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Official Report of Debates (Hansard)

Wednesday 7 December 2005

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Mercredi 7 décembre 2005

**Standing committee on
general government**

Ontario Municipal Employees
Retirement System Act, 2005

**Comité permanent des
affaires gouvernementales**

Loi de 2005
sur le régime de retraite
des employés municipaux
de l'Ontario

Chair: Linda Jeffrey
Clerk: Tonia Grannum

Présidente : Linda Jeffrey
Greffière : Tonia Grannum

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Wednesday 7 December 2005

Mercredi 7 décembre 2005

The committee met at 1601 in room 151.

**ONTARIO MUNICIPAL EMPLOYEES
RETIREMENT SYSTEM ACT, 2005**

**LOI DE 2005
SUR LE RÉGIME DE RETRAITE
DES EMPLOYÉS MUNICIPAUX
DE L'ONTARIO**

Consideration of Bill 206, An Act to revise the Ontario Municipal Employees Retirement System Act / Projet de loi 206, Loi révisant la Loi sur le régime de retraite des employés municipaux de l'Ontario.

The Chair (Mrs. Linda Jeffrey): The standing committee on general government is called to order. We meet this day to resume clause-by-clause consideration of Bill 206, An Act to revise the Ontario Municipal Employees Retirement System Act. We will now continue clause-by-clause consideration of the bill. I understand we left off at section 41 of the bill, and we are now dealing with amendment 42.

Mr. Duguid, I gather you're going to read the amendment into the record?

Mr. Brad Duguid (Scarborough Centre): I move that paragraph 4 of subsection 26(6) of the bill be struck out and the following substituted:

"4. The arbitrator shall not make a decision to increase benefits under the pension plans which would result in a total increase in any three-year period to the required contribution rate of more than 0.5% of the pensionable earnings of a member of any of the plans."

The Chair: Any comments or questions?

Mr. Ernie Hardeman (Oxford): For expediency's sake, Chair, I believe we did have the debate on this section; we just didn't have the vote on it.

The Chair: So we've had debate. No further comments or questions? Are the members ready to vote? All those in favour? All those opposed? That's carried.

Amendment 43, Ms. Horwath.

Ms. Andrea Horwath (Hamilton East): I move that section 27 of the bill be amended by striking out "that in the opinion of the administration corporation"—

The Chair: Ms. Horwath, can I interrupt you for just a second? Mr. Hardeman has a point of order.

Mr. Hardeman: On a point of order, Madam Chair: I don't remember voting on section 26, as amended.

The Clerk of the Committee (Ms. Tonia Grannum): We can't, because we stood down a motion on page 39a. We'll have to come back and deal with all the motions to section 26, and then vote on it.

Mr. Hardeman: Thank you.

Ms. Horwath: I move that section 27 of the bill be amended by striking out "that in the opinion of the administration corporation constitute fees and expenses of administering the pension plan" and substituting "incurred in relation to its activities under this act."

The Chair: Any comments or questions?

Mr. Hardeman: I wonder if I could get an explanation as to what the intent of the motion is to change. It seems considerably similar to the motion that's presently in the bill.

Ms. Horwath: I believe it's speaking to defining more clearly the issues around what the admin corporation is expected to cover off in regard to costs.

The Chair: Any further comments or questions? Seeing none, are the members ready to vote? All those in favour of the motion? All those opposed? That's lost.

Amendment 44, Mr. Duguid.

Mr. Duguid: I move that section 27 of the bill be struck out and the following substituted:

"Recovery of certain fees and expenses

"27. The sponsors corporation may require the administration corporation to reimburse it from the pension fund for the primary pension plan for any of its costs that in the opinion of the administration corporation may lawfully be paid out of a pension fund."

The Chair: Any comments or questions?

Mr. Hardeman: As this relates strictly to the ability of one corporation to bill for services on behalf of the other's responsibility, I wonder about the difference between this—a number of times we've had discussions about the government's commitment to the plan and how much they're willing to put in to facilitate implementation of the plan, or to put forward some direction in the bill that they are prepared to fund an unfunded liability that may presently exist in the plan, as was presented to us by the mayor of Mississauga, who suggested that there is at present quite an unfunded liability. It was suggested at the time by government that whether they were going to do that or not wouldn't be part of this bill, because that's just a matter of the government committing to certain monies and spending of monies, and that wouldn't be part of this bill. I wonder why this

section, then, directly relates to one corporation being able to bill another corporation for services rendered. Why is that required? Wouldn't that be automatic—that if it's the other corporation's services they require, they would pay for those services?

Mr. Duguid: It is a slight wording change so it more accurately reflects the need to abide by the law, the current acts. That's really all it is.

The Chair: Any further comments or questions? All those in favour of the amendment? All those opposed? That's carried.

Shall section 27, as amended, carry? All those in favour? All those opposed? That's carried.

Ms. Horwath, section 27.1.

Ms. Horwath: I move that the bill be amended by adding the following section:

“Arbitration

“27.1 In the event of a dispute concerning the nature of any of the costs incurred by the sponsors corporation that it seeks to have reimbursed under section 27, such a dispute shall be referred to an arbitrator.”

Mr. Hardeman: On a matter of procedure, Madam Chair: When we just approved section 27 as it is, would an amendment to add to section 27 be in order?

The Chair: I'm going to let the clerk answer that question.

The Clerk of the Committee: We're not adding to section 27. We're adding a new section after section 27. So if this were to carry—

Mr. Hardeman: We're adding a whole new section?

The Clerk of the Committee: Yes, the bill would be renumbered and this would become section 28 and then the renumbering would continue.

The Chair: It's actually happened earlier in the bill. You just maybe haven't noticed it, but it has happened previously.

Any questions on the amendment? All those in favour? All those opposed? That's lost.

Section 28, Mr. Duguid.

Mr. Duguid: I move that subsection 28(1) of the bill be struck out and the following substituted:

“Fees to fund other activities

“28(1) The sponsors corporation may, by bylaw, require the employers who participate in an OMERS pension plan and the members of an OMERS pension plan to pay a fee for the purpose of funding any of the sponsors corporation's costs that may not lawfully be paid out of a pension fund.”

The Chair: Any comments or questions? Seeing none, all those in favour? All those opposed? That's carried.

Shall section 28, as amended, carry? All those in favour? All those opposed? That's carried.

Section 29, Mr. Duguid.

Mr. Duguid: I move that subsection 29(3) of the bill be struck out and the following substituted:

“Administration corporation

“(3) The sponsors corporation may enter into an agreement described in subsection (1) only if the

administration corporation has agreed to act as an agent of the administrator of the pension plan or has agreed to manage the pension fund for the pension plan, as applicable, in accordance with the terms of the agreement.”

The Chair: Any comments or questions?

Mr. Hardeman: If I could ask the parliamentary assistant to explain that one, I'd appreciate it.

Mr. Duguid: When entering into agreements, it's important to have the advice from the fiduciary point of view, and this would ensure that that would happen.

The Chair: Any other comments or questions? Seeing none, all those in favour? All those opposed? That's carried.

Shall section 29, as amended, carry? All those in favour? All those opposed? That's carried.

Shall section 30 carry? All those in favour? All those opposed? That's carried.

Shall section 31 carry? All those in favour? All those opposed? That's carried.

Section 32, Ms. Horwath.

Ms. Horwath: I move that subsection 32(3) of the bill be struck out.

The Chair: Would you like to give us some explanation? I'm sure Mr. Hardeman would prefer that.

Mr. Tim Hudak (Erie–Lincoln): We all would, Chair.

1610

Ms. Horwath: This refers to the issue around the fiduciary responsibility of one corporation over the other. What we've been saying from the beginning of this process is that the administration corporation should have a broader mandate, other than just the corporate law, with regard to its responsibilities. By deleting the corporate law obligations, we then fall back to the Pension Benefits Act fiduciary responsibilities.

Mr. Hardeman: I wonder if we could ask the legal folks to explain what the impact of this would be, maybe by explaining why that section is in the bill and then the impact of removing it.

The Chair: Before you begin, please identify yourselves for Hansard.

Mr. Tom Melville: I'm Tom Melville, legal counsel, municipal affairs and housing. Subsection 32(3) essentially imports minimum corporate standards into the operations of the sponsors corporation, and each is as it states. For example, section 132, conflict of interest, refers to a provision in the Business Corporations Act dealing with potential conflicts of interests of directors, and similarly with 134(1), the standards of care for those directors. Indemnity is a little different; it would be a provision. It's more of an entitlement for directors to be indemnified in certain circumstances.

Is that sufficient to answer your question, or—

Mr. Hardeman: If I could just add, Chair, then by removing or striking out that section, what we're really saying is that we don't have any standard. The mover of the motion suggests that we don't want the corporate standard, but is it unreasonable to assume that if we didn't have a corporate standard, you would have to deal

with those issues in some other way? To deal with what would be the issue of a conflict of interest, and if it's not covered by the corporate standard, what standard is it covered by? Is that a fair assumption?

Mr. Melville: Yes. It's fair to say that these are minimum standards, and those standards could be exceeded, for example, by the standards prescribed in the Pension Benefits Act for a pension administrator, which would actually apply to the OMERS Administration Corporation. So there are higher standards in some cases. Also, the common law might apply and require even other standards to apply. But these are minimum standards in the event that, say, something that was in the common law or in the Pension Benefits Act did not apply.

Mr. Hardeman: But if the standards in the pension act are higher than these, does this mean that this board does not have to adhere to the higher standard?

Mr. Melville: I think it would be reasonable to take the position that they have to comply with the higher standard.

Mr. Hardeman: They would have to comply with the higher standard. So this is just a minimum. Taking it out will not increase any standards, and actually, if you took it right out, it would allow standards to go lower?

Mr. Melville: It could potentially allow standards to go lower if there were any area which was not dealt with under the Pension Benefits Act, let's say, or the common law.

