

Municipal Employees' Pension Plan (MEPP)

Commission Composition Review

Submission presented to:
Public Employees Benefits Agency
Ministry of Finance
c/o Nancy Croll, Croll Consulting

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LABOUR UNION ANSWERS TO QUESTIONS OF THE MEPP COMMISSION COMPOSITION REVIEW

1. Does the composition of the Municipal Employees' Pension Commission remain appropriate?

No

2. If not, in what way should the composition of the Commission be amended and what is the rationale for any suggested changes?

Unionized plan members (including Police and Fire) should appoint all of the employee representatives to the Commission. Our rationale is described below.

3. Are there other issues related to the composition of the Commission that you believe should be considered as part of this review?

No

4. If so, what are they and why do you feel the matter is important?

N/A

5. What suggestions might you have as to the best way to consult with pensioners who do not have a representative organization?

Labour unions pride themselves on being democratic organizations that represent all members in a community of interest fairly. We understand the limitations and democratic issues with voluntary, not fully representative, organizations speaking on behalf of a full community of interest. This is why unions can support consultative roles on fiduciary or sponsor boards for voluntary organizations like pensioners.

Below we would like to elaborate on our position regarding the composition of the MEPP Commission.

Introduction

The labour unions' position is that there are two serious distinct, but related problems with the composition of the MEPP Commission: 1) an **under-representation** of unionized plan members, and 2) an **over-representation** of appointees of management associations in "employee" seats.

The MEPP legislation currently sets out of a 10-person board divided into two distinct sides: "employer representatives" and "employee representatives." This is a typical feature of pension plan governance. However, **three of the five seats on the "employee" side to be filled by appointees of management associations**: the Rural Municipal Administrators' Association of Saskatchewan, the Saskatchewan Association of School Business Officials and the Urban Municipal Administrators' Association of Saskatchewan. One employee seat is filled by police and firefighter associations. The remaining seat is filled by "trade unions that represent employees who are members of the plan." The Commission requires a majority of votes to carry a decision.

The Commission structure is not proportional to the plan's membership

In general, governance voice and influence in Canadian pension plans is proportionally related to the plan's membership. The labour unions have experience on pension boards from coast-to-coast and there is a clear trend: where one union that represents a majority of plan members, that union is given a more significant voice in plan governance, by way of more seats on the board. Of course, given imperfect data, shifting numbers and a desire to have a certain number of organizations represented, this relationship is not always perfect. However, it is clear that pension board composition across the country is designed to have employee-side seat numbers roughly match plan membership.

This practice simply makes sense for a number of reasons. If a union represents the majority of plan members, that union should have a larger say in how the plan is governed. A pension plan is democratically enriched by this representative structure and should be considered a strength of the plan. There are practical considerations as well: a board that fails to adequately represent most of the plan's members may, consciously or unconsciously, make choices that fail to best serve the interests of those members. These failures may cause a board more issues in the future. Proportionally structuring a plan's governance to reflect the plan's membership is a justified best practice.

It is clear to the unions that the MEPP Commission does not, in any way, reflect the plan's membership. The labour side has requested information on the plan membership as a whole, specifically regarding what unions and/or associations, if any, plan members belong to. However, we were told this data is not available. Using the aggregate MEPP data, however, and our own membership numbers, we are able to estimate the following:

- CUPE represents approximately 6250 members in MEPP (40% of active plan members)
- SGEU represents approximately 700 members in MEPP
- SEIU West represents approximately 550 members in MEPP
- Police and Fire unions represent approximately 250 members in MEPP

- Other unions represent smaller numbers of members

Looking at some of the data in the actuarial report, our estimate clearly bears weight when we consider salary levels. Of MEPP's 14,000 (as of actuarial report) active general members, the average full-time equivalent salary is just over \$40,000 per year. The MEPP governance manual suggests that 85% of plan members have salaries below the Yearly Maximum Pensionable Earnings (or "YMPE", currently \$53,600). Many of the trade unions represent members earning less than the YMPE.

Both the Urban Municipal Administrators' Association of Saskatchewan and Rural Municipal Administrators' Association of Saskatchewan websites state that the range of salaries for their members is between \$50,000-100,000.¹ This indicates that the vast majority of the members of these associations would have salaries *above* the YMPE, and therefore not fall into the 85% of plan members referenced above.

The Urban Municipal Administrators' Association of Saskatchewan website states that they have more than 350 members. The Rural Municipal Administrators' Association of Saskatchewan appears to have approximately 300 members. The Saskatchewan Association of School Business Officials has approximately 150 members. We do not know how many of these members are currently employed and then how many of this even smaller group of employees are active MEPP members. At the top end, this would mean approximately 5% of plan members hold 60% of the employee-side seats on the Commission. The real number is certainly less.

