# Manitoba Federation of Labour Submission to the Government of Manitoba

*The Pension Benefits Act Review*

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**Manitoba Federation of Labour**

303-275 BROADWAY, WINNIPEG MB R3C 4M6|(204)-947-1400

## *The Pension Benefits Act Review*

The Manitoba Federation of Labour (MFL) is Manitoba's central labour body and represents the interests of more than 100,000 unionized workers. The MFL represents workers from the public and private sectors, and from workplaces as diverse as health and social services, manufacturing, retail, education, construction, natural resources, the arts and many others.

Every worker has the right to live in dignity after they retire from working life. Canada's pension system is set up to combine workplace pension plans with the Canada Pension Plan (CPP), Old Age Security (OAS), and Guaranteed Income Supplement (GIS) in supporting Canadians after they have retired from working life. Together, this system has made a profound impact on the diminishment of senior poverty rates in Canada. This is why the labour movement has consistently fought for expanded retirement supports like the CPP as well as to protect and extend workplace pension plans. We also know that without robust retirement security options, retired workers are often forced to rely on social supports like the GIS, which increases the costs borne by government.

The Manitoba Federation of Labour appreciates the opportunity to provide input on the Government of Manitoba's review of *The Pension Benefits Act* (PBA). The labour movement has always fought for workers to be able to retire with dignity and security after a lifetime of hard work. Strong pension plans are the backbone of retirement security for Manitobans and all Canadians. The goal of this PBA review process should be for the provincial government to strengthen retirement security for working Manitobans.

The MFL believes that this PBA review should strive to accomplish three overarching goals:

1. Protecting existing workplace pension plans in both the public and private sectors and ensuring that any legislative changes do not allow employers to convert existing pension plans to weaker ones;
2. Enhancing retirement security by extending strong pension plans to more Manitoba workers; and
3. Ensuring that Manitoba advocate for national approaches to strengthening retirement security for all workers.

During the 2016 provincial election campaign, the Progressive Conservative Party pledged that if they formed government they would not make changes to public sector pension plans. Recently, the Minister of Finance appears to have soften this stance, stating only that this government has "no plans" to change public service pension plans. At the same time, the Minister of Finance has also said that this government "cares about pensions and defined benefit pensions, we care that Manitobans have access to a strong and stable retirement."

The MFL agrees with the Minister's current support of Defined Benefit (DB) pension plans, but some of the 'discussion questions' that the provincial government has included in its consultation paper (e.g. whether DB should be converted into weaker plans? whether pension benefit changes should be applied retroactively to members who already earned defined benefits? whether membership in pension plans should be made voluntary?) raises serious concerns about whether or not this government is truly focused on protecting and strengthening retirement security for Manitoba workers. The MFL is concerned that this is not the goal that the provincial government has in mind, but rather that it is contemplating changes that would reduce pension risks for employers, at the expense of significantly weakened pension benefits and retirement security for Manitoba workers.

## The Goal: Pension Plan Stability and Retirement Security

Ensuring the stability of existing pension plans and expanding access to pension benefits so all working families can retire with dignity and financial security should be the focus of any review or changes to The PBA. DB plans ensure that the employer and employee contribute to the pension plan which pays an employee a set monthly amount upon retirement, guaranteed for life or the joint lives of the member and spouse. The amount paid is normally calculated using a formula that takes into account the participant's years of service and retirement age. Benefit amounts are usually either a flat amount per month per year of service or an amount based on earnings prior to retirement. DB plans provide strong retirement security for plan members, and as the Minister of Finance has pointed out with respect to public sector DB plans, "these plans are stable and they are backed by the government."

A recent study by CCPA Manitoba, authored by pension specialist Hugh Mackenzie, demonstrates that DB plans have lower fees, better returns, and lower overall risk than Defined Contribution (DC) plans, and consistently outperform DC plans on a comparable basis. By pooling longevity and asset risk, DB plans do a better job than DC plans of protecting pension plans and benefits for plan members. The study also reflects on the unfortunate reality that private sector workers are especially under-represented in terms of workplace pension plans, and especially under-represented in terms of DB plans.

DB plans outperform DC plans, partly because of differences in the fees charged and the fact that DC plans have to invest more conservatively and therefore earn a lower return. The overwhelming advantage of DB plans comes from pooling longevity risk and asset risk. In other words, DB plans are better placed to protect pensioners regardless of how long they live and DB plans can maintain a stable mix of assets that protect against market volatility.

