Health Sector Unions Continue Fight for Pension Fairness

September 2006

Five Unions Join Forces to Challenge How NSAHO Manages Your Pension Contributions

Joint efforts between CUPE, NSNU, NSGEU, CAW and most recently SEIU to gain more control over the management of the NSAHO Pension Plan for union members continued throughout the summer months.

This coalition of unions was formed as a result of the last round of negotiations. Collaborative investigations and discussions lead to the disclosure of discrepancies in the pension plan. If you require a brief introduction to Pension Plans please read the text in the blue shaded boxes (Pensions 101) found on pages two through seven prior to reading this update.

On July 5, 2006 representatives of the union coalition met with Minister of Health Chris D'Entremont at the Nova Scotia Legislature to communicate our ongoing concerns. The unions made it clear to the Minister that no collective agreement for any of our unions will be settled in this sector without the pension issue being resolved. The Minister communicated that he was well aware of the issue, but we have yet to see any commitment to address our concerns.

The unions are currently pursuing several strategies to address our serious concerns with the management of the Plan, especially the use of surplus. First and foremost, in the opening of their collective bargaining with the NSAHO in April 2006, both CUPE and the CAW tabled pension (and benefits) proposals that had been co-signed by the NSGEU and the NSNU (SEIU signed on in the weeks that followed).

continued on page 2...

Nova Scotia Nurses' Union | CUPE On the front line | NSGEU | CAW TCA CANADA | SEIU Stronger Together

Pensions 101

What is a pension plan?

Pensions are a part of your wages. You earn your pension entitlement as you work, but defer the payment of these wages until you retire. In principle therefore, pensions belong to the workers who earn the money. Pension plans began to be established over one hundred years ago, and workers and their unions have been fighting ever since to ensure that you are not faced with the indignity of poverty when you retire.

In general, good pensions are designed to pay out a percentage of your earnings. Ideally, it is a percentage of the earnings that you were receiving in the period just prior to your retirement. The best pension plans in the country - known as 2% plans - can replace 60% of pre-retirement earnings for those who contribute for 30 years.

A more average replacement level would replace around 45% of pre-retirement earnings after 30 years. In the case of the NSAHO plan, it will replace about **42%** of your pre-retirement earnings as your lifetime pension. While this is certainly decent, and vitally important, it could definitely be better. Workers at the Halifax Regional Municipality, for example, have a formula that replaces **60% of wages** after 30 years of service.

Five Unions Join Forces...

...continued from page 1

These proposals, which were distributed widely in a recent round of joint union regional meetings, aim to ensure that the employers contribute to the letter of the NSAHO Pension Plan text, and that surpluses be used only to improve the members benefits in the plan.

The employers and NSAHO have dismissed our efforts to resolve these issues. The District Health Authorities (DHAs) instead filed a complaint against CUPE with the Labour Board, arguing that the issues the unions want to negotiate are not subject to collective bargaining. Because the outcome of this hearing will have a direct bearing on CAW, NSGEU, NSNU and SEIU, the Labour Board allowed the unions full participation at the hearing. The hearing got underway on July 10 and 11, 2006 and continued on July 31 and August 1 and 2, 2006.

Regardless of the outcome, CUPE and the CAW now have dates scheduled for conciliation in September, the final stage of negotiations before any possible job action. All five unions are determined to support one another and gain more control over the pension plan and the surplus.

We believe that the partial contribution holidays taken by the employers were unauthorized and are a violation of the Plan text. As such, on July 5, 2006, approximately 140 grievances against NSAHO employers were filed by CUPE, NSNU and NSGEU. Grievances were filed by CAW the following week. This move has brought all NSAHO pension plan employers (including acute care, long term care and community services) into the picture and has opened another possible avenue for resolving this dispute.

The Union Coalition also continues to seek legal advice at each step of this campaign. It is important to note, however, that the unions are aiming to achieve a more comprehensive solution to this problem than either grievances or any other possible legal actions are likely to obtain. As such, while we will not hesitate to strategically pursue the legal avenues available, our priority continues to be to resolve these issues in the most definitive way possible through collective bargaining, so that real fairness is achieved for our members. We know collective bargaining over pensions has won key gains and protections for health care workers in other provinces, and see no reason why Nova Scotia health care workers should have anything less.

