Alberta Government

Interpretive Guideline#08
Jointly Sponsored Plans

June 2015

This guideline is designed to outline the requirements for a Jointly Sponsored Plan within the provisions of the *Employment Pension Plans Act* (Act) and the *Employment Pension Plans Regulation* (Regulation). This guideline summarizes the legislative requirements which apply to the subject matter, and includes (as applicable) additional details to outline the Superintendent of Pensions (Superintendent) expectations and requirements where such authority has been provided by the Act and Regulation. Finally, the guideline outlines best practices and policies that the Superintendent expects from provincially regulated pension plans.

The Act and Regulation should be used to determine specific legislative requirements. Any legal authority of this Guideline rests in the areas in which the legislation delegates authority to the Superintendent to accept a proposal or action.

What is a Jointly Sponsored Plan?

Section 1(1)(dd) defines a Jointly Sponsored Plan (JSP) as "a pension plan:

- (i) that meets the prescribed criteria,
- (ii) the plan text document of which contains a benefit formula provision,
- (iii) in which the participating employers and active members are required to make contributions, including without limitation, contributions to meet the funding requirements applicable to the plan, and
- (iv) in which responsibility for governance of the plan is shared among
  - (A) the participating employers,
  - (B) the active members of the plan, and
  - (C) the other classes of members, if any, that are authorized under the plan documents to share in that responsibility."

What are the prescribed criteria?

Section 5 of the Regulation sets out the criteria for a JSP. Such a plan:

- (i) must be administered by a board of trustees or a similar body that is acceptable to the Superintendent,
- (ii) the number of members of the board or similar body that are appointed by members must be at least equal to the number of members of the board or similar body that are appointed by the participating employers, and
- (iii) the plan text document must set out how the persons referred to in section 1(1)(dd)(iv) of the Act will make decisions regarding
  - (A) the governance of the plan, and
  - (B) the appointment of an administrator and the selection of board/body members.

Exemptions

A JSP is exempt from the application of section 57 of the Act (Maximum employee contributions for funding pension under a benefit formula provision). Section 57 deals with a pension plan under which the member contributions are solely directed towards the funding of his own benefit. In a JSP, the member is a sponsor of the plan and his contributions go towards the funding of the entire plan based on a contribution rate agreed to between the participating employers and the plan members.

Issues to be Addressed

Contribution Sharing Rate

In the case of a collectively bargained pension plan, the union can act for the members and agree on a contribution split (e.g. 50/50 or 60 per cent employer/ 40 per cent members). Where there is no union or only some of the members are unionized, the board/body will need to document how a contribution split was arrived at. This split will then need to be specified in the plan text document.

Selection of Representatives for the Board of Trustees or Similar Body

At least 50% of the members of the board/body must be selected or appointed by the pension plan members. The board/body may be either a lay board/body (non-professional representatives usually employer and employee representatives) or a professional board/body, or some combination of the two. The participating employer and the members will need to come to an agreement as to how the selection/appointment process will operate.

Administration Agreement

There will need to be in place an agreement that outlines how the board/body will operate, what their responsibilities are and what their liabilities are.

In the case of a board of trustees this will be done through a trust agreement. In the case of a similar body it will be done through a contract.

In either case, the agreement must specify:

- the fiduciary role assumed by the members of the board/body,
- the need for due diligence in performing their duties,
- how members will be selected,
- length of term for members,
- appointment of a chair,
- how resolution of a tie vote will be resolved,
- number of meetings to be held per year,
- what constitutes quorum,
- the ability of the board/body to delegate administrative functions to a third party,
- how conflict of interest will be dealt with, and

- what, if any, issues need to be referred back to the membership as a whole.

This agreement must be filed with the Superintendent.

Special provisions affecting Jointly Sponsored Plans

<u>Reduction of Benefits</u>

Section 20(2) of the Act permits a Jointly Sponsored Plan to retro-actively reduce benefits in order to meet funding requirements. Such a reduction must be approved by the Board of Trustees and must be consented to by the Superintendent prior to it being put into effect.

<u>Liability Limitation</u>

If the jointly sponsored plan is also a negotiated cost plan, or a jointly sponsored plan that has a target benefit provision, then the funding liabilities of the employer and members are limited to the agreed upon contribution rate [section 52(3)].

<u>Disclosure to Members</u>

The plan summary must clearly outline when and how benefits and contributions may be increased or decreased and an explanation of the management and governance of the plan including how the board of trustees is selected and appointed.

Where a contribution rate is increase, or benefits are to be decreased the administrator must

- in the case of a contribution rate increase notify members 30 days in advance of the implementation of the increase, and
- in the case of a benefit decrease, notify members within 30 days after receiving notice of registration of the plan amendment effecting the decrease.

For further information please contact:	
Superintendent of Pensions Alberta Treasury Board and Finance Room 402, 9515 - 107 Street Edmonton, AB T5K 2C3	Telephone: 780-427-8322 Fax: 780-422-4283 Email: Employment.Pensions@gov.ab.ca Internet: **http://finance.alberta.ca/business/pensions**
For toll-free dialling within Alberta, call 310-0000 and then dial 780-427-8322.	Sign up for electronic notifications: **http://finance.alberta.ca/subscribe/epen**