Given the superior performance of DB plans, it is unfortunate that so few private sector workers have access to them. According to the CCPA report, as of 2015 only 26 per cent of Manitoban private sector workers had a pension and two-thirds of those plans were DC plans. Only one in ten private sector workers has a DB plan. As of 2015, 89 per cent of Manitoba's public sector workers were covered by a pension plan, with 77 per cent in DB plans and 12 per cent in DC plans. The MFL believes strongly that DB plans should be protected, and that the government should work to encourage more workplace DB plans.

Governments in many other jurisdictions continue to look at converting DB plans to DC plans under the auspices of savings to public sector employers, done nonetheless at the expense of employees' retirement security. While the Government of Manitoba is currently reassuring pension plan members that they will live up to their promise and that they have no plans to make changes to DB plans in the public sector, we are concerned that the government's discussion paper seems to open the door to the consideration of conversion, even retroactively.

In particular, we are concerned that this government seems to be contemplating changes that would allow employers to dismantle existing DB plans, primarily in the public sector, and replace them with Target Benefit (TB) plans, with no guarantee that the pension provided at retirement will equal the target amount. This shows a fundamental misunderstanding of the significant performance advantages of existing DB plans, not only in terms of benefits for plan members, but also in terms of efficiency, reduced risks and predictability.

We need only to look to our neighbours in Saskatchewan to see how conversion to weaker pension plans does not help strengthen retirement security or aid provincial finances. The Government of Saskatchewan converted the pension plan for its employees from a DB to a DC plan, effective in 1977. In examining the fallout from Saskatchewan's decision, Mackenzie demonstrates that conversion not only severely

weakened benefits for employees, but also that it did not deliver the assumed savings for government, and may actually end up increasing costs for the employer.

In fact, if the Manitoba government were to convert DB plans to DC, benefits paid would decrease dramatically, with no corresponding savings to the government. As Mackenzie reports, based on the experience of Alaska, Michigan, West Virginia, Nebraska and Saskatchewan when they forced conversion from DB to DC plans, the term pre-existing unfunded liabilities would continue to grow for decades and the cost to the government would almost certainly increase. The states of Minnesota, Wisconsin, Nevada, Texas and New York City have all considered converting from DB to DC plans, but they all found that it would have cost the employer too much and would have delivered insufficient retirement income to their employees. As a result, none made the switch.

Conversion to weaker plans would result in major cuts to retirement benefits for Manitoba's dedicated public sector workers. Retirement benefits are an important source of income in the economy, and removing them would have significant local impacts beyond retirees and their families. Additionally, stronger retirement plans also lead to cost savings in other areas of government by lessening the reliance on social supports like the GIS and Rent Assist. A recent study by the Boston Consulting group found that retirees with DB pension plans are far less likely to rely on the federal government's GIS and that they provide important stimulus to the economy, with spending by pension recipients equating to between $56 – $63 billion/year nationally.

## New Plan Designs: Urging Caution on Target Benefit Plans

The government's consultation paper specifically asks for feedback on the idea of introducing a framework to better enable TB pension plans, which may include single-employer and multi-employer plans, as well as private sector and public sector plans. The MFL would oppose an approach that pursues this as a strategy to force conversion of existing DB plans into weaker plans that reduce benefits for plan members. Converting

from DB to TB plans, no matter how efficiently managed they are or how sophisticated the modelling is, represents a loss of retirement security for plan members. The MFL also adamantly opposes any consideration of applying these dramatic changes retroactively, eroding the already earned pension benefits of retirees. Allowing retroactive conversion of DB benefits to TB plans would be profoundly unfair to the workers who were promised DB plans. Manitobans believe that a deal is a deal, and retroactive conversion would be a violation of the deals made between employers and workers.

Exploring a framework for single-employer target-benefit pension plans would be a risky and irresponsible step. Compared to existing DB plans, TB plans expose plan members – and this potentially includes both working and retired members – to significantly more risk in their retirement income. Under TB plans, employer liability is limited to a fixed contribution amount (similar to a DC plan), with the actual benefit determined based on affordability. TB plans are particularly risky and unstable in a single-employer, shared risk environment.

Converting high-performing DB plans into TB plans effectively allows employers to break their pension promise to workers, enabling them to walk away from their existing legal obligations to deliver already promised pension benefits and resulting in a shifting of the market risk from employers onto plan members. In the context of converting from DB, this is fundamentally unfair, and especially so when TB plans are imposed retroactively on retired plan members who already earned, paid for, and were promised defined benefit pensions.