Next Move to Come from Board Trustees

The first draft of the next actuarial valuation will be reviewed at the September 11th meeting of the Board of Trustees. The outnumbered union named Trustees have been told that they have two months to consider the requests tabled in that report. This means that the unfair employer subsidy out of the surplus will either be continued or the Trustees will recommend that the employers should contribute the full employer current service cost. It is up to the Trustees, who must make decisions based on what is in the interest of plan members, not employers. All of the unions are urging the Board of Trustees to live up to this commitment to work for plan members, and pass a motion to recommend that the employers start paying the full employer current service cost.

We encourage all of our members to also take up this issue at the level of your own local employers. Feel free to request a copy of the Pension Plan Text from your human resources representative, and let them know that you support the unions campaign to gain more control over your pension plan. Finally, please watch for further updates, as well as announcements of strategic actions coming soon. We aim to have all plan members and all plan employers aware of this urgent problem, as well as how it can be addressed.

Pensions 101

How are pension plans funded?

In the private sector, most pension plans are entirely employer-funded. In the public sector, a system evolved where employees themselves accepted a partial share of the responsibility for contributing the funds to pay for the pension. Generally speaking, this has meant establishing a single, fixed contribution rate for employees, leaving the employer responsible for paying whatever the remaining cost is. That cost is determined through various estimates and projections used by a financial expert (the actuary). If the total cost for the plan goes up, and with the employee contribution rate fixed, the employer is responsible to pay for the amount of the increase.

In some public sector plans, such as the provincial public service plan in Nova Scotia, the system is much more advantageous to the employer. In that plan, the funding system is set out in an Act of the legislature, and therefore the provincial government controls contribution rates for both the employer and the employees. They have set contribution rates so that the employer - the government itself - pays only a 50-50 share of the cost.

Fortunately, the NSAHO pension plan is not structured this way. Instead, it establishes a more traditional model where the employee contribution rate is fixed, and the employers' contribution is, by definition, whatever the difference is between the employees' fixed rate and the total cost (as determined by the actuary).

Pensions 101

What is surplus? Who owns it?

In principle, since pensions form a part of your wages, they belong to you. The funds you earn, partly contributed by you and partly by your employer, are deposited into a larger fund and altogether the money is invested in the stock market. Since one of the assumptions made by the actuary is the rate of return on investment, sometimes the assumption turns out to have been too conservative. When that happens, more money is earned than was assumed, and the plan ends up with a surplus - more money than is needed to pay for the current level of benefits. The question is, who should benefit from these positive earnings? The answer is obvious - the employer has no business profiting from a pension plan established for employees with employees' deferred wages.

This being said, under pension law, trade unions and employers continue to be locked in an ongoing fight over the legal status of these surpluses. Employers try to argue that since they are often responsible to pay more in the event that a plan suffers losses and ends up with a deficit, they should gain when there are surpluses. This is wrong for several reasons. First, when an employers' pension cost goes up, they invariably take this into account when they turn to negotiating regular wage increases. If pension (or other benefit) costs are up, they will argue that they can't afford a regular wage increase. We face these cost increases at the bargaining table.

continued on page 5...

Q & A on the NSAHO Pension Dispute

As a result of a challenge presented by the five unions representing NSAHO pension plan members, the NSAHO has attempted to counter with a series of bulletins and letters outlining its view of the issues. Unfortunately, much of the NSAHO response has only served to confuse and further mislead pension plan members about their rights and entitlements under the plan.

The following Q & A will provide responses to a number of questions that have arisen as a result of the NSAHO's recent communications.

Q: One NSAHO bulletin claimed that they "absolutely refute that the employers have taken a holiday." Another listed a dollar figure for employer contributions and argued that "not one cent of those contributions came from Plan surplus." Why are the unions continuing to say that the NSAHO employers have taken a partial contribution holiday?

