

TO: UBCM Members

FROM: Member Services Committee
Mayor Frank Leonard, Chair
Director Ann Hancock
Chair Hans Cunningham

DATE: August 31, 1999

RE: **OPTIONS FOR JOINT TRUSTEESHIP
NEGOTIATIONS**

**POLICY
PAPER
#4**

1999 Convention

1. DECISION

A decision is required regarding local government involvement in any joint trusteeship negotiations respecting the Municipal Pension Plan.¹ Elements of that decision involve:

- options for the appointment of joint trusteeship negotiators,
- how mandates for joint trusteeship negotiations would be developed and approved; and
- how any recommended joint trusteeship agreement would be ratified by local government employers.

This report begins with a summary of how local government, through the UBCM, has been involved in the governance of the Municipal Pension Plan in the recent past and its current involvement. It outlines the joint trusteeship concept as an alternative to the current organization and what new legislation provides for in terms of how negotiations of a joint trusteeship agreement could be understood and what would be contained in such an agreement. Finally, it considers how local government might be involved in joint trusteeship negotiations and makes recommendations in that regard.

2. LOCAL GOVERNMENT REPRESENTATION IN PENSION GOVERNANCE

Background/Historical

Almost all decisions regarding the Municipal Pension Plan have historically been made by the provincial government. For instance:

- until 1999, the legislature approved most plan rules and statutory contribution rates.
- the Minister responsible and Treasury Board essentially approved the budget and staffing.

¹ The Municipal Pension Plan (MPP) is a defined benefit plan open to all eligible employees in local government, health care and education (non-teaching staff). The Plan covers 105,164 active contributors (30% are in local government), 18,440 inactive or vested and deferred employees (members no longer employed but with money in the plan) and 28,494 pensioners. Total assets were \$11.0 billion as at Dec. 31/97 and employers contributed \$273.6 million to the basic account in 1997 (weighted average of all employers contributions is approximately 7% of payroll). (Note: All figures are as at Dec. 31/97, the date of the last released annual reports).

- Cabinet appointed the Commissioner who was the sole trustee.

Since 1994, the municipal pension statute made provisions for a Municipal Pension Board but their function was largely to provide advice to the Commissioner or to Treasury Board/Cabinet. The board did not have decision-making authority and therefore was not directly accountable for the consequences of decisions made.

UBCM has had a representative on this Board; the Executive makes that appointment. Pension matters are reviewed through the UBCM Member Services Committee before consideration by the Executive. The UBCM representative keeps the Executive advised and seeks direction where appropriate through this Committee. The UBCM membership are informed by UBCM through newsletter articles or special circulars. The Superannuation Commission also has its own communications functions (plan member and employer). Presentations have been made over the years to employee groups (excluded) and contact is made with MOA/GFOA Pension Committee or members.

UBCM members were involved in a pension study that was considered at the UBCM Convention in 1995, 1996 and 1998.

“Current” arrangements under new Act.

The Public Sector Pension Plan legislation of 1999 made changes to the Municipal Pension Board but its role still remains essentially advisory. The board size expanded to 13 including the Chair. UBCM remains the representative of municipal and regional district employers but now has two board positions. This board will come in to place when the plan rules are established in regulation (around March/April 2000).

The new legislation also provides for the establishment of British Columbia Investment Corporation and the British Columbia Pension Corporation, each governed by a board composed of members of the four public sector pension plans. There is a consequence of these moves and that is real and potential increased time demands on UBCM representation.

Some of the changed Board responsibilities include:

- must make recommendations on changes or amendments to plan rules (this will be a major task as plan rules move to new regulations);
- approve, in whole or in part and with or without modifications, the annual budget for pension administration and investment activities;
- nominate members of the board to the boards of the pension corporation and the investment management corporation.

The UBCM Executive does not propose changing the existing nomination and reporting structure for the representatives on the re-formed board. The UBCM Executive will examine time demands and desired qualification of its nominees. However, the Executive intends to continue to make nominations to Cabinet for appointments.

Future Arrangements for Joint Trusteeship

The 1999 legislation also provides that the governance of the Municipal Pension Plan may move to a joint trusteeship model.

What is joint trusteeship?

A final section of Schedule B (the Municipal Plan specific provisions) to the new Public Sector Pension Plans Act² contains a framework under which negotiations could be conducted to move the plan into joint trusteeship. Joint Trusteeship means that government would no longer be the plan sponsor. In joint trusteeship, responsibilities for all aspects of plan management would be shared equally among employers and plan members.

Fundamental to a joint management (trusteeship) agreement is a set of negotiations among defined parties. This section of Schedule B describes the four parties (partners) to the negotiations, the trigger for negotiations and specifies that a joint management (trusteeship) agreement must be unanimously agreed upon. The partners are the plan employer partners and the plan member partner.

The plan member partner means the unions represented by the Municipal Employees Pension Committee (MEPC).

The plan employer partners would be the government of British Columbia, the municipal governments, including regional districts, as represented by UBCM and health sector employers as represented by the Health Employers Association of BC. The legislation leaves it to the various parties to determine their own internal ratification processes.

Under joint trusteeship a management board (the composition of which would have to be negotiated) would be responsible for all major decisions. A joint management agreement would provide for the composition of the board of trustees of the pension plan, including the appointment of trustees and the delineation of their powers, functions and duties.

Many plans have moved to joint trusteeship in other provincial jurisdictions. Two of the more successful joint trusteeship plans in Ontario are the Ontario Municipal Employees Retirement System (OMERS) and the Hospitals of Ontario Pension Plan (HOOP).

This paper is directed at the matters that local government should consider if it is to organize and be represented in any such negotiations. It is not about municipal employer organization and representation on any resultant management board – those considerations would come later as part of the process to prepare for negotiations.