Conversion has been met with political and legal challenges, as workers fight to maintain their hard-won retirement benefits. It is notable that when New Brunswick moved to impose conversion of DB plans to weaker plans, they were met with immediate legal challenges, after workers were misled, misinformed, and bullied into conversion. It is also interesting that after initially introducing legislation to allow a weakening of DB plans into TB in the federal sector last year, the Trudeau government now seems to have

responded to the national backlash to this assault on DB plans by putting their scheme on ice.

DB plans remain the single best mechanism for providing secure and predictable retirement incomes for workers. In areas in which DB plans do not exist, and are unlikely to exist - such as industries characterized by small workplaces and a high rate of employer entry and exit, and where single-employer plans are not feasible and there is no realistic ability of the employer to make up funding shortfalls - multi-employer pension plans (MEPPs) could be made more readily available to employers and employees without workplace plans.

There is a growing and deeply concerning trend of employers seeking to convert DB plans into TB plans, which has the potential to fuel labour disputes, as employers are incented to pressure workers to surrender the pension benefits they've already earned. They also have the potential to cause major splits within bargaining units, as employers may opt to try to pit active members against retirees with conversion incentives.

TB plans may have some applicability in instances where unionized workers are seeking to negotiate the establishment of a pension plan where one does not currently exist. Consideration of a Target Benefit model should be limited to instances where plans are collectively bargained, worker-controlled and multi-employer to ensure pool risk and better retirement security for workers.

## Changing Solvency Rules

The government is also promoting the idea of changing Manitoba's solvency rules to require solvency funding only if a plan's solvency ratio is below a threshold of 85 per cent, and at the same time require enhanced going concern funding. This would represent a significant change from Manitoba's current requirement of solvency funding at a 100 per cent ratio level, intended to protect workers' future pension benefits. It is

important to note that a number of public DB plans are currently exempt from solvency requirements, as there is no reasonable prospect of plan wind-up, and we would expect that this exemption be continued.

With respect to plans with solvency requirements, the provincial government is positioning the current 100 per cent requirement as placing an undue burden on plan sponsors, leading to the wind-up or conversion of DB plans into DC plans, with inferior benefits for plan members. There is no doubt that market fluctuations have presented challenging circumstance for some pension plans with respect to solvency. However, eliminating solvency requirements altogether could open the flood gates to allowing plans to run chronic deficits, thereby putting current and future pension incomes at great risk. The MFL urges the provincial government to work cooperatively with any pension plan that may find itself in temporary distress due to market fluctuations to provide appropriate solvency relief options, subject to approval from plan members.

We have also seen with companies like Sears and Nortel that the interests of workers and pensioners are put at the back of the line when companies go under. We encourage the Government of Manitoba to work proactively with other provinces and the federal government to create a Canada-wide mandatory pension insurance system so that people who have paid into a workplace pension plan are not robbed of their retirement security when companies go bankrupt.

Additionally, we call on Manitoba to champion the long overdue need for the federal government to raise the cap on DB plan funding, as provided in *The Income Tax Act*, so as to allow greater flexibility to prepare for and withstand market downturns.

## Locking-in Provisions

As a rule, workers are almost always financially better off if they leave their retirement income locked-in until retirement. This is especially true with respect to pension benefits.

Unlocking retirement funds can be very dangerous to individual plan members, leaving workers exposed to inadequate, or even poverty-level retirement income in their later years. The government's consultation paper floats the idea of loosening unlocking provisions for Locked-In Retirement Accounts and Life Income Funds in the case of financial hardship, which might include rental arrears, foreclosure, and medical/dental expenses.

Making it easier for workers to unlock these funds raises the likelihood that retirement income may not extend as planned through retirement. We have concerns that the government's motivation for the expansion of unlocking is rooted in freeing up a larger portion of secure pension funds for access by the private investment industry and shifting financial liabilities away from government and employers.

While we certainly acknowledge that there may be specific cases of severe financial hardship which may warrant some unlocking, the risks associated with depleting one's retirement income prematurely and the required investment and financial planning knowledge required to mitigate such losses would likely not be available to the average person should they choose to unlock their pension. We recommend that the government educate working people about the financial advantages of leaving retirement funds in place for retirement, and only permitting unlocking of retirement funds in cases of extreme financial hardship.