A: The NSAHO response appears clear, but in fact it is highly misleading, and attempts to avoid the real issue by redefining the term "contribution holiday". An employer contribution holiday occurs when any of the employers current service cost is paid out of the plans surplus. This can be a complete holiday, where no contributions are made at all, or a partial holiday, where a portion of the employer cost is actually contributed, and the remainder is made out of surplus.

It is the second type that the NSAHO plan has implemented. When NSAHO CEO Bob Cook claimed that "not one cent of those contributions came from Plan surplus", he was carefully avoiding reference to the contributions that were, in fact, made out of surplus, in other words, the remainder of the employer Current Service Cost listed as required in the plans financial reports. **The only way that employer contributions could be held to match the employees' rates was through the use of surplus to fund the employers' contributions.**

If the employers are not using plan surplus to make a portion of their required contributions to the plan, then they should have no problem agreeing to the unions proposal that all surpluses should go to benefit improvements. In fact, they have completely rejected this proposal and refused to allow the plan to be discussed at the collective bargaining table or in other forums.

Q: If there is still significant surplus in the plan, why did my contribution rates just go up?

A: The fact is, the cost of the plan - technically called the "current service cost" - has been increasing for a number of years. Because the employee contribution rates are fixed in the Plan text, this growing cost automatically falls to the employers. However, this employer cost can be pushed back over onto employees by increasing the employee contribution rate, which the employer dominated Board of Trustees has just done. This increase is also aimed at maintaining enough surplus in the plan to allow the employer partial contribution holiday to continue indefinitely.

Q: The NSAHO has repeatedly claimed that the pension plan is "very competitive", and provides "excellent retirement benefits." If this is the case, why are the unions so concerned about plan surpluses?

A: First of all, the surplus in the plan is primarily the result of positive investment returns on the fund, something that obviously should be of benefit to the plan members whose money it is, not employers.

Secondly, while the NSAHO pension plan is a good, defined benefit plan, it is not as competitive with other plans as the NSAHO has claimed. Workers at the Halifax Regional Municipality, at Canadian Blood Services, and in the hospital sector in Ontario, all have pensions with higher benefit levels than the NSAHO plan. In fact, the "improvements" to benefits referred to frequently by the NSAHO and the plan staff are only needed because the plan is not designed to guarantee a pension based on your final years of earnings. All other comparable plans do provide this guarantee, which means for all of those plans such "improvements" are not needed. NSAHO plan members deserve a more guaranteed benefit design.

Q: The unions have proposed that the employee contribution rates be returned to previous levels and fixed in collective agreements. Wouldn't this reduce the funding flowing into the plan?

continued on page 6...

Pensions 101

What is surplus? Who owns it?

...continued from page 4

Secondly, as employers tend to maintain most of the control of the pension plans, and give direction to the actuaries that set assumptions, they can generally make sure that assumptions are set conservatively in a way that makes surpluses much more likely than deficits. In the 1990s, most employers raked in millions of dollars from workers pension surpluses, because rates of return were relatively high compared to most assumptions. Now that rates of return are lower and many plans are facing deficits, employers are scrambling to argue that they should not have to be paying more to bring pension plans back to full funding. The labour movement continues to work hard to change pension law and to negotiate protections against these employer cash grabs through collective bargaining.

How do employers get access to surpluses?

Over time, many employers discovered that they could utilize pension surpluses by discontinuing their own contributions to the plan while a surplus existed. In some cases, they would continue to contribute but at a level that was less than what the actuary had indicated was needed; the difference was made up by your surplus. In the pension industry, these practices came to be labelled contribution holidays. When the employer stops contributing altogether, it is called a full contribution holiday, and when their contribution is partly reduced through the use of surplus, it is called a partial contribution holiday.

Pensions 101

Who controls the contribution rates to a pension plan?

