

TORONTO TRANSIT COMMISSION REPORT NO.

MEETING DATE: March 1, 2011

SUBJECT: TTC PENSION FUND BYLAW AMENDMENTS

RECOMMENDATION

It is recommended that the Commission approve the appended TTC Pension Fund Bylaw amendments to move to actuarial funding and convert the Society to a Jointly Sponsored Pension Plan to be eligible for solvency funding relief.

FUNDING

As of the Pension Fund's last filed actuarial valuation, current contribution rates are sufficient to meet the minimum funding levels, i.e. going concern funding as defined under the Pension Benefits Act for the plan. The next formal filing is required as at January 1, 2011 (due by September 30th) and it is expected to show a significant solvency funding shortfall. If the Society is to receive consideration for any solvency funding relief, the Bylaws must be amended to convert the Society to a Jointly Sponsored Pension Plan (JSPP). If the Society does not get relief from solvency funding, effective January 1, 2012 significant contribution increases will be required. These increases are currently estimated at \$71 million, half of which would be included in the TTC's 2012 budget.

BACKGROUND

Bylaw 3.09(i) of the Pension Fund requires that the Commission sanction any amendments to the Bylaws. All changes to the Society's Bylaws must be passed by a majority of the Directors, sanctioned by the Commission and approved by the Members at the Society's Annual General Meeting.

DISCUSSION

At meeting #1925 held on September 30, 2010, the Commission endorsed, structuring the Society as a JSPP contingent on the Society becoming recognized as a JSPP that is eligible for the solvency exemption to be granted to JSPP's under the Ontario Pension Benefits Act. Since that time, discussions with the Ministry of Finance have confirmed that conversion to a JSPP is a prerequisite in order to obtain solvency funding relief. Conversion to a JSPP requires the removal of the setting of contribution rates for the TTC Pension Fund from collective bargaining and the implementation of actuarial funding (the same funding basis as OMERS) by assigning the responsibility of setting contribution rates to the Board of Directors of the Society. This will not change the process that all Bylaw amendments, including changes to contribution rates will still require sanction by the Commission. The following describes the amendments:

Bylaw 7.01 Required Contributions and 7.03 Contributions -Other

These Bylaw amendments remove the setting of contribution rates from the collective bargaining process and implement actuarial funding for the Society. New wording will also be added to the collective agreements to reflect this change. The amendment moves the responsibility of setting the level of contributions to the Board of Directors based on the most recent actuarial valuation. Moving to actuarial funding is a requirement if the Society is to receive JSPP status and therefore, be eligible for solvency funding relief.

Based on the most recent estimates available, as at January 1, 2011 without funding relief, the current solvency funding rules will require the PFS to fund about \$830 million (above and beyond going concern amounts) solely for the purpose of meeting the solvency requirements in the event of plan wind-up. Without solvency relief, the Commission and members will be required to contribute huge additional amounts over the next 10 years to pay off an unfunded "solvency" liability.

Also included is a previous amendment to Bylaws 7.01 & 7.03 that implemented on January 1, 2011 a 0.5% contribution increase for both Members of the Society and the Commission. This contribution increase was described in the Letter of Intent signed during the last collective agreements in recognition of the seriousness of the Society's solvency funding requirements. The Commission included a \$4 million increase as part of the 2011 Operating Budget to implement this contribution increase.

Bylaw 16.11 continues the employers current responsibility to fund any funding shortfall in the unlikely event that the Society is wound up.

Other changes were housekeeping issues to update the new numbering or reference.

JUSTIFICATION

Under Pension Fund Bylaw 3.09(i), the Commission must sanction all Bylaw amendments adopted by the Board. The Bylaws submitted will amend the plan to allow the Society to be recognized as a Jointly Sponsored Pension Plan to qualify for consideration for solvency funding relief. Membership approval of these amendments will be requested at the Annual General Meeting of the Society to be held on June 19, 2011.

February 4, 2011
44.54.58

Attachment – Amendments to Bylaws 2(xi), 5.05(i); 7.01; 7.03; 7.04; 16.11 and 17.07.