It is clear that the composition of the MEPP Commission bears no resemblance to the plan's membership. At most there are presently 5% of plan members holding 60% of the employee-side seats, while a majority of plan members hold just 20% of the seats. The labour unions view this as a serious governance liability. It is clearly a best practice in pension plans for employee-side seats to broadly reflect the plan's membership. This is good for plan democracy or for a representative, responsive board. MEPP members deserve better.

The vast majority of plans in Canada give unions more seats and far fewer, if any, to management associations

The representative structure of the MEPP administrative board looks particularly atypical when examined alongside administrative boards from across Canada. A review of comparators suggests both that union members are significantly under-represented on MEPP's employee-side seats and management/non-union members are even more significantly over-represented compared to other pension plans.

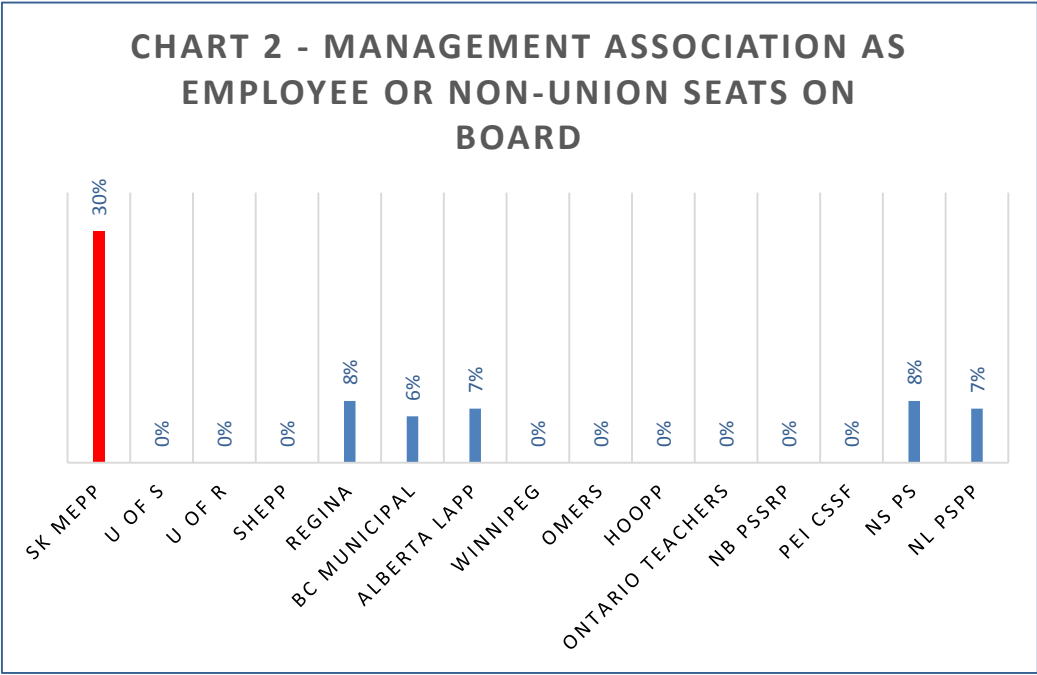
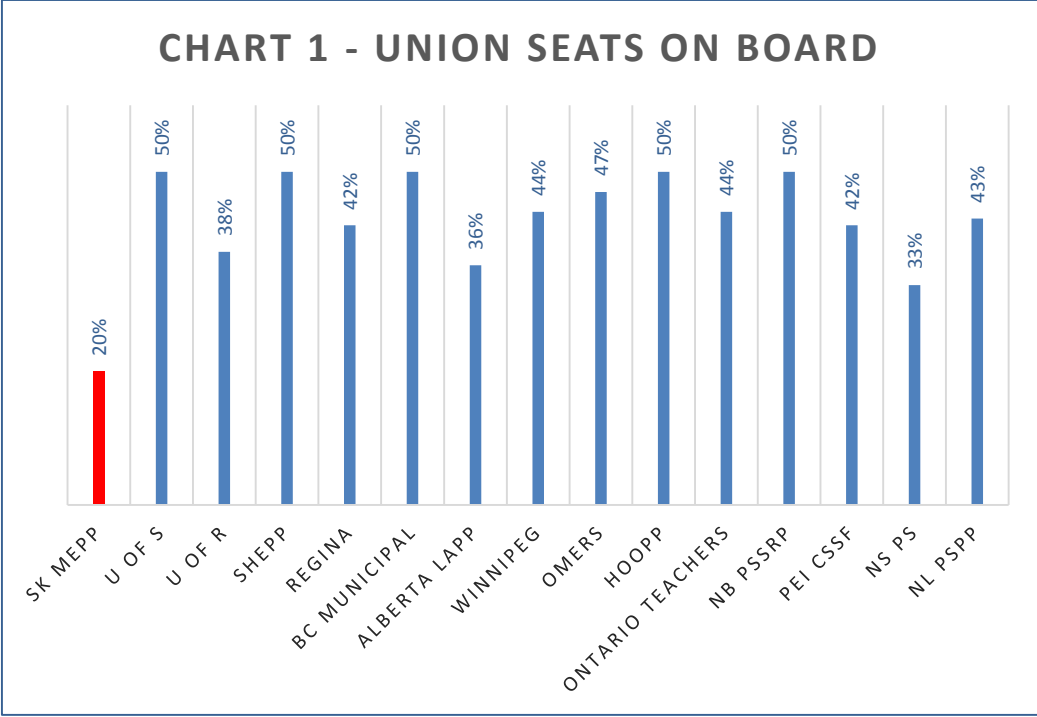
The list below details how administrative boards in other major pension plans in Canada are structured with respect to these two points. In some cases, the plans below are statutory plans and the particular