Ms. Horwath: I would like to have a further explanation of the point you're trying to make: that by taking this out, standards would be lowered. I'm not sure what point you're trying to make. I'd prefer if I could get a better description of a situation you're thinking of to help me understand what your advice is.

Mr. Melville: I'm not sure if I can give a specific example, but in general, the Pension Benefits Act does prescribe a fiduciary standard of care for pension trustees, and the sponsors corporation would be a pension trustee under this proposed legislation. There may be other areas which deal with matters not directly related to pension administration—it's hard to be specific about what that might be—that would be covered by the provisions in the Business Corporations Act that are prescribed here. In addition, one of the provisions, as I mentioned, is more of an entitlement for directors for indemnification. It's again seen as part of a minimum package for corporate directors.

Ms. Horwath: If I can, just to reiterate why there was some concern about this entire issue: Again, it speaks to the decision that the government made in regard to how they've decided to structure the new, autonomous OMERS pension plan. I think this issue was spoken to earlier in the bill as well, and that's the idea that at this point in time, today, there are concerns about some of the previous investment decisions and some decisions that had been made previously by the people who have been managing the OMERS pension plan. What this amendment, and a number of other amendments related to it, is seeking to do is to make sure that the investment deci-

sions by the administration corporation are made with a view to the well-being of the plan members today and into the future, not just the narrow focus that's provided through the corporate law requirements but the broader fiduciary requirements that were seen under the Pension Benefits Act.

I'm not going to belabour the point, but there's one thing that's really important about why some of these amendments were put forward. It's because there is a significant concern about some of the things that have occurred in the past and the lack of redress of pension plan members in terms of these decisions that have negatively affected the assets of the plan. So what I've talked about through this entire process—and I won't continue to do this, because we're getting near the end of the process and I think everybody wants to move on and get through this clause-by-clause—the bottom line is that there is a desire, a need, a wish of many plan members, a large number of plan members, to make sure that there is some accountability built into the relationship between the admin corporation and the sponsors corporation. We don't see that in the way the government has decided to structure this plan, and we would like to see that addressed. This is yet another one of those amendments that would enable or allow for that greater oversight to occur.

The Chair: Any further debate? All those in favour of the amendment? All those opposed? That's lost.

Mr. Hardeman: On subsection (2), "The administration corporation is not a crown agency and it is not a local board as defined in subsection 1(1) of the Municipal Act": I wonder if staff could explain to me what that implies.

The Chair: Mr. Hardeman, can you tell me where you are?

Mr. Hardeman: Subsection 32(2). It's not an amendment. It's part of the section that will be the next vote.

The Chair: All right. I wasn't sure that staff knew where you were, because I didn't, unless they're telephatic.

Mr. Hardeman: I wonder if I can get an explanation of this, as to the difference between what the administration corporation is as it relates to not being a crown corporation. If it's not a local board as defined in subsection 1(1) of the Municipal Act, what is it?

Mr. Melville: The present OMERS board, I believe, is a schedule 3 crown agency. With the proposed transfer of the government's responsibility to the municipal sector, I believe that the government's position would be that it's no longer appropriate for that corporation to be a crown agency. That would reflect the first part of 32(2).

The second part, "not a local board as defined in ... the Municipal Act," would be, I believe, a clarification of the status of the corporation, that it could not be considered a local board—in other words, similar to an entity that could be established and is closely allied to a municipality. If it were to have local board status, that could affect its rights and obligations under the Municipal Act and other statutes. So it's a clarification.

Mr. Hardeman: We've had a recent situation with another organization that is similar to this. I'm just trying to find out the similarities or the differences, which is the assessment corporation and some challenges they're facing. The Ontario Ombudsman is looking into the operation of the organization. I guess the question will be, when this legislation is passed, will the Ombudsman have responsibility for dealing with the challenges that come out of it as a government organization?

1620

Mr. Melville: I can't answer that question. You would have to look at the mandate of the Ombudsman and see if it covers a corporation that fits the description of the proposed OMERS Administration Corporation.

Mr. Hardeman: I was concerned not so much with the Ombudsman but more with the similarities between this board, when we make this definition of what it is not, and how it relates to the municipal assessment corporation, which, when it originally started, was structured similarly to this board. It was set up as a total provincial operation. It was moved outside the provincial realm. It's being run by a board of directors who are municipal people, yet somewhere in that system it relates back to a provincial responsibility. I wanted clarification as to what this one actually does and whether it fits in that same category.

Mr. Melville: I'm not entirely certain, but my understanding is that the mandate of the provincial Ombudsman generally does not extend to municipal matters.

Mr. Hardeman: I wondered, Madam Chair, if we could ask staff to come back with a report on the relationship between those two, what the difference would be and why this would not be under the same provincial jurisdiction as the assessment corporation.

The Chair: OK. The request has been made.

Ms. Horwath.

Ms. Horwath: I move that section 32 of the bill be amended by adding the following subsection:

"Co-chairs

"(4.1) The members of the administration corporation shall appoint two members as co-chairs in the following manner:

"1. The members of the administration corporation who represent members or former members of the OMERS pension plans or who are chosen by entities that represent members or former members of the OMERS pension plans shall appoint one co-chair.

"2. The remaining members of the administration corporation shall appoint the second co-chair."

The Chair: Any debate?

Mr. Hudak: As I said when faced by a similar amendment by Ms. Horwath for the sponsors corp, I understand the point of view she's taking and I understand that a number of groups supported that co-chair model, but as I said before, I will oppose this motion because I believe that its practice, from what I've learned at this committee, is to maintain a single chair, as the board has had already for some time. Then the sponsors

corp, if I understand it, will pass bylaws affecting the admin corp. Am I right? The sponsors corp will be able to put forward a bylaw on the structure of the admin corp, or would the admin corp do the bylaw?

Ms. Janet Hope: I'm Janet Hope, director of the municipal finance branch at the Ministry of Municipal Affairs and Housing. The sponsors corporation could have a bylaw that would change the composition of the administration corporation.

Mr. Hudak: Thank you, to staff. So again, as I said before, the new sponsors corporation would have the ability to decide if they wanted a single chair or co-chair model down the road, and I think it's best to leave it in their hands. Therefore, I'll be voting against this particular motion, number 49.

The Chair: Any further debate? Seeing none, all those in favour of the motion? All those opposed? That's lost.

Shall section 32 carry?

Mr. Hudak: Section 33.

The Chair: Thanks, but we're not there yet. I wish we were.

Shall section 32 carry? All those in favour? All those opposed? That's carried.

Ms. Horwath, you have the next one, section 33.

Ms. Horwath: I move that subsection 33(2) of the bill be struck out and the following substituted:

"Transition

"(2) The sponsors corporation shall ensure that in any bylaw adopted under subsection (1) the entitlement of organizations that represent employees to choose members of the administration corporation shall be allocated among those organizations based on the number of employees who are members of the OMERS pension plans that each organization represents for collective bargaining."

The Chair: Any debate?

Mr. Hudak: I want to raise the same points I brought forward similarly in discussing the sponsors corporation. I know that if Ms. Horwath's amendment does not pass and the structure of 33 stays largely the same, this means the existing administration board of OMERS would continue on in their positions until one of two things: the anniversary, in which case there would be changes in position according to sections 44 and 45, or, if the sponsors corp becomes sort of the new bylaw, they would change that direction.

The general point I make is that because of the substantive nature of the transfer and the importance of the OMERS pension to so many members in Ontario, I think it's fair for the agencies committee to have the opportunity to call forward members who are transitioning on to the board, the current members, as well as any future appointments that may take place during the transition time. I understand that the bill does not currently allow for that, but we could always ask for a commitment from the ministry that the agencies committee could call, if they so chose, the initial appointments to the administration corp to come before the agencies committee. So

I would ask again if the parliamentary assistant could give that commitment on behalf of the minister that the transitional nominees to the admin corp could be called before the agencies committee.

Mr. Duguid: I'm sure the member will recall my previous answer, which I gave to him three or four times. I'm sure he'll continue to ask the question three or four times today as well, but all the proper procedures will be followed.

Mr. Hardeman: I didn't have any questions until I heard that answer. It would seem to me that as we're debating this bill, the proper procedures are what need to be put in this bill so we all know what they will be when the time comes. To have a question about how the board will be structured and who will have input into that—to me, the question isn't answered by saying, "All the proper procedures will be followed." I need to know what those procedures are before I can make a decision on whether we're having a board that will function as it should to provide the services that are needed.

An answer to that other question would be helpful because then we'd know what the procedures are. But if we're not assured that that process is going to be followed, then I'd like to know what is going to be followed and how we are going to have a board that's going to meet the needs of the plan participants.

The Chair: Mr. Duguid, I don't know if you can answer this question at this point.

Mr. Duguid: Again, all the procedures for appointments will be followed. This legislation isn't about the appointments process overall. If it were, then we could debate that, but it's not, so the proper procedures will be followed for these appointments, as with most appointments, if not all.

Mr. Hudak: Just to be a bit more clear. The parliamentary assistant would say that no, they're not going to be allowed to be called to the agencies committee. He uses the term "proper procedures." In my view, the proper procedure is that they should be called if somebody wanted them to. I think that would be proper. If Mr. Parsons or Ms. Horwath or Ms. Scott wanted to call them before the committee, that would be a proper thing to do. I think, properly, the committee may have questions for them about their intent as the first appointees to the new OMERS structure.

The usual process—or the process if you follow the standing orders—would be that they would not be called. If the parliamentary assistant is saying no, then that's fine; just say no. I just believe that—and I'd love to have the minister's commitment—the committee could call its members if a committee member so chose.

The Chair: Any further debate? Seeing none, all those in favour of the amendment that's on the floor? All those opposed? That's lost.

Mr. Duguid, you have the next amendment.