**TTC PENSION FUND SOCIETY
BYLAW AMENDMENTS**

Effective: February 25, 2011

OLD WORDING		NEW WORDING	
2(x)	DEFINITIONS "Credited Interest" shall mean interest credited on Required Contributions calculated as set out in Bylaw 7.04(iii);	2(x)	DEFINITIONS "Credited Interest" shall mean interest credited on Required Contributions calculated as set out in Bylaw 7.03(iii).
5.05(i)	PURCHASE OF INTERRUPTION IN SERVICE (1) what the Member would have been required to contribute under Bylaw 7.01(i); and (2) what the Commission would have been required to contribute under Bylaw 7.03(i)	5.05(i)	PURCHASE OF INTERRUPTION IN SERVICE (1) what the Member would have been required to contribute under Bylaw 7.01; and (2) what the Commission would have been required to contribute under Bylaw 7.01

<p>7.01 REQUIRED CONTRIBUTIONS FROM REGULAR MEMBERS</p>	<p>7.01</p>	<p>REQUIRED CONTRIBUTIONS</p>
<p>(i) Each Regular Member shall contribute annually to the Fund an amount equal to:</p> <p>Effective January 1, 1987, 6.25% of his or her Contributory Earnings up to the YMP E, and 7.85% of such Contributory Earnings above the YMP E;</p> <p>Effective January 1, 2006, 6.75% of his or her Contributory Earnings up to the YMP E, and 8.35% of such Contributory Earnings above the YMP E;</p>		<p>(i) On and after February 25, 2011, Regular Members and the employers who participate in the Society are required to make contributions to the Fund in respect of any going concern unfunded liability and any solvency deficiency, to the extent and in the manner that is required by the Pension Benefits Act.</p> <p>(ii) Subject to Bylaw 17.07, the total contributions made by Regular Members and employers shall be at least the amounts required, based on the valuation report of the Actuary, to provide the normal cost in respect of Regular Members and to provide for the proper amortization of any going concern unfunded liability and any solvency deficiency that is required to be funded under Bylaw 7.01(i), after taking into account all relevant factors including the assets of the Fund. The Board shall determine the total contributions that will be made in accordance with these requirements.</p> <p>(iii) (a) Each Regular Member is required to contribute annually to the Fund an amount equal to:</p> <p>[Paragraphs with contribution rates that were in effect prior to January 1, 2010 deleted]</p>