¹ <http://www.umaas.ca/Office/Newsletters/Latest/December%202014.pdf>
<http://rmaa.ca/employment/salary-schedule>

provincial Minister of Finance is the official trustee of the plan, meaning the boards identified below officially serve in an advisory capacity. Some plans with less formal seat specifications have been omitted from the review.

TABLE 1
Comparison of Governance Structure for MEPP and other
Public Sector Pension Plans in Canada, 2015

Pension Plan	Administrative Body Structure	Union Seats On Board	Management Association as Employee or Non-Union Seats
Saskatchewan MEPP	5 employer, 2 union, 3 management	20%	30%
University of Saskatchewan	3 employer, 3 union	50%	0%
University of Regina	4 employer, 3 union, 1 retiree	38%	0%
SK Healthcare Employees Pension Plan	4 employer, 4 union	50%	0%
Regina Municipal Plan	6 employer, 6 employee (elected by membership at large – currently 5 union, 1 mgt)	42%	8%
BC Municipal Pension Plan	7 employer, 1 non-union, 7 union, 1 retiree chosen by union side	50%	6%
Alberta Local Authorities Pension Plan	6 employer, 5 union, 1 non-union / mgt, 1 government, 1 retiree	36%	7%
Winnipeg Civic Pension Plan	8 employer, 7 union, 1 retiree	44%	0%
Ontario Municipal Employees Retirement System	1 independent chair; 7 employer, 7 employee (6 union, 1 retiree)	47%	0%
Healthcare of Ontario Pension Plan	8 employer, 8 union	50%	0%
Ontario Teachers' Pension Plan	4 employer, 4 union, 1 jointly-agreed chair	44%	0%
New Brunswick Public Service Shared Risk Pension Plan	5 employer, 5 union	50%	0%
Prince Edward Island Civil Service Superannuation Plan	5 employer, 5 union, 1 retiree, 1 chair	42%	0%
Nova Scotia Public Service	6 employer, 4 union, 1 retiree, 1 non-union	33%	8%
Newfoundland and Labrador Public Service	6 employer, 6 union, 1 non-union, 1 retiree	43%	7%



MEPP clearly gives dramatically fewer seats to unions and more seats to management associations than every other major pension plan in Canada.

With minor variations across plans, the clear picture is that joint administration of plans means sharing the responsibility between employers and unionized (i.e. not management association) plan members. In a small number of cases, management associations appoint members to boards, but even in those cases,

their role is severely limited. Jointly-sponsored plans in Ontario and elsewhere, are actually required by legislation to have processes for joint decision-making about the plan, including plan administration. Multi-employer plans in Ontario specifically require at least half of the administrative board trustees are representatives of plan members. The MEPP plan text itself clearly intended an even employer / employee split, naming an equal number of “employer representatives” and “employee representatives” to the Commission. While we agree with the intention here (which clearly reflects a notional effort to follow an established best practice in the Canadian pension landscape), we maintain that the execution is severely flawed by naming three managers to “employee” seats.

We also note that the final Composition Review report from 2011 essentially endorsed the labour unions’ position.² The reviewer discussed the “underrepresentation” of labour unions on the board and argued that “I feel this is a legitimate point given the large number of CUPE members in the Plan.” He noted that “should the composition of MEPC be changed in the future the matter of CUPE representation needs to be addressed.” We feel this issue should be addressed proportionally for all of the labour unions.

The “two hat” problem

The labour unions view management association members filling “employee”-side seats with justified discomfort. In our view, this practice gives rise to a distinct “two hat” problem.

On some “apolitical” decisions within the scope of the administrative board, the two hat problem would likely not arise. For example, having pension cheques go out on time is not controversial and would always be a goal of all board members, no matter their affiliation.