Mr. Duguid: I move that subsection 33(2) of the bill be struck out and the following substituted:

"Transition

"(2) Despite subsection (1), the composition of the administration corporation is determined as follows for the following periods of time:

"1. The composition of the administration corporation is as determined under section 44 for the period commencing on the day that subsection 32(1) comes into force and ending immediately before the first anniversary of that day or when the sponsors corporation passes a bylaw under subsection (1), whichever is earlier.

"2. If the sponsors corporation has not passed a bylaw under subsection (1) on or before the day that is the first anniversary of the day that subsection 32(1) comes into force, the composition of the administration corporation is as determined under section 45 for the period commencing on the first anniversary and ending when the sponsors corporation passes a bylaw under subsection (1)."

1630

The Chair: Any debate?

Mr. Hardeman: If I could get the rationale for the change, I'd appreciate it.

Mr. Duguid: Sure. It allows the sponsors committee to amend the composition of the admin corporation during the first year.

The Chair: Any further comments? All those in favour of the amendment? All those opposed? That's carried.

Mr. Duguid.

Mr. Duguid: I move that subsection 33(3) of the bill be struck out and the following substituted:

"Eligibility

"(3) A person who is a member of the sponsors corporation is not eligible to hold office as a member of the administration corporation or to be appointed to any committee established for the purpose of advising the administration corporation."

The Chair: Any debate?

Mr. Hardeman: I support that someone shouldn't be a member of both corporations. I'm a little concerned with the wording "be appointed to any committee ... for the purpose of advising." It would seem to me that there may very well be people involved in the sponsors corporation who have the expertise and who would do very well to advise, recognizing that that wouldn't allow them to make any decisions on behalf of the administration corporation. But it seems to be going to great lengths to avoid any of that expertise getting from one group to the other, when both have the best interests of the plan at heart. It would seem to me that the plan would likely be well served to be able to access some of that advice.

Ms. Horwath: It's interesting. It seems to me that this amendment is yet another attempt of the government to make sure that that division, that line between the sponsors corporation and the admin corporation, is extremely solid and can never be traversed. Interestingly enough, it's totally the opposite of some of the work that we've been trying to put forward on this bill.

Had it not been indicated that the sponsors corporation members couldn't sit on a committee to advise the admin

corporation—interestingly enough, if there were committees struck of the sponsors corporation and put in place to advise the admin corporation about what the best interests of the plan members were, that actually might not be such a bad thing, because it's really the plan members' pensions that we're talking about. It's their pension plan.

Quite interestingly, I won't support this, because I think it's doing the opposite of some of the things we've been trying to put forward, which is to get some accountability and ability of the sponsors corporation plan members to have oversight, advice and feedback into what's happening and the decisions being made with their pensions. I won't be supporting this, because I think it does the opposite.

The Chair: Further debate? Seeing none, all those in favour? All those opposed? That's carried.

Ms. Horwath, amendment 53.

Ms. Horwath: I move that subsection 33(4) be amended by striking out "and members are eligible to hold office for a maximum of six consecutive years" and substituting "and members may hold office for successive terms."

Very briefly, this is similar to the previous amendment I brought forward, which is to indicate that people gain experience and knowledge and history when they have some time to serve on these kinds of corporations. It's important to acknowledge that and not just assume that they should be out the door after six years.

The Chair: Further debate?

Mr. Hudak: I have a quick question to the staff. I think I asked a similar question on the sponsors committee. Would the sponsors committee have the ability by bylaw to implement what Ms. Horwath is asking on a permanent basis?

Ms. Hope: The government has two motions that would, if they were both passed, have the effect of giving the sponsors corporation the ability to set the terms and whether or not there could be successive terms.

Mr. Hardeman: To the parliamentary assistant, my understanding is that, though it's not the law, most government agency appointments are six-year terms, and then they change. I don't think it's the law, but I think that's the practice, is it not?

Mr. Duguid: I don't know. I can't answer that question.

The Chair: Any further debate? All those in favour? All those opposed? That's lost.

Mr. Duguid.

Mr. Duguid: I move that subsection 33(4) of the bill be struck out and the following substituted:

"Term of office

"(4) The term of office of each member of the administration corporation is as determined by bylaw of the sponsors corporation."

The Chair: Any comments or questions?

Mr. Hudak: I think staff is anticipating this. I appreciate where Ms. Horwath is coming from. As my colleague Mr. Hardeman indicated, there tends to be a

tradition on most boards that you have two terms and then you move on, although there are survivors like the honourable Andy Brandt, who keeps going and going, doing a good job as the chair of the LCBO no matter who's in government.

I think it's quite fair for the sponsors corporation down the road to make the determination as to whether members can stay on for more than two consecutive terms or not. I think this is a much more fair approach than the province dictating from the beginning.

The Chair: Any further debate?

Mr. Hardeman: Could I ask the parliamentary assistant for a quick explanation of the change? I'm not quite sure of the intent of the amendment. It's just that the board is going to be decided by the sponsors corporation. Is that right? What else is being taken out?

Mr. Duguid: The administration corporation is going to require some very professional opinions and people with great expertise and abilities to make some very important decisions, so when they do find somebody they may want to keep for a longer period of time and allow that expertise to continue into the future, it gives them the capability of doing that.

Mr. Hardeman: I don't quite understand it. We've just got through saying that the maximum term is six years. Is that not in here? I'll say it this way: It's the sponsors corporation, with everything that's in the bill, that's going to decide the term of office for all members of the administration corporation.

The Chair: Mr. Duguid, do you want staff to answer this question, or are you comfortable answering it?

Mr. Duguid: I'm not sure what he's referring to. What this does is fairly simple. It allows the sponsors corporation to appoint the administration corporation members and to extend their terms. It gives them that capability should they so wish. I don't think there's anything more than that.

Mr. Hardeman: I'm trying hard to understand this. We've spent three days trying to make sure the corporations are totally separated, that never the twain shall even have a meeting together or have a committee that advises them together. And now we have a motion that says the sponsors corporation can appoint the term of office for the administration corporation.

Mr. Duguid: That was always going to be the case; that, at some point in time, the sponsors corporation would make the appointments to the administration corporation, as far as I know.

The Chair: Any further debate? All those in favour of the amendment? All those opposed? That's carried.

Mr. Hudak: On section 33, now amended, I wanted to register two concerns. The parliamentary assistant just talked about the importance of expertise on the administration corporation. I think that does reinforce the call by opposition members to enable the agencies committee to call forward the initial appointees to the admin corp who are on the admin board today, but I think due diligence should allow for the agencies committee to call those members if a member of the committee so saw fit.

Secondly, I know the government and my colleague Ms. Horwath have a number of amendments with respect to the transitional appointments—sections 44 and 45. We'll see how those change.

There was concern raised at committee by a significant number of groups about the unwieldy mechanism that currently exists in the bill, this rotation notion of determining which employer groups or employee groups have how many members and then trying to determine from there who would be the subsequent owner of the seat, so to speak, for the next term until the sponsors corp changed the bylaw. There was concern brought about groups coming together and the length of time it would take one particular group to have another shot at getting a chair on the committee, given the great number of employer-employee groups that would go through that rotation.

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I'm not convinced that the existing mechanism is the appropriate one. I guess it is important to have some sort of transitional plan in the bill to anticipate, if the sponsors corp does not come up with an overall game plan, but nonetheless, I think we need to reflect on the advice we received from a diverse number of groups suggesting that it was an unwieldy mechanism.

That having been said, we'll see what the amendments actually say to those sections. But for those two reasons, that's why I'll be opposing section 33: the concern over the transition mechanisms for subsequent seats on the corp, and secondly, the lack of commitment to enable the agencies committee to call intended appointees to the administration corp before them.

The Chair: Thank you. Shall section 33, as amended, carry? All those in favour? All those opposed? That's carried.

Section 34, Mr. Duguid.

Mr. Duguid: I move that paragraph 2 of section 34 of the bill be struck out.

Just for the sake of the members opposite, it's apparently redundant.

The Chair: Any further debate?

Mr. Hardeman: I would like to request some reassurance. "Apparently": I'd like to know whether it is or it isn't.

Mr. Duguid: I've been advised by staff that it's redundant.

Mr. Hardeman: OK. Thank you.

Ms. Horwath: I'd just put on the record that the section we're talking about concerns the objects of the admin corporation. Again, it doesn't speak to any accountability to the sponsors corporation, so I will not be supporting that motion.

The Chair: Any further debate? All those in favour of the amendment? All those opposed? That's carried.

Shall section 34, as amended, carry? All those in favour? All those opposed? That's carried.

Ms. Horwath, section 35.

Ms. Horwath: I move that clause 35(2)(a) of the bill be struck out and the following substituted:

"(a) administer the OMERS pension plans, including,
 "(i) paying pensions,
 "(ii) making payments under retirement compensation arrangements,
 "(iii) developing investment policies and investment plans, and
 "(iv) managing and allocating the assets of the pension plans and the assets of the administration corporation in accordance with investment policies and investment plans approved by the sponsors corporation under section 35.1."

The Chair: Any debate? All those in favour of the amendment? All those opposed? That's lost.

Ms. Horwath, you have the next one.

Ms. Horwath: I move that clause 35(2)(b) of the bill be struck out and the following substituted:

"(b) provide for the actuarial valuation of the OMERS pension plans, including determining the actuarial methods and assumptions, and developing proposed funding policies for the OMERS pension plans."

The Chair: Any debate? All those in favour? All those opposed? That's lost.

Ms. Horwath.

Ms. Horwath: I move that section 35 of the bill be amended by adding the following subsection:

"Same

"(4) Within 30 days of receipt of a request, the administration corporation shall provide the sponsors corporation with a copy of any bylaws or resolutions passed by the administration corporation under subsection 35(3)."

The Chair: Any debate? All those in favour? All those opposed? That's lost.

Shall section 35 carry? All those in favour? All those opposed? That's carried.

Ms. Horwath, section 35.1.

Ms. Horwath: I move that the bill be amended by adding the following section:

"Investment and funding policies, etc.