<p>Effective January 1, 2007, 7.25% of his or her Contributory Earnings up to the YMPE, and 8.85% of such Contributory Earnings above the YMPE; and</p> <p>Effective January 1, 2008, 8.25% of his or her Contributory Earnings up to the YMPE, and 9.85% of such Contributory Earnings above the YMPE;</p> <p>Effective January 1, 2010, 8.75% of his or her Contributory Earnings up to the YMPE, and 10.35% of such Contributory Earnings above the YMPE; and</p> <p>Effective January 1, 2011, 9.25% of his or her Contributory Earnings up to the YMPE, and 10.85% of such Contributory Earnings above the YMPE, provided that:</p> <p>(a) a Regular Member's total annual contribution at these rates may exceed 9.0% of the Member's Contributory Earnings only when required to secure Members' benefits as demonstrated in the most recent actuarial review of the Society; and</p> <p>(b) when the requirement in (a) above is not met, the Regular Member's total contribution shall not exceed 9.0% of the Member's Contributory Earnings.</p>		<p>(b) Effective January 1, 2011, 9.25% of his or her Contributory Earnings up to the YMPE, and 10.85% of his or her Contributory Earnings above the YMPE.</p> <p>(c) A Regular Member's total annual contribution at these rates may exceed 9.0% of the Member's Contributory Earnings only when required to secure Members' benefits as demonstrated in the most recent actuarial valuation report of the Society.</p> <p>When the requirement in (b) above is not met, the Regular Member's total contribution shall not exceed 9.0% of the Member's Contributory Earnings.</p> <p><i>Formerly Bylaw 7.03 (iii)</i></p> <p>(iv) The Commission shall contribute to the Fund:</p> <p>(a) an amount equal to the temporary additional pension and supplemental disability pension set out in Bylaw 9.05 and any adjustments thereon pursuant to Bylaw 13; and</p>
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<p>All Material below has been moved to Bylaw 7.03 (i)</p> <p>For greater certainty, the Member's contributions to the Fund shall be in addition to any contributions that the Member will be required to make under the Canada Pension Plan. Such contributions will be deducted by the Commission from the salary or wages from time to time payable to each Regular Member, and shall commence from the beginning of the pay-period in which the Regular Member completes six months of Continuous Service with the Commission, and shall continue as long as he or she remains a Regular Member.</p> <p>(ii) Regular Members granted leave to serve with the Armed Forces of Canada or other national services shall not be required to contribute to the Society during such leave.</p> <p>(iii) [Credited Interest rules: not reproduced here due to length, no change to be made]</p> <p>(iv) Contributions made by a Member under Bylaw 5.05 or 5.06 to purchase Credited Service for periods of service prior to 1987, and one half of the contributions made by a Member under Bylaw 5.05 or 5.06 to purchase Credited Service for periods of service after 1986, shall be considered Required Contributions.</p>		<p>Formerly 7.03 (vi) - Reworded</p> <p>(b) each year in equal monthly instalments the amount determined by the Actuary to be required to cover the amortization of the additional unfunded actuarial liability effective January 1, 1999 and the ongoing additional normal cost resulting from unreduced pensions after 29 years of service pursuant to Bylaw 8.01(iii).</p> <p>(v) The employers and the Regular Members shall contribute equally in order to fund the amount that remains after deducting the amounts in Bylaw 7.01(iv) from the total contribution determined by the Board in accordance with Bylaw 7.01(ii). The employers shall each contribute in respect of the Regular Members to whom they pay Contributory Earnings.</p> <p>Formerly 7.03 (v)</p> <p>(vi) The Commission shall make no contributions to match any Additional Voluntary Contributions by Regular Members.</p>
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<p>7.03 EMPLOYER CONTRIBUTIONS</p>	<p>7.03</p>	<p>CONTRIBUTIONS - OTHER <i>Material moved from 7.01</i></p>
<p>(i) The Commission shall contribute to the Fund each year an amount equal to:</p> <p>Effective January 1, 1987, 6.25% of the Contributory Earnings, excluding Contributory Earnings pursuant to Bylaw 6.01(i)(b), of Regular Members up to the Year's Maximum Pensionable Earnings (YMPE) and an amount equal to 7.85% of the Contributory Earnings of Regular Members above the YMPE;</p> <p>Effective January 1, 2006, 6.75% of the Contributory Earnings, excluding Contributory Earnings pursuant to Bylaw 6.01(i)(b), of Regular Members up to the YMPE and an amount equal to 8.35% of the Contributory Earnings of Regular Members above the YMPE;</p> <p>Effective January 1, 2007, 7.25% of the Contributory Earnings, excluding Contributory Earnings pursuant to Bylaw 6.01(i)(b), of Regular Members up to the YMPE and an amount equal to 8.85% of the Contributory Earnings of Regular Members above the YMPE;</p> <p>Effective January 1, 2008, 8.25% of the Contributory Earnings, excluding Contributory Earnings pursuant to Bylaw 6.01(i)(b), of Regular Members up to the YMPE and an amount equal to 9.85% of the Contributory Earnings of Regular Members above the YMPE;</p> <p>Effective January 1, 2010, 8.75% of the Contributory</p>		<p>(i) A Member's contributions to the Fund shall be in addition to any contributions that the Member will be required to make under the Canada Pension Plan. Such contributions will be deducted by the Commission from the salary or wages from time to time payable to each Regular Member, and shall commence from the beginning of the pay-period in which the Regular Member completes six months of Continuous Service with the Commission, and shall continue as long as he or she remains a Regular Member.</p> <p>(ii) Regular Members granted leave to serve with the Armed Forces of Canada or other national services shall not be required to contribute to the Society during such leave.</p> <p>(iii) [Credited Interest rules formerly 7.01(iii). Not reproduced here due to length, no changes made]</p> <p>(iv) Contributions made by a Member under Bylaw 5.05 or 5.06 to purchase Credited Service for periods of service prior to 1987, and one half of the contributions made by a Member under Bylaw 5.05 or 5.06 to purchase Credited Service for periods of service after 1986, shall be considered Required Contributions.</p> <p>(v) The Commission may contribute additional amounts provided that each such amount is all or part of the amount of Member contributions under Bylaw 5.03, 5.05 or 5.06 in relation to service purchase, excluding those related to previously credited pre-1990 service, pursuant to an agreement between the Commission and the Member or Members, or the Union representing them.</p>