The MFL is unequivocal that any changes to unlocking provisions would have to meet a high threshold for determining the existence of financial hardship, and that labour would have to be a part of the determination of what constitutes financial hardship, including worker representatives from labour with pension expertise helping to define what constitutes financial hardship to ensure that the rules are in the best interests of workers.

Moreover, in exceptional circumstances when unlocking is to be permitted, we urge government to provide a clear path for workers to be able to "buy-back" any lost time

and re-qualify for future benefits. Government should consider a low cap on unlocked funds so as to help ensure that workers are not sabotaged for the future.

## Compulsory Plan Membership

While the provincial government does not appear to be making an active recommendation to back away from compulsory plan membership at this time, we are concerned that they have even raised the topic for discussion. Any consideration of ripping up the long-standing principle of compulsory membership (more appropriately called automatic benefit) in workplace pension plans is absurd and grossly unfair.

After all, pensions are deferred earnings. They are part of a worker's overall wage bundle: part of that bundle comes in the form of your bi-weekly pay cheque to spend on the things workers and their families need now, and the other part of the bundle –pension contributions – comes in the form of savings put aside for a guaranteed pension benefit in retirement. Pensions are crucially important to the well-being of workers and their families in retirement, and to the economic health and vitality of our communities as well.

For those without workplace pension plans, RRSPs and other private savings plans are often touted as a vehicle for building retirement savings. However, these private saving methods are overwhelming used by higher income earners. Furthermore, Canadians with pension plans are more likely to contribute to RRSPs than those without. RRSP contributions are complicated by other factors, such as the availability of disposable income to place into an RRSP and the staggeringly high fees that Canadians pay for mutual funds.

RRSPs and other private voluntary schemes have proven to be severely inadequate to properly support the vast majority of working families in retirement. For example, while representing 13 per cent of all tax filers, Canadians making $80,000 or more account for

more than 60 per cent of all RRSP contributions. Mandatory pension plans are the most important vehicle to ensure that working families can retire with dignity and security after a lifetime of hard work.

That's why Canada's unions have pushed for so long to expand the CPP. The CPP is not just the main way most workers save for retirement out of their employment earnings, it is the only way that millions of Canadian workers put aside a portion of their wages for retirement. And while the labour movement is glad that the provinces and federal government were finally able to reach an agreement to enhance the CPP, very real inequities exist in the enhanced CPP agreement that will disadvantage parents who take time off to raise children – primarily women – and workers who become severely and chronically disabled.

Prior to its expansion, these two categories of workers could exclude, or "drop out" periods of low and zero earnings from the calculation of their retirement benefit. Inexplicably, these provisions were not rolled over into the recent CPP expansion. Manitoba's labour movement urges both the provincial and federal governments to take leadership roles within the country to resolve these inequities that will primarily hurt women and the disabled.

We also continue to call on both levels of government to push for cross-country support to further strengthen the retirement security of all Canadians by increasing the CPP income replacement rate further, raising the ceiling on pensionable earnings and further enhancing the portion of employee contributions that are tax-deductible.

## Division of Pensions on Relationship Breakdown

Currently, under The PBA, where there is a court order under the Family Property Act or a written agreement regarding the division of family property, administrators must divide the pension or pension benefit accumulated during a marriage or common law relationship on a 50/50 basis. This provision was put in place with the goal of protecting both spouses, and especially women who tend to have less pensionable earnings, in their retirement. This is an extremely important objective, and we are concerned that in looking at changing this rule, the government is not proposing safeguards to ensure that:

- Both spouses clearly understand the full value of the pension(s) in question;
- Pension plans are required to provide pension value calculations free-of-charge to plan members; and
- Spouses are not pressured, bullied or manipulated into trading pension benefits for lesser value assets, exposing them to inadequate retirement income in the future.

We recommend that as the government considers this aspect of the review, these necessary safeguards govern any changes that are enacted.

## Conclusion

The MFL appreciates the opportunity to provide advice to Government as it continues with its review of the PBA. We hope that this government lives up to its promise and means what it says when it states that it has no plans to change Manitoba's high performing public plans. We also hope that this government will take serious steps at extending and enhancing retirement security to more working Manitobans. As it stands, far too many workers are facing difficulty making ends meet, let alone able to save adequately for retirement. Ensuring more workers have access to strong, well performing, and sustainable workplace pension plans would help to alleviate the stress

and anxiety that far too many working families face as they near the end of their working lives.

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