"35.1(1) Within 90 days after subsection 32(1) comes into force, the administration corporation shall,

"(a) develop proposed investment policies for the assets of the OMERS pension plans and a proposed investment plan for the following 12 months and submit a statement of its proposed investment policies and its proposed investment plan to the sponsors corporation for approval; and

"(b) develop a proposed funding policy for the OMERS pension plans and submit a statement of its proposed funding policy to the sponsors corporation for approval.

"Approval

"(2) The sponsors corporation may approve the proposed investment policies, the proposed investment plan and the proposed funding policy or refer any or all of them back to the administration corporation for further consideration and resubmission for approval by the sponsors corporation.

"Annual investment plan

“(3) The administration corporation shall submit its proposed investment plan to the sponsors corporation for approval on an annual basis and subsection (2) applies with necessary modifications in respect of each proposed investment plan.

“Investments to comply with approved investment policies, etc.

“(4) The administration corporation shall not make any investment with the assets of the pension plans or its own assets if the investment is not in accordance with the investment policies and investment plan most recently approved by the sponsors corporation.”

The Chair: Any debate? No? Do you want to speak to it, Ms. Horwath?

Ms. Horwath: I’m not going to belabour it, but this is the crux of the issue around the belief that the plan members, whose pensions we are talking about, whose pensions we are dealing with in the devolution, if you want to call it that, of OMERS from under the wing of government to a more autonomous body—it’s their pension plans; it’s their money; it’s their future security. What this addition does is provide them with a say over how those investments are dealt with into the future.

Again, this doesn’t come out of the clear blue sky. There are significant concerns that have occurred in the past with the investment policies and with the investments and some of the structural decisions that have been made with these pension plans in the past. What this does is basically ensure that the oversight that I’ve talked about throughout some of the more minor amendments in the bill is pretty much embodied with this particular addition.

The Chair: Any further debate? All those in favour of the amendment? All those opposed? That’s lost.

Shall section 36 carry? All those in favour?

Mr. Hudak: Debate.

The Chair: Mr. Hudak.

Mr. Hudak: Chair, I’m sorry—35 or 36?

The Chair: Section 36. We’ve already voted on 35.

Mr. Hudak: Oh, she added on 35.1. OK.

Before we go on to 36, I have a recommendation here. The government recommends voting against section 36 of the bill. As near as I can understand it, the government is recommending voting against a section that the government itself wrote.

Mr. Duguid: Staff have advised that this has already been covered off in section 21.

The Chair: Any further debate?

Mr. Hardeman: Yes. It’s a procedural thing: I wonder how advice on how I should vote would become part of the set of amendments.

The Chair: I have no idea how the amendments are compiled.

Mr. Hardeman: No, but somebody brought forward the amendments and they were sent to my office with a whole list of every party’s recommendations. I’m just curious how a recommendation on how I should vote becomes part of that package.

Mr. Duguid: I’m sorry; the government side gets the recommendations when the opposition move to vote against a clause. We get the same information back as well. It’s really just the way it’s been done.

Mr. Hardeman: I guess I’m just presuming that the government side sent those to the clerk’s office. I would suggest that it would be absolutely inappropriate.

The Chair: Any further debate on section 36?

Mr. Hudak: If the government recommends something, Chair, should we listen?

The Chair: I’m trying to be non-partisan, Mr. Hudak. Would you like to get ready to vote on section 36?

Mr. Hudak: I’m curious for your reply.

The Chair: Shall section 36 carry? All those in favour? All those opposed? That’s lost.

Ms. Horwath, you have amendment 60.

Ms. Horwath: I move that section 37 of the bill be amended by adding the following subsection:

“Same

“(3) Within 10 days after finalizing the report under subsection 37(1), the administration corporation shall give a copy of the report to the members of the sponsors corporation.”

Briefly, this is just a matter of transparency between the decisions of the admin corporation and timeliness of reports.

The Chair: Mr. Hardeman, are you trying to signal, or are you just—

Mr. Hardeman: No, I’m just studying the information.

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The Chair: Any further debate? All those in favour of the amendment? All those opposed? That’s lost.

Shall section 37 carry? All those in favour? All those opposed? That’s lost.

Section 37.1.

Ms. Horwath: I move that the bill be amended by adding the following section:

“Response to requests from sponsors corporation

“37.1 Without limiting the generality of subsection 16(2), within thirty days of receipt of a request, the administration corporation shall provide the sponsors corporation with any of the agreements, contracts, information, and reports described in subsection 25(2) as may be requested by the sponsors corporation.”

Mr. Hudak: If I could, before voting on this proposed amendment, number 61, have an understanding of what it will do?

Ms. Horwath: The idea is that it requires that information be provided to the sponsors corporation as is requested by the sponsors corporation. It speaks to the desire to have some oversight as to what the admin corporation is doing with the money of the plan members and their pensions.

The Chair: OK. Any further debate? All those in favour of the motion? All those opposed? That’s lost.

Section 38.

Mr. Duguid: I move that subsection 38(1) of the bill be struck out and the following substituted:

“Initial composition of the sponsors corporation
 “38(1) On the day on which subsection 22(1) comes into force, the sponsors corporation is composed of 22 persons to be appointed by the Lieutenant Governor in Council.”

Mr. Hudak: So 22 would include voting and non-voting members?

The Chair: Is it a question to staff?

Mr. Hudak: Maybe the staff, just to be on the safe side.

Ms. Hope: Only voting members.

Mr. Hudak: So there would be 22 voting members?

Ms. Hope: Correct.

Mr. Hudak: Help me anticipate. I know there are some amendments that are coming forward. We’d be increasing the size of the sponsors corp from 16 voting members to 22 voting members. Am I following this correctly?

Ms. Hope: Yes. As introduced, the bill says 16 voting and two non-voting, and that is replaced by 22 voting.

Mr. Hudak: So we have an increase, then, of four members. There are no more non-voting members who would be on the board?

Ms. Hope: Correct.

Mr. Hudak: Just to anticipate the upcoming amendments, who are the additional four members, or what groups will they represent? What’s the reason behind increasing the total number of board members from 18 to 22?

Ms. Hope: The rationale for the increase in numbers is to better reflect the range of groups which have significant representation among the members or the employers of the plan, and to better ensure that their representation on the sponsors group is more representative of their representation among members.

Mr. Hudak: So the four additional members will represent which groups?

Ms. Hope: There are additional members for both AMO and CUPE, there are additional members for the city of Toronto, there is a retiree representative moving from non-voting to voting, and there is a representative for unaffiliated and management employees.

Mr. Hudak: Last question, if I could: Those who previously, under the unamended bill, had been non-voting members—one of those would be representing retirees, and now that individual would be a voting member. What happens to the other original non-voting member?

Ms. Hope: There was another non-voting member on the employer side who could be a retiree, I think was the language in the bill. That position is removed, because there are increases in other employer representatives, the other groups.

Mr. Hudak: So the balance of 11 from the employer side and 11 from the employee side is maintained?

Ms. Hope: Correct.

Mr. Hudak: Thank you, Chair.

The Chair: Any further debate? Seeing none, all those in favour of the motion? All those opposed? That’s carried.

Mr. Duguid: I move that subsection 38(1) of the bill be struck out and the following substituted:

“Initial composition of the sponsors corporation”—

The Chair: Mr. Duguid, you’re on 63.

Mr. Duguid: Oh, sorry. We’re at 63? OK. Here it is.

I move that subsection 38(2) of the bill be struck out and the following substituted:

“Term of office

“(2) The term of office of a member appointed under subsection (1) expires immediately before the first anniversary of the day on which subsection 22(1) comes into force or when the sponsors corporation passes a bylaw under subsection 23(1), whichever is earlier.”

The Chair: Any debate?

Mr. Hudak: Just a quick reminder: Subsection 22(1) deals with “the first anniversary of the day on which subsection 22(1) comes into force.”

Ms. Hope: Subsection 22(1) is the section in the permanent part of the bill which establishes the sponsors corporation. We’re now dealing with the transitional part of the bill.

Mr. Hudak: So a year after the sponsors corp comes into existence, or after they pass a bylaw in their term of office?

Mr. Duguid: What this will do is allow the sponsors corporation to pass a bylaw to change the composition of the sponsors corporation during that transition year.

Mr. Hudak: The first year; OK.

The Chair: Any further debate?

Ms. Horwath: Just very briefly, members of the committee might recall that there was a significant point made—I think it was significant, I must say—around the fact that the process of the bill being brought forward, going through the lengthy hearings we’re having now and, I would suspect, again after second reading, and then the time that it takes after third reading and royal assent to take place—that during that period of time, if there is a commitment made to do so, we could accomplish a sponsors corporation being established without having to have a transitional one in place in the interim.

I’m not going to support this, because I believe that there is an opportunity to actually have a sponsors corporation that’s representative of the various groups in place without having to go through the transitional phase.

The Chair: Any further debate? All those in favour of the amendment? All those opposed? That’s carried.

Ms. Horwath, you have amendment 64.

Ms. Horwath: I move that subsection 38(3) of the bill be struck out and the following substituted:

“Co-chairs

“(3) The voting members of the sponsors corporation shall appoint two members as co-chairs in the following manner:

“1. The voting members of the sponsors corporation who are chosen by entities that represent employees shall appoint one co-chair.

“2. The remaining voting members of the sponsors corporation shall appoint the second co-chair.”

The Chair: Any debate? All those in favour of the amendment? All those opposed? That's lost.

Mr. Duguid: I move that subsection 38(3) of the bill be amended by striking out "voting members" wherever it appears and substituting in each case "members."

The Chair: Any further debate?

The Clerk of the Committee: We need to stand this one down until we get to the motion on page 67.

The Chair: So I'm going to go to section 39, which is amendment 66. Ms. Horwath.

Ms. Horwath: I move that subsection 39(1) of the bill be amended by striking "and after the first anniversary of."

The Chair: Any debate? All those in favour of the amendment? All those opposed? That's lost.