Considering the importance of pensions to workers lifetime income picture, and the significant amount of money at stake in the struggle to protect surpluses, it is frustrating that many pension plans continue to be controlled, directly or indirectly, by your employers. In some cases, as with the Nova Scotia provincial public service plan, this control is exercised through legislation. In the NSAHO plan, there are two sets of decision-makers, both of which are in practice controlled by your employers. One of these is a Board of Trustees, which is responsible for much of the day-to-day administrative decision-making for the plan. The NSAHO names 16 of the 20 trustees on that Board. However, the real power - the authority to amend the terms of the plan or change the contribution rates - rests with the NSAHO Board of Directors themselves, and 10 of the 14 Directors are named by the District Health Authorities.

Not surprisingly, this control has been increasingly exercised at the expense of employees. When the total cost of the NSAHO pension plan began to rise in recent years, the employers' contributions should have increased as well, as per the terms of the Plan Text. Instead, the employers held their contribution levels down to only a 50-50 match of member contributions, and made up the remainder of their cost by using millions of dollars of fund surpluses - instead of using that money to improve the plan itself.

continued on page 7...

Q & A on the NSAHO Pension Dispute

...continued from page 5

A: No. In fact, the design of the plan makes it clear that the employee contribution rates are fixed in the plan text, and the employers funding obligation is to contribute whatever else is necessary to fund the benefits according to the plans actuary. The recent contribution rate increase only relieved the employers of a portion of their growing pension cost, just as their partial contribution holiday has.

For the unions, it is completely unacceptable that the employers are able to unilaterally control both pension surpluses and employee contribution rates this way. Through the NSAHO and the existing, lopsided Board of Trustees, the employers have full control over these issues. In other provinces, these same kind of contribution holidays led the trade unions representing hospital workers to get organized and bring pension issues to the collective bargaining table. Through collective bargaining, they have been able to achieve either contribution rate security or meaningful shared control of their plans, or both. Nova Scotia hospital workers deserve no less.

NSAHO Pension Plan Managed for Employers - Not Plan Members

Plan members need to understand the many reasons that your employers and the NSAHO are motivated to prevent us from bringing pension issues to the collective bargaining table. There is a reason why the employers - through their Association, the NSAHO - are maintaining their control over the pension plan. The status quo arrangement works very well for them.

The following list provides some examples.

1. Saving money for employers and the provincial government

The single most important reason that the employers want to keep control over this plan is that the plan has been saving them millions of dollars over the past 10 years. As reported elsewhere in this bulletin, over $53 million of pension surplus has been allocated to employer contributions (through "partial contribution holidays"). This is Plan members' surplus, money that could be going to benefit improvements. Looking ahead, if the employers get their way and nothing changes, they will benefit from continuing surplus allocations of over $10 million every year. Ultimately, this is saving money for the provincial government, which has an obligation to transfer sufficient payroll funds for the wages and benefits of health system workers.

The employer control of the pension plan has also meant that rising employer costs have been transferred over to plan members. Member contribution increases in 2003, and in April of this year, have in turn reduced the employers "current service cost" their pension bill. This cost transfer is not over the Trustees have already announced that they intend to raise member contributions again in 2008. Once again, this is presented as necessary and normal rather than something that saves your employers money.

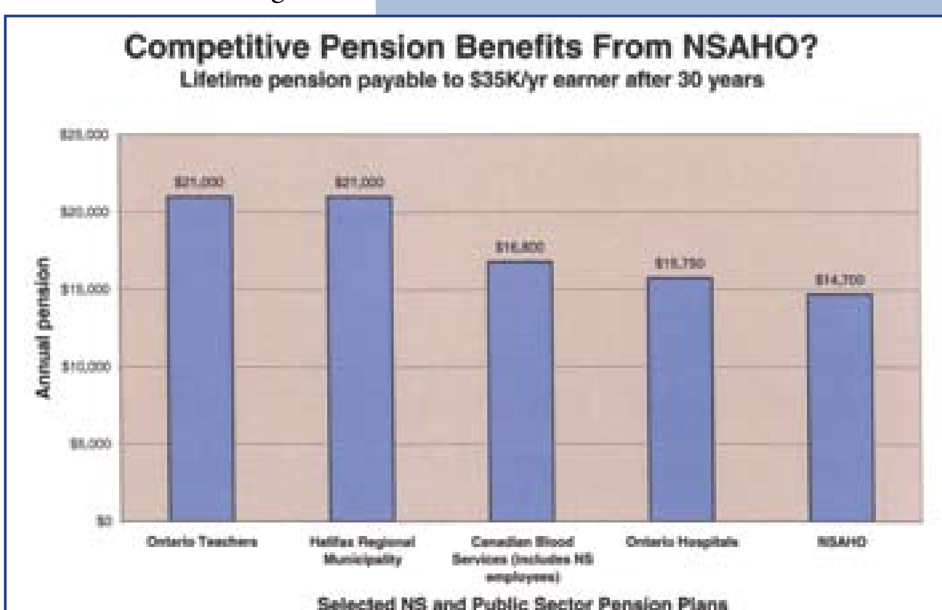
continued on page 8...