However, other board responsibilities, such as preparing and filing actuarial valuations, deciding on whether or not to award ad-hoc indexing, and, in particular, recommending plan design changes could be approached much differently by union trustees and management-as-employee trustees. For example, if the board were considering making a recommendation to either increase contribution rates or reduce benefit levels, it would be very difficult for a municipal finance manager to separate his/her employment duties (which might motivate a desire for cost containment, therefore favouring benefit reductions) from his/her role representing the interests of all plan members (which might take a different or more nuanced view).

The recent MEPP member survey was a key example of how the Commission may not reflect the views of plan members. The survey was approved by the Commission and carried out by PEBA. In our view, the survey was crafted from a management point-of-view, as its focus was on plan benefit reductions, rather than on whatever mechanisms may be useful in maintaining the solid financial position of the existing plan. Plan members also have serious methodological issues with the survey that truly limits its practical value. Had plan members had a legitimate voice at the Commission table, we are certain that a more balanced and useful approach to discussing plan design with member would have been reached.

² Mick Grainger, Advicon Services, "The Municipal Employees’ Pension Commission Composition Review", March 31, 2011.

We do not see why *any* seat that is clearly designated for an employee should face this entirely avoidable “two hat” problem. We see even less justification for a *majority* of the employee seats to face this problem. Clearly, pension plans across the country have reached the same conclusion, which is why no other pension plan has followed the MEPP example.

We recognize that all Commission members have fiduciary obligations to all MEPP members, and that the Commission is guided by conflict of interest and avoidance of bias procedures. However, in our view, these features and safeguards cannot trump the need for a properly balanced board. Trustees on the pension plans listed above are also generally bound by similar obligations, yet they all have much more balanced board composition. If the employer associations truly did not believe in potential “two hat” problems, and believed that Commission members approach problems in the same way, regardless of their background, they would have no reason to oppose a Commission appointed entirely by trade unions. We believe that fiduciary duties and conflict of interest policies are indeed useful for creating a common community of interest, but for pension boards to be truly balanced, they must broadly reflect the membership they are serving. Canadian pension boards across the country have recognized the same thing, and their composition structures clearly reflect this.

The representative advantage of trade unions

It is not only by virtue of representing the vast majority of plan members that trade unions play a key role on boards: the democratic accountability that trade unions must provide to their members is also a key advantage in producing good, representative board members. The labour movement prides itself on being home to democratic and accountable labour unions. When a bargaining unit is certified, it is based on the democratic will of that particular workplace’s employees. Local unions have a legal obligation to represent all members in a workplace fairly. Our unions rely on member votes to elect officers and make bylaws and policy at the local, provincial and national levels. We have a high degree of confidence that when unions make appointments to the MEPP Commission, that the choice reflects the democratic desires of all of our members, and that there are measures to ensure that this remains the case.

Voluntary organizations that represent managers or retirees do not generally have these same strengths. Such associations do not typically automatically represent all plan members in their communities of interest. Unlike unions, membership in voluntary organizations is by choice, and is sometimes only available to the most senior employees, or restricted by qualification criteria.

We recognize a fundamental difference between these two types of organizations and feel that the union structure provides the best democratic process and accountability measures for the trustee selection process. This is why trade unions have opposed formal roles for voluntary organizations on administrative or sponsor pension boards across the country. Where such organizations do have a role on a board, it is often, and appropriately in our view, in a non-voting, advisory capacity.

The labour movement's proud history of joint sponsorship and trusteeship

Across Canada, labour unions have a long and proud history of joint sponsorship and joint trusteeship in both large and small pension plans in every region of the country. Unions have played a leading role in many efforts across the country to bring pension plans out of statute and into true independent joint sponsorship. In the remaining statutory plans, our members continue to play key roles on administrative boards. This long history has given the unions an ability to identify, train and retain the best and most effective trustees. CUPE, for example, “provides union-sponsored” trustee training courses for both CUPE members and other trade union trustees and our trustees benefit from ongoing professional development through the pension industry. We are proud that union members play effective roles on some of the largest and best run pension plans in the world, and see real, joint governance as a model that should be expanded in areas where it is lacking, like MEPP.

Conclusion

To briefly restate our view, there are too few union appointed seats on the employee side of the MEPP Commission board and too many management association seats. This atypical structure places MEPP dramatically outside the well-justified best practice in Canadian pension governance to have a truly balanced board where union members comprise 100% of the employee-side seats. Such boards are the standard in Canada because they are more balanced, more neutral, more accountable to plan members, more representative of plan members and therefore, more democratic. We see no reason why the MEPP Commission should continue to have its unjustified, highly irregular composition and call on this review to recommend that it be remedied quickly.

We recommend:

- The Commission composition should be revised so that unionized plan members (including Police and Fire) appoint all of the employee representatives to the Commission.