Mr. Duguid, amendment 67.

Mr. Duguid: This is going to be a fun one, Madam Chair.

I move that section 39 of the bill be struck out and the following substituted:

"Subsequent composition of the sponsors corporation

"39(1) If the sponsors corporation has not passed a bylaw under subsection 23(1) on or before the first anniversary of the day that subsection 22(1) comes into force, the composition of the sponsors corporation for the period commencing on that first anniversary and ending when the sponsors corporation passes a bylaw under subsection 23(1) is composed of the following persons to be chosen in the manner indicated:

"1. Five persons to be chosen by the Association of Municipalities of Ontario.

"2. One person who is representative of school boards, to be chosen in accordance with subsection (2).

"3. One person to be chosen by the Ontario Association of Police Services Boards.

"4. Two persons to be chosen by the city of Toronto.

"5. Two persons who are representative of other participating employers, to be chosen in accordance with subsection (3).

"6. Five persons to be chosen by the Canadian Union of Public Employees (Ontario).

"7. One person to be chosen by the Police Association of Ontario.

"8. One person to be chosen by the Ontario Professional Fire Fighters Association.

"9. One person to be chosen by the Association of Municipal Managers, Clerks and Treasurers of Ontario.

"10. Two persons who are representative of other members of the OMERS pension plans, to be chosen in accordance with subsection (4).

"11. One person who is representative of former members of the OMERS pension plans, to be chosen in accordance with subsection (5).

"Representative of school boards

"(2) The person referred to in paragraph 2 of subsection (1) is to be chosen by the Ontario Public School Boards' Association and his or her replacement is to be chosen by the Ontario Catholic School Trustees'

Association; thereafter, the replacement is to be chosen on an alternating basis by the associations.

"Representatives of other participating employers

"(3) The two persons referred to in paragraph 5 of subsection (1) are to be chosen as follows by those employers who are not members of an organization described in paragraph 1, 2, 3 or 4 of subsection (1):

"1. The person who is to be chosen by the employer who has the greatest number of"—

The Chair: Mr. Duguid, could you go back to number 1?

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Mr. Duguid: "1. The first person is to be chosen by the employer who has the greatest number of members in the primary pension plan.

"2. The second person is to be chosen by the employer who has the second-greatest number of members in the primary pension plan.

"3. When a person's term of office expires, his or her replacement is to be chosen by the employer who has the next-greatest number of members in the primary pension plan on the expiry date of the person's term of office. This step is repeated when replacement persons are required until all the employers have chosen a person.

"4. When all the employers have chosen a person, the next replacement is to be chosen by the employer who has the greatest number of members in the primary pension plan, and the steps described in paragraphs 2 and 3 are repeated.

"Representatives of other members

"(4) The two persons referred to in paragraph 10 of subsection (1) are to be chosen as follows on behalf of those members of the OMERS pension plans who are not represented, directly or indirectly, by an organization described in paragraph 6, 7, 8 or 9 of subsection (1):

"1. The sponsors corporation shall make inquiries to determine what organizations, if any, represent any of the applicable members of the OMERS pension plans and to determine how many of those members each organization represents.

"2. The sponsors corporation shall rank the organizations according to the number of those that each of them represents, and the organization representing the greatest number of those members"—

The Chair: Mr. Duguid, could you go back and start number 2, the second line? Or just start number 2 again.

Mr. Duguid: "2. The sponsors corporation shall rank the organizations according to the number of those members that each of them represents, and the organization representing the greatest number of those members is the largest organization.

"3. The sponsors corporation shall invite the largest organization to choose the first person and the second-largest organization to choose the second person, all within the period specified by the sponsors corporation.

"4. If any of those organizations fails to choose a person within the specified period, the sponsors corporation shall invite the next-largest organization to choose the person within the period specified by the sponsors

corporation. This step is repeated until both persons have been chosen.

“5. When a person’s term of office expires, the sponsors corporation shall invite the organization that is the next-largest at the time the replacement person is required to choose the person. This step is repeated when replacement persons are required until all the organizations have been invited to choose a person.

“6. When all the organizations have been invited to choose a person, the sponsors corporation shall invite the largest organization to choose the next replacement person, and the steps described in paragraphs 3 to 5 are repeated with necessary modifications.

“Representative of former members

“(5) The person referred to in paragraph 11 of subsection (1) is to be chosen as follows on behalf of former members of the OMERS pension plans:

“1. The sponsors corporation shall make inquiries to determine what organizations, if any, represent any of the former members of the OMERS pension plans and to determine how many former members each organization represents.

“2. The sponsors corporation shall rank the organizations according to the number of those former members that each of them represents, and the organization representing the greatest number of those members is the largest organization.

“3. The sponsors corporation shall invite the largest organization to choose the person within the period specified by the sponsors corporation.

“4. If the organization fails to choose a person within the specified period, the sponsors corporation shall invite the next-largest organization to choose the person within the period specified by the sponsors corporation. This step is repeated until a person is chosen.

“5. When a person’s term of office expires, the sponsors corporation shall invite the organization that is the next-largest at the time the replacement person is required to choose the person. This step is repeated when replacement persons are required until all the organizations have been invited to choose a person.

“6. When all the organizations have been invited to choose a person, the sponsors corporation shall invite the largest organization to choose the next replacement person, and the steps described in paragraphs 3 to 5 are repeated with necessary modifications.

“Term of office

“(6) The term of office of a person chosen under this section is three years, unless the term is changed or the appointment of the person is terminated by a bylaw passed by the sponsors corporation.

“Vacancies

“(7) If a person ceases to hold office before his or her term of office expires, the same organization that chose the person may choose his or her replacement to hold office for the remainder of the unexpired term.

“Chair

“(8) The chair of the sponsors corporation is to be chosen by the members of the sponsors corporation from among the members.”

The Chair: Any debate?

Mr. Hudak: Just a question, appropriately, to staff: Who was the poor staff person who had to write that particular amendment, and how many nights’ sleep were lost?

I won’t belabour this particular amendment. I just want to note a couple of things for the record. I anticipate we’ll have a chance at second-reading committee hearings, hopefully, to hear from various groups about this.

It does a couple of interesting things. It does create two positions for the city of Toronto—which they did ask for, if I recall, at committee hearings. We’re in an odd situation—well, unique—as far as I know, in Ontario’s municipal history, where the city of Toronto has now left AMO and stands out as their own structure. I don’t know if this anticipates that that will be a permanent reality in the province of Ontario, or if the government hopes that Toronto will return to being part of the AMO fold. If that’s the case, does that have any implications for Toronto having two separate seats?

Also, on the Toronto issue, while the employer, the city of Toronto, has two designated positions, there are no designated positions for employee groups of the city of Toronto specifically.

Ms. Hope: Correct.

Mr. Hudak: So you’re going to have two employer reps from the city of Toronto, but CUPE or other organizations may not necessarily pick Toronto members. While the new board will have the Toronto voice on the employer side, that Toronto voice, so to speak, is absent on the employee side. Granted, this is all for the initial composition of the sponsors corp, and we’ll see what happens down the road. It may very well be that the future sponsors corp will take its initial directions from the province and follow a similar pattern. So that’s a bit of a precedent that has been set with respect to the city of Toronto in two interesting ways.

There was a discussion, I think, too, among the various union groups about representation. OPSEU and others had talked about wanting representation. CUPE now will go from three to five seats. CUPE did call for more representation. That’s very fair, and it’s now reflected here in the amendment. But it’ll be interesting to see if now the greater disparity between what CUPE receives and what other employee groups receive will cause some concern at committee or if it will be broadly supported.

I also notice now that the school boards will have to share a seat. It’s probably the case that the public school board association and the Catholic school board association will have their arguments from time to time. They may not always agree on particular issues, given the history of the two school systems in the province of Ontario. Maybe they will largely agree on pension issues. But instead of each having a seat, now they’re going to have to alternate seats, at least as long as this structure survives.

There was one more note I wanted to make on the structure, but it seems to be slipping my mind from my last set of notes.

Police and fire stay basically the same—losing, I guess, in relative strength, since the board is going to increase from 16 voting members to 22 voting members.

Anyway, I'll just leave that out there. I'll look forward, hopefully, to the opportunity in second-reading hearings to see if this new structure will be greeted favourably or with disfavour by the participating groups.

Mr. Hardeman: As was mentioned, it's quite an amendment. We have many bills go through the Legislature that aren't quite this lengthy. This being an amendment to a bill, it's quite a size.

First of all, I just want to reiterate what my colleague Mr. Hudak mentioned: the fact that we are under the understanding that we will be having more committee hearings when this bill goes for second reading to make sure that we do hear from the people whom we heard from the first time, and to make sure that we hear from them whether the changes that are being made will be of benefit to the people in the plan.

Two very quick questions, I suppose: Having gone through all the process of designing a system that will select a board, if they can't, in that first year, put a board together, is there an assumption that the board would use this as the format for their bylaw, that this would be a great way to structure the board for future uses?

Before you answer that one, I would just ask the other one. I have a little problem with how you would pick the pensioner representative, seeing as, once they're pensioned off, they're not members of any other body any more, other than they're OMERS pensioners. You say it's picked by the largest employer group or the largest group of them. When they become pensioners, aren't they all one group?

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Mr. Duguid: The expectation would be that the sponsors corporation would ultimately determine what their own makeup will eventually be. This may be a model they want to follow; it may not be. They may have some other ideas. They may want to change the numbers or something like that, or the representation. They'll have the ability to do that, as far as I can tell.

The second question—I'm sorry—

Mr. Hardeman: The representatives of the pensioners.

Mr. Duguid: Yes. There is an organization that represents the retirees. I would have to check to see whether in fact—the initial appointment will be made—they would have the ability to have a representative of that group or whether somebody would be selected by the actual sponsors corporation. I don't know if staff could be a little more exact in their answer.