<p>Earnings, excluding Contributory Earnings pursuant to Bylaw 6.01(i)(b), of Regular Members up to the YMP&E and an amount equal to 10.35% of the Contributory Earnings of Regular Members above the YMP&E; and</p> <p>Effective January 1, 2011, 0.25% of the Contributory Earnings, excluding Contributory Earnings pursuant to Bylaw 6.01(i)(b), of Regular Members up to the YMP&E and an amount equal to 10.85% of the Contributory Earnings of Regular Members above the YMP&E;</p> <p>(ii) Local 113 of the Amalgamated Transit Union shall contribute to the Fund an amount equal to the amount contributed by Regular Members on Contributory Earnings from the Union pursuant to Bylaw 6.01(i)(b).</p> <p><i>Renumbered as 7.01 (iv)</i></p> <p>(iii) The Commission shall also contribute to the Fund an amount equal to the temporary additional pension and supplemental disability pension set out in Bylaw 9.05 and any adjustments thereon pursuant to Bylaw 13.</p> <p><i>Renumbered as 7.03 (vi)</i></p> <p>(iv) The Commission shall, in addition bear all administration and office expenses of the Society, with the exception of the following: any actuarial and special legal fees incurred by the Society, such other special expenses specifically approved by the Board, and the fees of the trust and insurance companies and investment counsellors for custody and investment of the Fund.</p>		<p>Where this applies, Bylaw 5.03, 5.05, and 5.06 are modified as necessary to permit contributions by the Commission in lieu of Member contributions.</p> <p>(vi) The Commission shall, in addition bear all administration and office expenses of the Society, with the exception of the following: any actuarial and special legal fees incurred by the Society, such other special expenses specifically approved by the Board, and the fees of the trust and insurance companies and investment counsellors for custody and investment of the Fund.</p>
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<p>Renumbered as 7.01 (vi)</p> <p>(v) The Commission shall make no contributions to match any Additional Voluntary Contributions by Regular Members.</p>	<p>Wording below moved to 7.01 (iv)(b) - Reworded</p> <p>(vi) Effective January 1, 1999, the Commission shall contribute to the Fund each year in equal monthly installments the amount determined by the Actuary to be required to cover:</p> <p>(a) the amortization of the additional unfunded actuarial liability effective January 1, 1999; and</p> <p>(b) the ongoing additional normal cost resulting from the introduction of unreduced pensions after 29 years of service pursuant to Bylaw 8.04(iii);</p> <p><i>Moved to 7.03 (v) - Reworded</i></p> <p>(vii) The Commission may contribute additional amounts provided that each such amount is either:</p> <p>(a) a fixed amount or series of amounts determined in advance of the contribution being made as being equal to the actuarial liability related to the provision under the Bylaws of an additional benefit to a Member or group of Members; or</p> <p>(b) all or part of the amount of Member contributions under Bylaw 5.03, 5.05 or 5.06 in relation to service purchase, excluding those related to previously credited pre-1990 service, pursuant to an agreement between</p>	
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	<p>the Commission and the Member or Members, or the Union representing them. Where Bylaw 7.03(vii)(b) applies, it modifies Bylaw 5.03, 5.05, and 5.06 as necessary to permit contributions by the Commission in lieu of Member contributions.</p>		
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<p>7.04 APPLICATION OF CONTRIBUTIONS</p>	<p>7.04</p>	<p>7.04 APPLICATION OF CONTRIBUTIONS</p>
<p>(i) The contributions made in accordance with Bylaw 7.03 shall be applied to cover the Commission's share of the normal actuarial cost of the plan plus amounts required under the Pension Benefits Act or Regulations made thereunder in respect of any unfunded actuarial liabilities and experience deficiencies defined therein as certified by the Actuary.</p> <p>(ii) The contributions made under this Bylaw 7 and the Pension Fund assets, shall be applied at the time of each actuarial review toward the provision of benefits in the following order of priorities:</p> <p>(a) to supporting the level of benefits already in effect, including the adjustments made each year in benefits payable to Associate Members;</p> <p>(b) to updating the four-year Base Period used in determining Regular Members' accrued pension benefits to a period as close as possible to the review date;</p> <p>(c) to updating the Survivor Benefit Date used in determining the normal form of pension to a date as close as possible to two years after the review date;</p> <p>(d) to providing such other benefits as the Board may adopt from time to time.</p>		<p>(i) After each actuarial valuation the Board shall decide whether or not:</p> <p>(a) to change the contribution rate in Bylaw 7.01(iii);</p> <p>(b) to change benefits subject to Bylaw 3.09(iii); or</p> <p>(c) to change both or neither,</p> <p>effective from a date not later than 12 months after the valuation date.</p> <p>(ii) Where a benefit improvement is to be made pursuant to Bylaw 7.04(i), contributions made under this Bylaw 7 and the Pension Fund assets, shall be applied toward the provision of benefits in the following order of priorities:</p> <p>(a) to adjust benefits payable to Associate Members;</p> <p>(b) to updating the four-year Base Period used in determining Regular Members' accrued pension benefits to a period as close as possible to the valuation date;</p> <p>(c) to updating the Survivor Benefit Date used in determining the normal form of pension to a date as close as possible to two years after the valuation date;</p> <p>(d) to providing such other benefits as the Board may adopt from time to time.</p>