Who controls the contribution rates to a pension plan?

...continued from page 6

The unions representing NSAHO pension plan members have tried in the past to bring concerns over the pension plan to the collective bargaining table, with no success. This year, all five unions representing over 80% of the plans members are working together to ensure that members concerns are effectively represented through collective bargaining.

The employers' effective control over the pension plan has been exercised at our expense for too long. By co-ordinating our efforts for the first time, the five unions who have members in the pension plan stand a much better chance of achieving these important improvements to the plan.



NSAHO Pension Plan Managed for Employers...

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2. Freezing benefit levels

The employers overriding interest in keeping their contributions low also gives them a particular concern to keep benefit levels where they are. When they report to Plan members that benefits have been recently improved through "base year upgrades" for example the impression is that your benefits are continually getting better.

In fact, these upgrades are only needed because the plan does not currently provide pensions based on "final earnings". Most public sector pension plans guarantee "final earnings" benefits, and so do not require these upgrades.

Ultimately, NSAHO pension plan members deserve a better level of benefits.

Plan members should be able to expect a lifetime benefit formula at least as high as the Ontario hospital sector, and it should be based on our final earnings. The current CEO of the plan has expressed concern that such improvements might hinder the Trustees ability to "manage risk." Our pension experts believe that he is protecting the employers from any risks that their cost might increase. This is neither his job, nor that of the Trustees. It is increasingly clear that the governing structure of the pension plan must change.

3. Controlling communications with plan members

While the ultimate power under the existing pension arrangement rests with the NSAHO Board of Directors (most of whom are named by the District Health Authorities), there is also a key role played by the Board of Trustees. Out of twenty Trustees on that Board, the plan member unions are able to name only four. Again, the District Health Authorities and the Long-term Care employers name 13 of the 20, ensuring that employer concerns predominate in Board decision making.

One of the consequences of this employer domination is that pension plan communication material is continually geared to persuading plan members that the plan is well managed and going well. In fact, pension plan staff, working under the authority of the employer controlled Board of Trustees, have repeatedly argued that the plan provides "excellent benefits" that are "competitive" with other public sector plans. The employers have a clear interest in persuading members that everything is fine, and no changes are needed. Their control over pension plan bulletins and other communication material ensures that this "persuasion" effort will continue, even to counter the unions work to shed light on what is going on.

4. Avoiding the pension issue in collective bargaining

A final advantage that the employers want to preserve through the existing system is keeping pension issues off the collective bargaining table. They know that health care workers only have real strength within the negotiation process and they want to avoid that strength at all costs. Health care workers in many other provinces have succeeded in bringing their pension plans even legislated plans to the collective bargaining table. Through collective bargaining, unions have been able to negotiate protection for fund surplus, benefit improvements, and improvements to governance structures. With the NSAHO plan, we need improvements in all three areas, and the employers are afraid that if they engage in a fair collective bargaining process, we will succeed.

This is likely the reason that the employers have filed a complaint against CUPE with the Labour Board. At this time, it is clear the NSAHO is not prepared to allow pensions to be addressed at the bargaining tables.

For more information on this issue please contact your union representatives.

Publication Agreement # 40051069
Return Undeliverable addresses to:

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40051069