Ms. Hope: Yes, in fact there are a number of organizations of retirees. We're aware of four. The process in this amendment does provide for those organizations or any others that might emerge over time to be part of that rotation in appointing the retired member.

Mr. Hardeman: Thank you.

Ms. Horwath: I don't want to skip ahead, but if this motion passes, I'll probably end up withdrawing the next

one that I've got coming forward because it reduces the number that the government put in for the group that I was hoping to beef up their numbers for.

Having said that, though, I'm not going to support this particular motion, only because at this point in time I haven't had a chance to talk to the various stakeholders who are concerned about representation and structure and those kinds of things. I can be corrected if I'm wrong, but I think I've heard that there is a commitment by the government to make sure that this wildly—widely or wildly; one or the other—amended bill will go back to committee hearings after second reading. I don't know whether the parliamentary assistant is in a position to give us that assurance, but certainly it's an extremely important piece of legislation. It has had much work over this process of clause-by-clause hearings, and I think that it's only appropriate that that does occur. So at this point in time, I'm not going to be supporting the government amendment because I think we need to have a full discussion with stakeholders about that structure, again, in future hearings.

The Chair: Any further debate? All those in favour of amendment 67? All those opposed? That's carried.

I'm going to go back to amendment 65, which we just stood down, and section 38.

Mr. Duguid: Do you want me to move it again?

The Chair: I believe you moved it, and I think it has been read into the record. Is there any debate on amendment 65? All those in favour of the motion? All those opposed? That's carried.

We'll go back to section 38. Shall section 38, as amended, carry? All those in favour? All those opposed? That's carried.

Going back to section 26, which is motions 39 and 39a: Those were read into the record but were stood down. Any debate on that issue?

Mr. Hudak: Would you or staff kindly remind me of what we're returning to?

Interjection.

The Chair: OK. I'm told that 39 wasn't read into the record, so can we get 39 read into the record?

Mr. Duguid: Is it 39a that we're talking about?

The Clerk of the Committee: No, page 39.

Mr. Duguid: I move that subsection 26(1) of the bill be amended by striking out "excluding non-voting members." Is that the one?

The Chair: Yes, that's the one. Any debate? All those in favour of the amendment? All those opposed? That's carried.

We cannot vote on that section yet. We have to go back to amendment 68.

Ms. Horwath: Madam Chair, I am going to withdraw this particular amendment.

The Chair: I believe, actually, that 68 is out of order, now that 67 would be. You were right.

Ms. Horwath: That's right.

The Chair: So I'm going to rule 68 is out of order. You say you'd withdraw that?

Ms. Horwath: Well, if it's out of order, it's out of order. I think there was already a motion that the government carried in regard to the structure they want to see. This, then, just reverses that.

The Chair: I believe that if you're going to withdraw, you need to withdraw 68, 69, 70, 71, 72—

Ms. Horwath: Can I ask for clarification, then, Madam Chair? Are they out of order or are they not? Because if they're not out of order, I won't withdraw them—or I won't necessarily withdraw all of them. I just need to add clarification. Are they out of order or are they not out of order?

The Chair: I'll let the clerk answer that question.

The Clerk of the Committee: Because we carried the motion on page 67, they're now out of order, because these motions are to the bill, and we've changed the bill.

Ms. Horwath: Procedurally, then, is it required that I withdraw them, or are they just ruled out of order?

The Clerk of the Committee: You can withdraw them and then we just don't deal with them. It's up to you. The Chair can rule them out of order or you can just withdraw them and we don't actually mention them.

Ms. Horwath: It seems to me that if they're out of order, they're out of order, so if that's the procedural method, I think that would be the preferred one.

The Chair: OK. I'm going to rule them out of order. Mr. Hardeman, did you want to ask a question? No. OK. I'm going to rule them out of order.

We're going to deal with section 39, as amended.

All those in favour? All those—Mr. Hudak, are you voting, or are you asking a question?

Mr. Hudak: No, I thought there was debate.

The Chair: No. We're voting on the section, because you've already debated all the other parts of this bill. Would you like to put something on the record?

Mr. Hudak: Yes. I'm dwelling on the new structure that the amendment brought forward. Like I said, hopefully we'll have a chance at second reading to discuss it further. The government has made a decision here in the amendment to give special recognition to the city of Toronto as an employer group. Again, there's not a matching employee group representation for the city of Toronto workers. If the decision is made that Toronto has such capacity that it should have its own seat at the board, there's not similarly capacity for Toronto's police or fire to be at the board. So I'm not sure of the consistency of the argument. If the argument is also made that Toronto is outside of AMO and therefore should have seats, does that give an incentive for other municipalities to similarly exit AMO to have seats on the OMERS board? Or if it's done because Toronto has such a large population and has such a large impact on the OMERS plan, I'd be curious what Mayor McCallion in Mississauga or Mayor Chiarelli in Ottawa, for example, would have to say about their own communities and their proportional impact on the OMERS plan.

At any rate, I think that stresses the importance, now that this has been altered substantially, of allowing second-reading hearings to hear from these groups about

proposed changes on the sponsors corp, because it may very well be instructive as to where the sponsors corp goes on a permanent basis as well. I won't belabour the point, but it's just another thing that jumped out at me in terms of the change in the structure.

The Chair: Shall section 39, as amended, carry? All those in favour? All those opposed? That's carried.

Section 40, amendment 73a, Mr. Duguid.

Mr. Duguid: I move that subsection 40(1) of the bill be amended by striking out "six persons" and substituting "eight persons." This is really a typo more than anything else.

The Chair: Any debate? All those in favour of the amendment? All those opposed? That's carried.

Ms. Horwath, amendment 74.

1720

Ms. Horwath: I move that subsection 39(9) of the bill be struck out and the following substituted—am I on the right one?

The Chair: On 74?

Ms. Horwath: What happened to 73? Oh, that's section 39. Sorry.

I move that paragraph 1 of subsection 40(2) of the bill be struck out and the following substituted:

"1. One person is to be representative of the Association of Municipalities of Ontario."

The Chair: Any debate? All those in favour of the amendment? All those opposed? That's lost.

Is somebody reading the government—Mr. Rinaldi?

Mr. Lou Rinaldi (Northumberland): I move that subsection 40(2) of the bill be amended by adding the following paragraphs:

"1.1 One person is to be representative of the city of Toronto.

"6. One person is to be representative of members of the OMERS pension plans who are paramedics represented for collective bargaining purposes by the Canadian Union of Public Employees (Ontario) or the Ontario Public Service Employees Union."

The Chair: Any debate? All those in favour of the amendment? All those opposed? That's carried.

Ms. Horwath, I rule that amendment 76 is out of order, as 75 carried.

Shall section 40, as amended, carry? All those in favour? All those opposed? That's carried.

Subsection 41, Mr. Rinaldi.

Mr. Rinaldi: Subsection 41(2), paragraph 2: I move that paragraph 2 of subsection—

The Chair: Mr. Rinaldi, sorry. We're at 76a, I think. Do you have that motion?

Mr. Rinaldi: Yes, I have it. I'm sorry.

I move that subsection 41(1) of the bill be amended by striking out "10 persons" and substituting "12 persons."

The Chair: Any debate? All those in favour of the amendment? All those opposed? That's carried.

Mr. Rinaldi, number 77.

Mr. Rinaldi: I move that paragraph 2 of subsection 41(2) of the bill be struck out and the following substituted:

"2. One person is to be representative of the city of Toronto.

"2.1 Two persons are to be representative of employers other than the city of Toronto and employers who are members of the Association of Municipalities of Ontario."

The Chair: Any debate?

Mr. Hudak: Just so I understand 2.1, two persons are to be representative of employers other than the city of Toronto, but they must be members of AMO?

Interjection: Yes.

Mr. Hudak: So neither. OK. That's clear. I just wanted to make sure I read it the proper way.

Mr. Hardeman: I'm just wondering, if one municipality decided this year that, for whatever reason, they just didn't join AMO, then they could have an appointee on the board?

Ms. Hope: They would in that case be an employer that is not represented by either AMO or the city of Toronto, so they would be in that large group of employers from whom two representatives could be drawn. So they wouldn't necessarily, as of right, have a spot, but they'd be amongst the employers who would form the pool.

Mr. Hardeman: How would that person be picked?

Ms. Hope: That matter would be up to the sponsors corporation. A process is not detailed in the bill.

The Chair: Any further debate? All those in favour of the amendment? All those opposed? That's carried.

Mr. Lalonde, page 78.

Mr. Jean-Marc Lalonde (Glengarry–Prescott–Russell): I move that subsection 41(2) of the bill be amended by adding the following paragraph:

"5. One person is to be representative of members of the OMERS pension plans who are not represented for collective bargaining purposes by the Canadian Union of Public Employees (Ontario) and not employed in the police and fire sectors."

The Chair: Any debate? All those in favour of the amendment? All those opposed? That's carried.

Shall section 41, as amended, carry? All those in favour? All those opposed? That's carried.

Section 41.1, Ms. Matthews.

Ms. Deborah Matthews (London North Centre): I move that the bill be amended by adding the following section:

"Consolidation of terms and conditions of primary pension plan

"41.1(1) Within 12 months after section 32 comes into force, the administration corporation may prepare a consolidation of the terms and conditions of the primary pension plan and of any related retirement compensation arrangements that provide benefits to members and former members of the primary pension plan and may, for the purpose of preparing the consolidation,

"(a) make such amendments to the terms and conditions of the primary pension plan and related retirement compensation arrangements as may be necessary to ensure that the terms and conditions are in accordance with the provisions of this act; and

"(b) incorporate definitions that were in the Ontario Municipal Employees Retirement System Act before that act was repealed.

"Same

"(2) Despite clause (1)(a), an amendment shall be made by the administration corporation only if and to the extent that the amendment is necessary for the administration under this act of the primary pension plan, the pension fund for that plan or the retirement compensation arrangements."

The Chair: Any debate? All those in favour of the amendment? All those opposed? That's carried.