² The new Act combines the four major public sector plans (College, Municipal, Public Service & Teachers') into one statute. It provides a separate schedule for each plan that describes the powers, functions, duties and legal capacity of the Board, appeals to the Board, plan administration and investment, indemnification, fund information, financial administration, investments, appointment of actuary and auditor, surplus and unfunded liability, regulations establishing plan rules, application of plan rules and joint trusteeship.

If joint trusteeship negotiations are triggered, local government will have to consider the following decisions:

- to participate in the negotiations.
- to appoint negotiators and support structure.
- to approve a mandate for negotiations dealing with the topics to be included in the agreement
- to develop and approve ongoing process for appointing and directing management board representatives (off-line).
- to ratify a Joint Trusteeship Agreement (and subject to major negotiations, ratify amendments).

Joint Management Agreement

The partners may enter into a unanimous Joint Management Agreement that provides for, but is not limited to, all of the following:

- the continuation of the pension plan and pension fund for the benefit of plan members;
- the joint management of the pension plan and the pension fund;
- establishing who will manage the agreement;
- the establishment of an arrangement to hold and invest the pension fund;
- the composition of the board of trustees of the pension plan, including the appointment of trustees and the delineation of their powers, functions and duties;
- the sharing by employers and plan members of gains and surplus and of liability for deficiencies in the pension fund;
- the method for amending the pension plan by agreement of the partners;
- the resolution of disputes and
- any other matter on which agreement is reached.

The partners must establish appropriate mechanisms whereby the views and interests of the plan members who are

• non-unionized/excluded employees, and

• retirees,

are fairly represented in the negotiation of the agreement.

The pension plan continued under the agreement must provide for all of the following:

- employer and employee eligibility to participate in the pension plan;
- employer and plan member contributions to the pension fund;
- pensionable service, including the calculation of pensions, purchase of service, reinstatement and portability;
- eligibility to receive a benefit and the determination of the amount of that benefit;
- benefits on termination, early retirement, normal retirement, late retirement, disability retirement and pre-retirement death;
- post retirement group benefits;
- pension indexing;
- general administrative requirements;
- supplemental benefits;

- continued recognition of any rights vested in a plan member or beneficiary, in the same manner and to the same extent as provided under the pension plan and
- any matter necessary or advisable to establish the pension plan rules.

Participation as a Trustee would bring direct responsibility for investments of the Municipal Pension Plan assets. Any ratified agreement would replace the provisions in the current legislation for such matters.

The new Act provides one model for joint trusteeship, which the College Plan has embarked on.

3. OPTIONS

Any move to joint trusteeship would be a major step. It would be complicated by the complexity of membership in the Municipal Pension Plan – both from the number of different employee groups – organized and exempt and the number of employers. This is true as well within the local government sector with 180 separate employers.

The question to be considered is how might local government, some 180 independent municipalities and regional districts, organize themselves to be represented in such matters.

Two basic assumptions have been made:

- local government in general will want to be involved in any negotiations.
- local government must organize to be represented – all 180 local governments can't be directly participating in all aspects of the discussions. However, they can be involved in some of the important decisions but not in day to day negotiations; they will need to delegate responsibility.

Considering these two assumptions, four possible organizational options were identified.

1) Use and adapt the current UBCM structure. Under this option, the members would use the existing UBCM general assembly to approve the mandate for negotiations. The Executive would be trusted to manage the policy development and negotiation phase including appointment of negotiators. Members would ratify any recommended Joint Trust Agreement (JTA).

2) Municipal Employers Pension Association

Under this option, interested municipalities and regional districts would establish separate pension association (possibly as a society). Under this option, bylaws would set out all the operational structure and decision making authorities.

3) Municipal Pension Authority

Under this option, legislation would be requested to provide the basic purpose and framework. Municipalities and regional districts participation could be permissive or mandatory as is seen desirable. Legislation could provide for a governance structure.

4) Participation as Observer

Under this option, local governments would decline to exercise the authority to be full party to the negotiations but would participate as an "observer".

4. DISCUSSION OF OPTIONS

The last option minimizes resources needed to participate but is least effective in ensuring local government interests are represented. The legislation option (#3) would take time to establish, while it might provide a greater sense of permanence. The society option (#2) provides the added complication of having to establish a new organization but does separate the matter from UBCM especially if joint trusteeship is seen as the beginning of a move toward provincial wide bargaining of other matters. It is unclear who would initiate or fund this initial work.

Using the existing UBCM structure, adapting it as necessary and clearly establishing roles and responsibilities would appear to be the best option if the process is generally understood by members. A close precedent is the establishment of the Municipal Insurance Association. UBCM members approved and funded that work, the Executive over-saw the development of the proposal and it was then considered by members.

The following scenario illustrates how those roles and responsibilities under the UBCM auspices model might unfold:

- Executive establishes employer's steering committee. (ESC)
- Establish mandate team.
- Develop mandate; consult members, approved by ESC.
- Present to local government for approval.
- Proceed with joint trusteeship negotiations (iterative process of seeking confirmation with ESC as required).
- Negotiator initials JTA and recommend to ESC.
- ESC presents to members.
- Members ratify.

5. RECOMMENDATIONS

- that UBCM be accepted as representative on any joint trusteeship negotiations.
- that UBCM organizational structure be the basic framework to decision making.
- that its members be involved in approving any negotiating mandate and ratification of any recommended JTA (with regular majority).
- that Executive be responsible for:
 - ÿ development of a proposal mandate including consultation with members.
 - ÿ Presentation of mandate to members.
 - ÿ Representation during negotiations.
 - ÿ Presentation of recommended agreement.
- that Executive begins as a contingency to consider elements of mandate.