

Intelligence MEMOS



From: Randy Bauslaugh
To: Members of the Senate
Date: December 7, 2022
Re: **BILL C-228: WORST PENSION BILL EVER**

Each year or so for more than a decade, a private member's bill comes forward purporting to rescue pension plan members' benefits when businesses fail.

This year's version, [Bill C-228](#), is still a knee-jerk reaction that only sounds like the right thing to do. It will not protect future pension values. It will diminish future value. It will weaken our private voluntary workplace pension system. The Senate has an opportunity to protect our pension system by rejecting this bill.

Many observers, including [accountants](#), [actuaries](#), plan [administrators](#), investment [managers](#) and [lawyers](#) have all predicted this bill will likely result in further declines in private-sector defined benefit coverage. It will encourage employers to abandon the field completely, or move to do-it-yourself defined contribution plans, like Group RRSPs. If either happens, all financial risk is transferred to plan members for pensions, not just some risk. It will also result in lower future benefit accruals, even if the contribution levels remain constant.

Our pension system has been affirmed several times by the Supreme Court of Canada as a "carefully calibrated legislative and regulatory scheme." It is one that "evinces a special solicitude for employees affected by plant closures" and one that "seeks to strike a delicate balance between the interests of employers and employees, while advancing the public interest in a thriving private pension system."

That complexity and careful calibration is why pension legislation is almost always put forward after careful scrutiny, discussion and consultation. By contrast, Bill C-228 is a wrecking ball. It is simplistic and poorly drafted. More importantly, it ignores larger economic and policy implications.

1. The Wrong Process for Important Public Policy Change

Bill C-228 does not represent a responsible policy response to a very valid issue. There is no balancing of private workplace pension protections with support for capital markets, tax incentives, and expansion of cost efficient forms of pension provision. There is a reason green papers or consultations are the usual process for pension legislation. A considered process exposes pension reform proposals to thoughtful discussion, helpful innovation, important input and integrated drafting.

2. Completely Ignores Other Sensible Solutions

There are better solutions. What about adopting procedures for dealing with the plans of bankrupt employers that gives the plan itself a chance to recover rather than locking in losses? This is the approach taken with the Stelco Plans in Ontario. Last June, seven years after legislation was modified to provide a longer wind up period for the Stelco plans, pension liabilities [were fully funded](#) and annuitized.

Another approach could be to further strengthen funding rules. That is the focus of the recent 2021/2022 federal [consultation](#) on Strengthening Canadian Retirement Security.

3. Lower Future Pension Coverage, Reduced and More Uncertain Benefits, and a Transfer of All Financial Risk to Plan Members

Defined benefit plans are the most cost effective means of providing workplace pensions because participants get low-cost professional investment management, pooled investment risk, benefit certainty, and pooling of longevity risk. This generally results in higher benefits for the same cost as defined contribution plans.

Defined benefit plans are already in decline because employers bear the financial risk that funding will be enough to support a pension that is defined in advance of payment. Admittedly, some employers fail, and if they have underfunded plans, any financial risk associated with the funding shortfall, is transferred to plan members.

Bill C-228 won't make those employers any more responsible because the effect will be to transfer financial risk to others – creditors, shareholders or financial partners.

Lenders and business partners will not accept that. They will impose additional conditions on loans or capital. This will include increased security guarantees to rank ahead or equal with the pension liabilities, imposition of higher borrowing costs, insistence on full, rather than provisional funding of accruing liabilities, and many will just require the employer to give up its defined benefit pension plan.

Since Bill C-228 passed third reading in the House two weeks ago, lenders and other financial players are being advised to review and modify documents to ensure debtors or partners do not have, or do not set up, defined benefit plans. This may force many employers that provide defined benefit plans to close their pension arrangements or move to group RRSPs or similar defined contribution plans that transfer all financial risk to members with lower future benefit accruals.

Our current system provides workplace pensions for less than 37 percent of the working population. Most of that – about 20 percent – in the public sector. Sensible policy has generally tried to balance the desire to expand private workplace coverage with sensible benefit security.

Bill C-228 will affect that delicate balance by impeding access to capital in a way that will not foster expansion of cost-efficient plans, like defined benefit plans. It won't fortify pension security or even maintain current levels of future benefit accrual.

This is a terrible bill. It will not strengthen our pension system. It will weaken it.

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