Section 42, Mr. Dhillon.

Mr. Vic Dhillon (Brampton West–Mississauga): I move that subsection 42(5) of the bill be amended by striking out "voting members" and substituting "members."

The Chair: Any debate? All those in favour of the amendment? All those opposed? That's carried.

Ms. Horwath, the next one, 81.

Ms. Horwath: I move that subsection 42(6) of the bill be amended by striking out "chair of the sponsors corporation" and substituting "the co-chairs of the sponsors corporation."

The Chair: I understand that that motion is now out of order. I rule it out of order.

Shall section 42, as amended, carry? All those in favour? All those opposed? That's carried.

Section 43, Ms. Horwath.

Ms. Horwath: I move that subsection 43(1) of the bill be struck out.

The Chair: Any debate? All those in favour? All those opposed? That's lost.

Ms. Horwath.

Ms. Horwath: I move that subsection 43(5) be struck out and the following substituted:

"(5) At any meeting before the 30-day period expires, the sponsors corporation"—

The Chair: I apologize, Ms. Horwath. I'm out of order, because I'm not looking at the numbers. I'm going to get to you. It's 82a, which is a government motion. Who is going to read this motion? Mr. Rinaldi.

Mr. Rinaldi: I move that paragraphs 2 and 3 of subsection 43(5) of the bill be struck out and the following substituted:

"2. If the sponsors corporation does not appoint the mediator or determine the method of choosing the mediator, the chair of the sponsors corporation"—

The Chair: Mr. Rinaldi, are you on 82a? It's not looking familiar.

Mr. Rinaldi: OK, we've got 82a. Thank you, Madam Chair.

I move that subsections 43(3) and (4) of the bill be struck out and the following substituted:

"Mediation

"(3) The sponsors corporation may use mediation to help its members make a decision about a specified change to an OMERS pension plan if all of the following circumstances exist:

"1. A meeting of the sponsors corporation is called under section 42 for the purpose of considering a specified change.

"2. At the meeting, a member of the sponsors corporation makes a proposal in writing for a specified change or for no change.

"3. The sponsors corporation does not, within 30 days after the meeting at which the proposal is first considered, decide by an affirmative vote of two-thirds of its members to accept the proposal, with or without amendments, or decide by an affirmative vote of a majority of its members to reject it.

"Referral for mediation

"(4) If a proposal is neither accepted, with or without amendments, nor rejected within the 30-day period in accordance with subsection (3), the sponsors corporation may, by an affirmative vote of a majority of its members, refer the proposal for mediation."

1730

The Chair: Any debate?

Mr. Hardeman: If I might just ask the government side, is this the amendment that deals with the two-thirds vote and the majority vote, and the people in between are causing a problem, shall we say?

Mr. Duguid: Yes, it's for the transitional process period.

Mr. Hardeman: If I could just get it clear in my mind: If a proposal is to change the plan, it must have the support of two thirds in order to pass?

Mr. Duguid: Correct. If it's a—what's the word?—specified change—

Mr. Hardeman: Yes, if it's one of the specified items that comes forward, then I have no problem with that. But it requires two thirds to pass it, so if it doesn't get two thirds, it doesn't fail if it has more than 50%. So between the 50% vote and the two thirds, it would go to a mediator or an arbitrator, is that right?

Mr. Duguid: It could go to a mediator if the sponsors corporation, on a majority vote, decided to send it there—not automatically.

Mr. Hardeman: A simple majority would just send it to a mediator.

Mr. Duguid: Correct.

Mr. Hudak: As my colleague and I have said, we have some concern about how that is going to operate when the vote is not a vote. It's sort of the hanging chad approach: Is it a vote yea or nay, and where will it go from there? So again, I think it's another reason for this bill to go to second-reading hearings: to see how the groups that would be involved with the OMERS pension plan going forward feel about having this sort of hanging chad approach to the issue.

With respect to Mr. Rinaldi's motion, it effectively changes things in the first couple of sentences from mandatory mediation to mediation, and it's permissive, changing "shall" to "may." Did I follow it correctly?

The Chair: A question to staff?

Mr. Hudak: If I could, yes. I was listening to Mr. Rinaldi's motion and I didn't have it in front of me at the

time, but I thought he was changing subsection 43(3) to read, "The sponsors corporation may use mediation to help its members," so it has become permissive as opposed to directive. They don't have to use mediation if they don't want to.

Ms. Hope: Correct.

Mr. Hardeman: I just wanted to point out that I believe that a straight two-thirds vote, with the change that we put forward in our motion that it would only be for specified situations, would be clearer and easier to administer, and, I think, in a fairer manner than this proposal. As was mentioned before, obviously this is first reading, and hopefully we'll hear more about the impact of what's being proposed here, and hopefully we can address it again between second and third reading of the bill.

The Chair: Any further debate? We have amendment 82a before us. All those in favour? All those opposed? That's carried.

Returning to you, Ms. Horwath, amendment 83.

Ms. Horwath: I move that subsection 43(5) be struck out and the following substituted:

"(5) At any meeting before the 30-day period expires, the sponsors corporation may appoint the mediator from an agreed list of mediators or may determine the method for choosing the mediator."

The Chair: Any debate? All those in favour of the amendment? All those opposed? That's lost.

Amendment 84, Mr. Lalonde.

Mr. Lalonde: I move that paragraphs 2 and 3 of subsection 43(5) of the bill be struck out and the following substituted:

"2. If the sponsors corporation does not appoint the mediator or determine the method for choosing the mediator, the chair of the sponsors corporation shall choose the mediator in accordance with subsection (6) and make the appointment on behalf of the sponsors corporation.

"3. If the sponsors corporation determines the method for choosing the mediator but no mediator is appointed within 30 days after the meeting at which the determination was made, the chair of the sponsors corporation shall choose the mediator in accordance with subsection (6) and make the appointment on behalf of the sponsors corporation."

The Chair: Any debate? All those in favour of the amendment? All those opposed? That's carried.

Ms. Horwath, amendment 85.

Ms. Horwath: I move that subsection 43(6) of the bill be struck out.

The Chair: Any debate? All those in favour of the amendment? All those opposed? That's lost.

Number 86, Ms. Matthews.

Ms. Matthews: I move that subsection 43(6) of the bill be struck out and the following substituted:

"Selection by chair of sponsors corporation

"(6) If the chair of the sponsors corporation is required to choose the mediator, the following process applies:

"1. The chair shall prepare a list of five persons who are willing to act as mediator.

"2. He or she shall invite each member of the sponsors corporation to identify up to three of those persons as his or her preferred candidates for mediator, before the deadline specified by the chair.

"3. He or she shall choose as mediator one of the persons identified as a preferred candidate. If there are no preferred candidates identified before the deadline, he or she may choose any person that he or she considers suitable on the list."

The Chair: Any debate? All those in favour of the amendment? All those opposed? That's carried.

I believe we now have to go back to 39a, which is in section 26, now that we've dealt with amendment 86. Mr. Duguid.

Mr. Duguid: I move that subsection 26(3) of the bill be struck out and the following substituted:

"Decision about a specified change
 "(3) Despite subsection"—

The Chair: I'm sorry, Mr. Duguid. I've been given conflicting advice here. I have to go back to—

Interjection.

The Chair: We have to do 86a before we go back. Sorry. So 86a, which I believe is a government motion. Can you read 86a into the record?

Mr. Duguid: I move that subsections 43(11) and (12) of the bill be struck out and the following substituted:

"Decision by sponsors corporation

"(11) The sponsors corporation may decide by an affirmative vote of two thirds of its members to accept the proposal, with or without amendments, or may decide by an affirmative vote of a majority of its members to reject it.

"Arbitration upon request

"(12) If the sponsors corporation neither accepts, with or without amendments, nor rejects the mediator's report within 30 days after its first meeting after receiving the report, the sponsors corporation may, by an affirmative vote of a majority of its members, refer the matter for arbitration."

The Chair: Any debate? Seeing none, all those in favour of the amendment? All those opposed? That's carried.

OK, 39a, which has been read into the record. Any debate on 39a? Seeing none, all those in favour of 39a? All those opposed? That's carried.

Shall section 26, as amended, carry?

Mr. Hudak: On section 26 again, we did stand that down the other day, right?

The Chair: Yes.

Mr. Hudak: I appreciate the parliamentary assistant's indulgence in that. I just wanted to again express my concerns, as a member of the committee, with, as I've nicknamed it, the hanging chad mechanism: When is a lost vote truly lost and when does it survive for another day? I do think that Mr. Hardeman's approach of a much more clear mechanism is preferable to the one that's put forward in the amended bill before us.

1740

The Chair: Shall section 26, as amended, carry? All those in favour? All those opposed? That's carried.

Returning to section 43, Ms. Horwath, amendment 87.

Ms. Horwath: I move that paragraphs 2 and 3 of subsection 43(14) of the bill be amended by striking out "the chair of the sponsors corporation" wherever it appears and substituting in each case "the co-chairs of the sponsors corporation."

The Chair: I understand that this motion is now out of order, so I'm going to rule it out of order.

Shall section 43, as amended, carry? All those in favour? All those opposed? That's carried.

Section 44, Ms. Horwath.

Ms. Horwath: I move that subsection 44(1) of the bill be amended by adding the following paragraph:

"1.1 The voting members of the sponsors corporation who are chosen by entities that represent employees shall appoint the other co-chair."

The Chair: I'm just getting legal counsel as to whether this is out of order. It's ruled out of order.

Government motion 89, Mr. Lalonde.

Mr. Lalonde: I move that subsection 44(2) of the bill be struck out and the following substituted:

"Term of office

"(2) The term of office of a member appointed under subsection (1) expires immediately before the first anniversary of the day on which subsection 32(1) comes into force or when the sponsors corporation passes a bylaw under subsection 33(1), whichever is earlier."

The Chair: Any debate? All those in favour of the amendment? All those opposed? That's carried.

