Greater Charlottetown Area
Chamber of Commerce

Submission on Bill 30, Pension Benefits Act

Presented to the Consumer, Corporate and Insurance Services Division
Department of Justice and Public Safety

March 2011

The Greater Charlottetown Area Chamber of Commerce (GCACC) again appreciates the opportunity to provide input on the revised Pension Benefits Acts, Bill 30. The GCACC, through its Labour Market Committee, has read the proposed Act and is offering the following comments.

Not all potential matters are covered in this submission, and on that note, we would certainly appreciate the opportunity for further discussion as the regulations are drafted or other changes to Act are considered. For the GCACC, this submission is simply meant to address some of the major issues that we foresee with the implementation of the legislation as currently drafted.

The GCACC respectfully submits that now is the wrong time to proceed with full introduction of a new pension regulatory regime based on the following points:

a. Introduction of pension standards is not a trifling issue. It is a very big issue for employees and employers, growing in importance and cost every year. Many of the latest labour unrest actions in Atlantic Canada have been due to pension and other retirement benefits. The cost of adhering to pension standards looms large for any employer, especially many smaller PEI employers who may have introduced pension plans for their employees years, if not decades ago;
b. most other provinces are reviewing and updating their old Acts now, yet we are faced with introduction of our first-ever pension standards Act based on those old, out-dated models, which we know, do not work. In fact, the proposed PEI Act is being heralded in Canadian media (the February 14th, 2011 edition of the Canadian HR Reporter) as "lacking the progressive reforms that mark the recent legislative activity of other jurisdictions;"
c. this causes plan sponsors significant administrative time and plan expense to adhere to these standards, and then more time and money to change to any new updated standards a short time in the future;
d. Nova Scotia's proposed or considered changes are more than just 'tinkering.' Fully thirty (30) recommendations have been considered and are awaiting possible action, each of which is important and require, at a minimum, some communication to plan members, and some of which could require a full actuarial report and changes to funding levels.
e. there is no immediate and compelling need to introduce an Act to safeguard pensions now – we have been without a pension standards Act for decades, and we can wait the appropriate amount of time in order to bring in an updated modernized Act, and eliminate unnecessary time and expense burden on employers from having to deal with one Act and then a series of modernization updates to keep pace with the rest of Canada.
f. We feel that introduction of an out-dated Act will have the opposite effect of what the Government intends, namely the safeguarding of employees' pensions. In other provinces, over-regulation and out-of-date legislation has created a shift to less-regulated retirement savings vehicles like Group RRSPs. We fear that the proposed Act will cause employers to de-register their plans in time rather than comply with an outdated, flawed, interim regulatory regime.

> *"The increased regulation of pension plans has also contributed to a decline in pension coverage and the shift to DC plans which tend to be simpler and not to involve extensive regulation. As stated by Pesando and Turner (2001, p. 135): "A major factor discouraging establishment of new plans in Canada is the complexity of pension laws...* ***Laws designed to reduce risks to workers have become so expensive for employers to comply with that they may be counterproductive*** *{emphasis added}. Some employers have switched*

their defined-benefit pension plans to money purchase (defined-contribution) plans or have terminated them in favour of group RRSPs." (p. 2-6)[1]

g. With national Canada Pension Plan (CPP) and Pooled Retirement Pension Plans (PRPP) discussions and changes proposed, and with private and public pensions so intertwined with each other (through 'stacking' or 'integration' with CPP), introducing a new PEI Act now could result in additional changes required once CPP and PRPP changes are introduced. This again would cause employers/ plan sponsors further investment of administrative time and plan expense, not to mention, funding challenges. Those public plan changes may result in significant extra costs that Island plan sponsors will have to respond to. A better result would be to wait a year or two and design an Act that incorporates provisions relating to those plans' changes.

h. Government is proposing a regulatory scheme without first finding out how many employers, plans and plan members will be affected.
   i. A survey of Island employers should be carried out (perhaps by Office of the Employer Advisor) to determine the potential impact prior to government moving ahead.
   ii. The GCACC is aware that most of its larger members will be severely impacted given the proposed Act, but would like to know how many smaller members might be.

i. Particular components of the proposed legislation would be troublesome to PEI plan sponsors:
   i. S. 38: The cost and administration implications of awarding pension benefits to employees with as little as 700 hours of employment per year, or $16,905 annual earnings (35% of YMPE of $48,300 in 2011) will be very challenging for Island employers. This not to mention the fact that generally benefits of this type are negotiated with employees for those employers in unionized environments. It is an unfair imposition to have this benefit unilaterally imposed upon employers when employees may have just given up similar benefit enhancements for other priorities.
      1) Island employers should be allowed to decide who to offer regulated pension benefits to, because the administrative expense of offering regulated benefits to seasonal or part-time employees will be very expensive and administratively challenging. It will be a huge factor in deciding whether or not to offer a regulated pension plan to *any* employees at all, and as already mentioned, de-registering regulated pension schemes altogether has been the trend of the last decade.
      2) A preferable approach would be allowing employers to offer unregulated pension / retirement savings vehicles like Group RRSPs to seasonal and part time employees.
   ii. S.31 permits a majority of *voting* plan members(e.g. in a plan of 500 members, only 10% or 50 members might vote, and it will carry if 26 votes are in favour) to establish an advisory committee of members and former members, which is more onerous than the committees currently negotiated under collective agreements in PEI.
   iii. S. 59 may mean that most current PEI pension plans' amortization table assumptions may be offside the new Act. Changing these will have immediate impacts on plan expenses for plans that do not use gender neutral tables presently depending upon the gender make-up of the workforce.
      1) A thorough financial review of this component should be carried out by government prior to imposing any changes to this.
   iv. S. 81 (3) the regulations' requirement for plan to be solvent on wind up should be based on a minimum 10-year payment period rather than typical 5-year or other shorter period. This gives plan sponsors more time to make necessary contributions to the plan in difficult economic times, when the plan may not be making as much return from its

fund investments. This has been a major issue in Nova Scotia in recent years (especially among those in the University community).

On the positive side, the GCACC commends the Government for the following particular components of the proposed Act:

a) S. 44: the GCACC supports the proposed 2-year vesting threshold.
   This means that Island employers will have to refund employee contributions, if any, plus interest, if a plan member leaves the plan within 2 years of joining.
b) S. 85(1)(d) There must be a surplus in the plan of at least 25% of pension plan liabilities before the plan sponsor is allowed to take money out of the plan.
c) If the legislation is indeed inevitable, the GCACC agrees with proposed 3 year transition period. Otherwise, most employers of whom we are aware, are already quietly following Nova Scotia, New Brunswick, or Federal legislation.

In order to provide suggestions for possible improvements:

- consider adopting a regulatory regime partnership with another jurisdiction, e.g. NS. This could lead to less government expense and regulation, less ongoing requirement, less plan sponsor administration and expense.
- Unlocking: GCACC supports unlocking in cases of financial hardship, similar to NS's proposed changes, in addition to the currently proposed unlocking in cases of i) small amount of pension, and ii) shortened life expectancy. These unlocking requests should be made to the superintendent of pensions, and not to employers in general. Again, operating our regime in partnership with another jurisdiction could create less government expense in managing this aspect of the Act.

As stated in our opening, the Greater Charlottetown Area Chamber of Commerce is pleased that the government is taking a measured and timely approach to the possible implementation of this legislation. We request that the GCACC continue to be involved in the government's processes as discussions continue on this matter.

We would also request the opportunity to make comment on the forthcoming regulations as those will likely also have significant ramifications for employers.