers. A key source of pension surpluses is the failure of most pension plans to index benefits to retirees. Even with an inflation rate of two percent, an unindexed pension loses almost forty percent of its value over 25 years, so an unindexed pension is simply a transfer of wealth from retirees to their former employers.

Bill 198 would have allowed employers to unilaterally (on the basis of undisclosed prescribed criteria and documents) to withdraw pension surpluses without the consent of plan members, or any requirement to provide indexing. Even in the 1990s, where stock market inflation made large surpluses common, such amendments would have been ill-considered and unfair, but today, in the light of the dramatic drop in pension fund asset values, they would be the height of foolishness.

Over the last decade, surpluses have generally been shared on the basis of negotiations and mutual agreement between plan members and employers. In the current system, employers already have undue access to surplus because of their ability to control the surplus application process. The defeated provisions of Bill 198 would not only have made a substantial shift of the balance of power over surpluses to employers, but it would also have undermined the current system of negotiated settlements, and brought many more surplus cases to the courts.

The most outrageous part of the defeated legislation was the punitive retroactivity provisions concerning the distribution of surplus on partial wind-up (the "Monsanto case"), which would have taken millions of dollars from thousands of Ontario workers who had gone through a workplace shutdown.

Far from moving toward improvements for plan members, the conservative government's amendments moved in the opposite direction.

Recommendations for A People's Charter:

- ***To protect pension security, we need indexing to protect pensions from inflationary erosion.***

- *To protect pensions from greedy and incompetent corporate officers, we need to change the governance provisions for single-employer pension plans, requiring that such plans be administered by a pension committee at arm's length from the employer, to whom the plan actuary must report.*
- *To protect pensions from corporate raiding, members' rights to surplus must be explicitly recognized in the Pension Benefit Act, and that there be clear prohibitions on employer contribution holidays and access to surplus where this would undermine pension security.*
- *To protect pensions from employer insolvencies, the coverage limits of the Pension Benefit Guarantee Fund (PBGF) must be increased, at least to take account of wage and pension increases since the Fund was first introduced.*