Shall section 44, as amended, carry? All those in favour? All those opposed? That's carried.

Section 45, Ms. Horwath.

Ms. Horwath: I move that subsection 45(1) of the bill be amended by striking out "and after the first anniversary of."

The Chair: Any debate? All those in favour of the amendment? All those opposed? That's lost.

Ms. Matthews.

Ms. Matthews: I move that subsection 45(1) of the bill be amended by striking out the portion before paragraph 1 and substituting the following:

"Subsequent composition of the administration corporation

"45(1) If the sponsors corporation has not passed a bylaw under subsection 33(1) on or before the first anniversary of the day that subsection 32(1) comes into force, the composition of the administration corporation for the period commencing on that first anniversary and ending when the sponsors corporation passes a bylaw under subsection 33(1) is composed of the following persons, to be chosen in the manner indicated."

The Chair: Any debate? All those in favour of the amendment? All those opposed? That's carried.

The next amendment is 92, Mr. Duguid.

Mr. Duguid: I move that subsection 45(1) of the bill be amended by adding the following paragraph:

“1.1 Two persons to be chosen by the city of Toronto.”

The Chair: Any discussion?

Mr. Hudak: I'm just trying to anticipate what this will look like, the administration corp's composition, if all of the government motions were to pass.

Ms. Hope: The administration corporation would increase in members by four: two each on the employer and employee side. The two additional employer representatives will be for the city of Toronto and the two additional employee representatives would be one to CUPE and one to unaffiliated management employees.

The Chair: Any further debate?

Mr. Hudak: Again, just to express concern with this approach, as there's a bit of an imbalance: We'll have two from the city of Toronto, and while there are two employee groups, they won't necessarily represent the employees of Toronto. They very well may, but they very well may not. I understand that it's a difficult issue for the government to solve, given that's what Toronto asked for, but I do think it would be important for us to hear from the constituent groups of OMERS what they think of the new structure on the very important administration corporation.

The Chair: Any further comments or questions? All those in favour of the amendment? All those opposed? That's carried.

Ms. Horwath.

Ms. Horwath: I move that paragraph 5 of subsection 45(1) of the bill be amended by striking out “two” and substituting “three.”

The Chair: Any discussion on the amendment? All those in favour? All those opposed? That's carried.

Amendment 94: who's reading that? Mr. Duguid.

Mr. Duguid: It's the same motion in—

The Chair: So you withdraw it?

Mr. Duguid: We'll withdraw it.

The Chair: Number 94 is withdrawn. Number 95.

Mr. Dhillon: I move that subsection 45(1) of the bill be amended by adding the following paragraph:

“7.1 One person to be chosen by the Association of Municipal Managers, Clerks and Treasurers of Ontario.”

The Chair: Any discussion? All those in favour of the amendment? All those opposed? That's carried.

Ms. Horwath.

Ms. Horwath: I move that paragraph 8 of subsection 45(1) of the bill be amended by striking out “two persons” and substituting “one person.”

The Chair: Any discussion? All those in favour of the amendment? All those opposed? That's lost.

Ms. Horwath, number 97.

Ms. Horwath: I move that subsection 45(3) of the bill be struck out and the following substituted:

“Representatives of other participating employers

“(3) The two persons referred to in paragraph 4 of subsection (1) are to be chosen by the persons selected under paragraphs 1 and 3 of subsection (1) from among persons with director or management responsibilities with an employer, other than an employer that is a mem-

ber of the organizations referred to in paragraphs 1 to 3 of subsection (1), after consultations with those employers.”

The Chair: Any discussion? All those in favour of the amendment? All those opposed? That's lost.

Ms. Horwath, number 98.

Ms. Horwath: I move that subsection 45(4) of the bill be struck out and the following substituted:

“Representative of other members

“(4) The two persons referred to in paragraph 8 of subsection (1) are to be chosen by the persons selected under paragraphs 5 to 7 of subsection (1) from among persons who are elected to, employed by or are members of a trade union or employee organization representing OMERS members, other than the trade unions and employee organizations described in paragraphs 5 to 7 of subsection (1), after consultations with those trade unions and employee organizations.

The Chair: Any discussion? All those in favour of the amendment? All those opposed? That's lost.

Government motion 99. Mr. Duguid, are you doing that one?

Mr. Duguid: I move that paragraph 1 of subsection 45(4) of the bill be amended by striking out “Only those organizations that are corporations are eligible to participate in the process described in this subsection.”

The Chair: Any discussion on this amendment? All those in favour of the amendment? All those opposed? That's carried.

Ms. Horwath, amendment 100.

Ms. Horwath: I move that subsection 45(5) of the bill be struck out and the following substituted:

“(5) The person referred to in paragraph 9 of subsection (1) is to be chosen by the persons selected under paragraphs 5 to 7 of subsection (1) from among former members of OMERS.”

The Chair: All those in favour of the amendment? All those opposed? That's lost.

Mr. Rinaldi.

Mr. Rinaldi: I move that paragraph 1 of subsection 45(5) of the bill be amended by striking out “Only those organizations that are corporations are eligible to participate in the process described in this subsection.”

The Chair: Any discussion? All those in favour of the amendment? All those opposed? That's carried.

Ms. Horwath, amendment 102.

Ms. Horwath: I move that subsection 45(8) of the bill be struck out and the following substituted:

“Co-chairs

“(8) The members of the administration corporation shall appoint two members as co-chairs in the following manner:

“1. The members of the administration corporation who represent members or former members of the OMERS pension plans or who are chosen by entities that represent members or former members of the OMERS pension plans shall appoint one co-chair.

“2. The remaining members of the administration corporation shall appoint the second co-chair.”

1750

The Chair: Any discussion? All those in favour of the amendment? All those opposed? That's lost.

Shall section 45, as amended, carry? All those in favour? All those opposed? That's carried.

Section 45.1, Ms. Horwath.

Ms. Horwath: I move that the bill be amended by adding the following section:

"Decision-making mechanisms

"45.1(1) Any resolutions of the administration corporation shall require a vote of the majority of the members present, provided that at least one member appointed by the organizations that represent employers and one member appointed by the organizations that represent employees have supported the resolutions.

"(2) A deadlock shall be deemed to exist where a proposal, motion or resolution made by the administration corporation is neither adopted nor rejected by a majority vote, or where a resolution or motion is unable to be made at a meeting due to lack of quorum at two consecutive meetings.

"(3) In the event of a deadlock, a further meeting of the administration corporation shall be held no later than 10 days after the deadlock has arisen for the purpose of resolving the matter in dispute.

"(4) If the matter is not resolved at the meeting described in subsection (3), any five members of the administration corporation may require the naming of a 17th member of the administration corporation, who shall cast the deciding vote at the next scheduled or special meeting.

"(5) The 17th member of the administration corporation shall be one of five persons selected by the sponsors corporation from time to time who shall rotate in order between them as determined by the sponsors corporation, except that if any one of them is unavailable within 30 days of the dispute arising to resolve the matter in dispute, the 17th member of the administration corporation shall pass to the next person or to such other person as may be agreed by the sponsors corporation.

"(6) If the sponsors corporation cannot agree on a 17th member of the administration corporation, he or she shall be appointed by the Chief Justice of Ontario.

"(7) The 17th member of the administration corporation shall cast a tie-breaking vote and shall make his or her determination within seven days of the meeting at which submissions are made.

"(8) The decision of the 17th member of the administration corporation shall be final and binding on all other members of the administration corporation, the sponsors corporation, employers, employees and beneficiaries.

"(9) Upon rendering his or her decision, the 17th member of the administration corporation shall cease to be a member of the administration corporation.

"(10) The reasonable expenses of the 17th member of the administration corporation shall be paid out of the pension fund."

The Chair: Any discussion? All those in favour of the amendment? All those opposed? That's lost.

Government motion, Ms. Matthews.

Ms. Matthews: I move that the bill be amended by adding the following section:

"Transitional amendments to OMERS pension plans

"45.1(1) The Lieutenant Governor in Council may make regulations governing the establishment and terms and conditions of supplemental plans for the purposes of section 4, including,

"(a) prescribing the manner for calculating or the assumptions to be used in calculating the amount of pension benefits provided under the supplemental plans;

"(b) prescribing the requirements to be satisfied for persons to be eligible to be members of the supplemental plans;

"(c) establishing the rate or amount of contributions to be made under the supplemental plans or prescribing the manner for determining the rate or amount of contributions.

"Repeal

"(2) This section is repealed on the third anniversary of the day this section comes into force.

"Revocation of regulation

"(3) Any regulation made under this section is revoked on the day this section is repealed."

The Chair: Any discussion?

Mr. Hudak: I think this is the last of the amendments before us for this bill, and I do want to note for the record that we seem to be having some problems with our TV reception of what's happening in the assembly. I also wanted to note that it's remarkable that Deb Deller has an identical twin of similar taste and clothing who is appearing at the same time in two places in the Legislature. That's all I have to say.

The Chair: Any discussion about the amendment?

Mr. Duguid: In case this is the last time we meet this year, I just want to thank the clerk for sorting us through this. There were a lot of amendments, and it was a pretty difficult job for the clerk. So, thanks to the clerk and her staff for getting us through this.

The Chair: Yes, Tonia is a star. She helps me get through this.

All those in favour of the amendment? All those opposed? That's carried.

OK, we can go from sections 46 to 58. Shall sections 46 to 58 be carried? All those in favour? All those opposed? That's carried.

Shall the title of the bill carry? All those in favour? All those opposed? That's carried.

Shall Bill 206, as amended, carry? All those in favour? All those opposed? That's carried.

Shall I report the bill, as amended, to the House? All those in favour? All those opposed? That's carried.

This concludes the committee's consideration of Bill 206. I'd like to thank all my colleagues on the committee for their work on the bill. The Chair also thanks the committee, the ministry staff and the members of the public who have contributed to making this work.

This committee now stands adjourned until the call of the Chair.

The committee adjourned at 1755.

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