DFA

Dalhousie Faculty Association

Bill #96

Exempt Universities from the Solvency Test

Brief by the Dalhousie Faculty Association

Bill C-96 An Act to Amend the *Pensions Benefits Act*

NS Law Amendments Committee

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SUMMARY

The Dalhousie Faculty Association (DFA) asks the NS legislature to exempt universities from the pension solvency test and do so in Bill C-96, rather than in the regulations, which can be changed by an order-in-council, with no public consultation. Failing that, the DFA urges the government to replace the regulation created April 26, 2011, (N.S. Reg. 176/2011) and grant a full solvency test exemption to universities through regulation.

DALHOUSIE'S DEFINED BENEFIT PENSION PLAN

Dalhousie's Defined Benefit Pension Plan has more than 3000 active members and 700 retirees. It is not a faculty-only plan; it includes secretarial assistants, managers, tradespeople and custodians. These are people who cannot afford to contribute more and receive less.

The pension plan *has* eliminated the prospect of Dalhousie employees ending long years of service in poverty, and it has helped Dalhousie University to attract and to retain faculty, in national and international labour markets in which Dalhousie's salaries are not competitive. (More will be said about this later.)

The current Pension Advisory Committee includes representatives from the Administration, the Dalhousie Professional Managers Group, (DPMG), the DFA, NSUPE and NSGEU. The DFA has a formal veto over changes to the Plan.

The Dalhousie Pension Plan provides a decent retirement income for faculty, but it is not a "gold-plated" plan. We recently analysed pension plans of other comparable universities and our Plan sits about in the middle. The benefits are not automatically indexed. Indexation depends on the performance of the Plan. Consequently, over the last decade, the real value of the pensions of some of our longer-term retirees has declined more than 12 per cent. Additionally, even if economic conditions significantly improve, the need to make up for past poor performance will mean that indexing is unlikely to resume for at least four years. Therefore, current and future Dalhousie retirees are already sharing the pain of the current market downturn.

As you know there are two tests to assess the health of a pension: the going-concern test and the solvency test.

The going-concern test measures the health of a pension plan on the assumption that the plan will continue and not be wound up. Under the going-concern test, the Dalhousie Pension Plan has a $78 million to $120 million deficit which must be paid off over the next 15 years at a cost of about $5-$8 million a year. The figures are fluid because the last official actuarial assessment was in 2010. This amount is a burden to the University, but a manageable one.

The solvency test, on the other hand, assumes that Dalhousie is going to shut down tomorrow and all the funds in the plan used to buy retirement annuities for current and retired members of the Plan. However, historically low interest rates have inflated the costs of these annuities and thus Dalhousie is faced with an artificial solvency deficit of approximately $270 million.

To make matters worse, under the present legislation this solvency deficit must be eliminated in five years. The government has, however, with the agreement of Dalhousie pension plan members and retirees, extended this to 10 years while excusing the University from making any actual payments until March 2013. In 2013, however, the University could be faced with annual payments on the solvency deficit that could reach $40 million a year, a huge burden.

Solvency Test

In a November 28, 2011, Dalhousie University Senate meeting, Dalhousie University President Tom Traves called the solvency test "unreasonable" and estimated paying it off would cost about $50 million a year starting in 2013. (The Administration had been using $40 million up until that report.)

Mr. Traves went on to say: "That is a substantial amount of money for a meaningless test. Dalhousie is most unlikely to fold, but if we did ... and the pension plan was short we have hundreds of millions of dollars of assets."

The DFA absolutely agrees that it is not realistic to impose a solvency test that presumes that Dalhousie University would close tomorrow. As an economic driver of the province and with a student population that has just exceeded 17,000, this is not going to happen any time soon.

Dalhousie University is the *only* institution east of Montreal that has been included in the federal government's new U-15 designation – research-intensive universities, which means it is much less likely to fail. (Those universities are listed on page 5.) And even if it did, it would be able to pay out the pension benefits that are promised. Not only promised, but guaranteed.

The long-term viability of universities and their pension plans has already been recognized by other provinces. Universities are fully exempt from the solvency test in Alberta, Manitoba, Quebec and New Brunswick, and exempt under specific circumstances in British Columbia, Saskatchewan, and Ontario.

Furthermore, employees of Dalhousie University have already demonstrated their support for an exemption from the solvency test by approving the present three year postponement of the requirement to pay down the solvency deficit.

ROLE OF JSPP'S

Dalhousie's Administration wants a solvency exemption within a jointly sponsored pension plan, made possible by very preliminary hints at what regulations would look like under the current Bill C-96. Based on the information 80 per cent solvency test relief will only be available within the JSPP. The Dalhousie Faculty Association *rejects* tying solvency relief solely to a JSPP; we want to see universities exempt from the solvency test no matter what their pension plan structure.

First, tying solvency relief only to a JSPP would interfere with the collective bargaining process we started in April. In fact, it already has. The Administration has stated that it would NOT discuss compensation until the pension issue is resolved with a JSPP. If a solvency exemption is only made for JSPPs, the government is giving us only two choices: either accept a JSPP or watch the Administration carry out their stated threats of cutting programs and staff. And the Administration has made this threat – both veiled and blatant – at a series of town hall meetings throughout the university, at the recent Senate meeting where faculty heads meet, presenting JSPPs as the ONLY solution to this pension issue. The DFA knows that there are other avenues, and an exemption is one of them.

Second, the Administration has made it clear that a move to a jointly sponsored plan would require employees and employers to share responsibility for shortfalls. This would mean a *steady roll back* of benefits, and moreover, a *de facto* end to our defined benefit pension plan.