<p>Any benefits under item (d) shall only be adopted if one or more of the following conditions are met:</p> <p>(1) The Actuary and the Board are reasonably satisfied that such benefits, as well as the benefits in effect at the time under items (a), (b) and (c), can be supported on a long-term basis, including their updating at future review dates, under the contribution rates then in effect:</p> <p>(2) The Actuary and the Board are reasonably satisfied that such benefits will have no material adverse impact upon the long-term ability to support the existing benefits under item (a) and the availability of future updates under items (b) and (c) under the contribution rates then in effect:</p> <p>(3) An amendment to the Bylaws is adopted under which the contribution rates of the Members and/or the Commission are increased, and that as the result of such increase, the Actuary and the Board are reasonably satisfied that there has been no material net adverse impact on the long-term ability to support the existing benefits in effect under item (a) and the availability of future updates under items (b) and (c).</p>		<p>Any benefits under item (d) shall only be adopted if one or more of the following conditions are met:</p> <p>(1) The Board is reasonably satisfied, based on the advice of the Actuary and other considerations as appropriate, that such benefits, as well as the benefits in effect at the time can be supported on a long-term basis, including their updating at future valuation dates, under the contribution rates that will be in effect pursuant to decisions made under Bylaw 7.04(i).</p> <p>(2) The Board is reasonably satisfied, based on the advice of the Actuary and other considerations as appropriate, that such benefits will have no material adverse impact upon the long-term ability to support the existing benefits and the availability of future benefits under items (a), (b) and (c) under the contribution rates that will be in effect pursuant to decisions made under Bylaw 7.04(i).</p> <p>(3) An amendment to the Bylaws is adopted pursuant to decisions made under Bylaw 7.04(i) under which the contribution rates of the Members and/or the Commission are increased, and that as the result of such increase, the Board is reasonably satisfied, based on the advice of the Actuary and other considerations as appropriate, that there has been no material net adverse impact on the long-term ability to support the existing benefits and the availability of future benefits under items (a), (b) and (c).</p>
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<p>Notwithstanding the foregoing, in the event that contributions to the Society would be limited in accordance with Bylaw 7.01(f)(b), the Board shall adopt such additional benefits under item (b), (c) or (d) as are necessary to cause contributions to meet the requirement in Bylaw 7.01(f)(a).</p>		<p>[paragraph deleted]</p>
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16.11	TERMINATION OF FUND	16.11	DISCONTINUANCE OF FUND
	<p>Renumbered</p> <p>(i) If at any time it becomes necessary to discontinue the Fund, its disposition shall be determined by the Board in consultation with the Actuary. In determining the disposition of the Fund, the following shall be taken into account:</p> <p>(a) the need to provide for the continuation of existing pensions and for the payment of certain deferred or immediate benefits.</p>		<p>(i) If at any time the Fund is discontinued:</p> <p>(a) the employers participating in the Society and the Regular Members shall pay into the Fund an amount equal to the total of all payments that, under the Pension Benefits Act and the Bylaws are payable by them, and that are due and have not been paid into the Fund; and</p> <p>(b) the employers participating in the Society shall pay into the Fund an amount equal to the amount by which</p> <p>(1) the value of pension and other benefits to which Members and others are entitled under the Bylaws; exceeds</p> <p>(2) the value of the assets of the Fund.</p> <p>The payments required under Bylaw 16.11(i) shall be paid in the manner and at the times prescribed by the Pension Benefits Act.</p> <p>(ii) In the event that the Fund is discontinued, its disposition shall be determined by the Board in consultation with the Actuary. In determining the disposition of the Fund, the following shall be taken into account:</p> <p>(a) the need to provide for the continuation of existing pensions and for the payment of certain deferred or immediate benefits.</p>