On March 8, 2011, the Administration presented a draft JSPP Trust Agreement to the Pension Advisory Committee that would require a reduction in benefits in the event that further increases in pension premiums cannot be made because of the *Income Tax Act* (ITA) maximum or *any other reason*. This could include the Administration stating they can't "afford" to pay more because they want to spend the money elsewhere.

The relevant section of this draft JSPP Trust Agreement states (emphasis added):

> Clause 9.09(h). If Members are not permitted to pay the contributions established under this Article 9.09 ... due to applicable legislation or **any other reason**, then, notwithstanding any other provision of this Trust Agreement, the Trustees shall amend the Pension Plan to reduce future benefits so as to reduce Pension Plan liabilities in an amount actuarially equivalent to the amount of the foregone member contributions.

This draft trust agreement gives enormous power to the Administration, the trustees and other groups to decide the future of our pension, both in terms of increased contribution rates for members and decreases in member benefits. Even a DFA veto (as we presently have) would not guarantee our pension benefits.

Furthermore, a significant number of the plan members are custodians, tradespeople, and secretarial assistants and cannot afford higher contributions. The only alternative would be for the Dalhousie Administration to contribute a very substantially increased share of premiums or to force a reduction in benefits.

Even if Dalhousie's Administration funded all the current deficits and a new JSPP was started at 100% funding, given the cyclical nature of the markets, there will come a time again, when the plan will require increased funding. Declining benefits would be the unavoidable consequence of changing the governance structure to a jointly sponsored pension plan.

Dalhousie employees would gain nothing by changing our present plan into a JSPP. Our pension benefits would not be more secure. In fact, they would be less secure. Upon wind up of a JSPP, employees are not guaranteed the equivalent of their full pensions. They get whatever is in the Plan, not what should be in the plan.

COMPETITIVE DISADVANTAGE

Ending the guarantee of defined benefit levels would be disastrous for Dalhousie's competitiveness in recruiting top-quality faculty. At a university where salaries remain below the average of the other universities in the agreed-upon comparator group (Alberta, Calgary, Manitoba, Memorial, New Brunswick, Ottawa, Queen's, Saskatchewan, Western and Windsor), a defined-benefit pension plan is especially important.

The comparator group are what the DFA and the Administration have agreed are comparable universities, but Dalhousie is also part of another group of research-intensive universities called the U-15, to which Ottawa channels research money. Dalhousie is at the bottom of the salary ladder here, but needs to attract the same bright researchers in order to pull in the research money. Dalhousie is also the only U-15 university east of Montreal.

The U-15

Dalhousie University	Université de Montréal	University of Toronto
McGill University	University of Alberta	University of Waterloo
McMaster University	University of British Columbia	University of Western Ontario
Queen's University	University of Calgary	University of Manitoba
Université Laval	University of Ottawa	University of Saskatchewan

A March 2011 report commissioned by Dalhousie (http://senioradmin.dal.ca/files/2011-dalhousie-eia.pdf) shows that Dalhousie University is a crucial driver of the provincial economy, with an impact of more than $1 billion each year—equivalent to three per cent of total economic activity in the province.

The report says that one of the greatest impacts stems from Dalhousie's role as a base for knowledge and innovation in the province. Dalhousie brings $132 million in sponsored research to Nova Scotia each year, with the university's Industry Liaison and Innovation office committing upwards of $4.5 million yearly to turn that research into new commercial opportunities and spin-off companies. Beyond the dollars, though, the impact of Dalhousie research is vast. For example, the university can claim the greatest number of citations per research dollar among Canada's 25 largest universities.

The ability to attract this kind of research talent does not lie in the salaries paid, but in the benefits offered – both tangible with a defined benefit plan, and intangible like location.

The defined benefit pension plan is a key recruitment and retention issue, and faculty have said this is what permitted them to take lower salaries than they would have earned at other research-intensive universities. A JSPP would erode the benefits paid and make Dalhousie less attractive.

WORKING TOGETHER

In our view, Dalhousie's administration and its employees must, as they have always done, work together to resolve the pension issue. Introducing the concept of JSPPs in Bill C-96 and then tying any form of solvency relief to that structure only, will really disadvantage Dalhousie in the long run and interfere with negotiations. It is as if MLA's are sitting at our bargaining table saying: "if you don't move to a JSPP, the Administration will be justified in cutting programs and staff and it will be all the DFA's fault." Please do not interfere with our collective bargaining process – pensions are part of our compensation package.

Dalhousie's employees and faculty have a history of working with Administration. We allowed the Dalhousie Board of Governors to use one-third or more of the *surplus in* the pension plan in the mid-90s to take a break from contributions. This break allowed Dalhousie's Administration to pay off many millions of dollars in onerous debt and to finance restructuring and a number of Board-initiated programmes. We worked with the Administration then, and we will work with them now.

Conclusion

The application of the solvency test to the Dalhousie Plan will impose a huge annual bill on the University. Money that would be better spent on needed infrastructure, attracting and retaining high-calibre faculty and providing facilities and services to students.

Dalhousie's employees understand the difficult conditions that the government faces today and that there will likely be further cuts to university funding for the 2011-12 year. We are not asking for any government money. We are simply asking that our Pension Plan be exempted from an artificial and completely unnecessary solvency test. We urge the legislature to enshrine a full exemption from the solvency test for universities in Bill C-96, at best. Or use the 'university' category in the regulations to exempt universities from the solvency test.