<p>(b) the length of service and earnings of Members.</p> <p>(c) the provisions of the Pension Benefits Act relating to the discontinuance of pension plans.</p> <p>(ii) Notwithstanding the foregoing, any surplus assets which would otherwise result in benefits to the Members being in excess of the maximum limits set out from time to time by the Canada Revenue Agency is to be refunded to the Toronto Transit Commission.</p> <p>(iii) The decision of the Actuary of the Society as aforesaid, shall be final and binding upon all Member of the Society and the Commission. The Officers of the Society shall forthwith after a decision to discontinue the Fund obtain any required approvals from the Financial Services Commission of Ontario (FSCO) or from the Canada Revenue Agency to effect the termination of the Fund.</p>		<p>(b) the length of service and earnings of Members.</p> <p>(c) the provisions of the Pension Benefits Act relating to the discontinuance of pension plans.</p> <p>(iii) Notwithstanding the foregoing, any surplus assets which would otherwise result in benefits to the Members being in excess of the maximum limits set out from time to time by the Canada Revenue Agency are to be refunded to the employers.</p> <p>(iv) The decision of the Board in consultation with the Actuary of the Society as aforesaid, shall be final and binding upon all Members of the Society and the Commission. The Officers of the Society shall forthwith after a decision to discontinue the Fund obtain any required approvals from the Financial Services Commission of Ontario (FSCO) or from the Canada Revenue Agency to effect the discontinuance of the Fund.</p>
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17.07	MAXIMUM CONTRIBUTIONS	17.07	MAXIMUM CONTRIBUTIONS
<p>(iii) Notwithstanding Bylaws 7.03, 14.01, 14.03 and 14.04, employer contributions shall be made pursuant to a recommendation by the Actuary based on an actuarial valuation as required under Section 147.2 of the Income Tax Act, except as otherwise permitted by the Income Tax Act and all employer contributions shall be eligible contributions pursuant to Section 147.2(2) of the Income Tax Act.</p>			<p>(iii) Employer contributions shall be made pursuant to a recommendation by the Actuary based on an actuarial valuation as required under Section 147.2 of the Income Tax Act, except as otherwise permitted by the Income Tax Act and all employer contributions shall be eligible contributions pursuant to Section 147.2(2) of the Income Tax Act.</p>