Chapter 11

Pensions

"The structure of pensions in Canada is supported by three pillars, namely: 1. government programs, 2. employer programs, and 3. individual savings. Only when all three pillars are present in the correct proportions will the structure hold up. There is no doubt that for most Canadians all three components are required if adequate retirement incomes are going to be available to all.

— Mercer Human Resources Limited[1]

The Scope of the Pension Review

Although an examination of Members' pension arrangements is required by the terms of reference,[2] very little was said about pensions during the Commission's extensive consultations with MHAs or in the submissions received from the public. Neither the specifics of the MHA pension plan, nor the pension plan structure itself were highlighted as contentious issues. Nevertheless, my mandate required that I undertake at least a general review of the pension arrangements with a view to assessing their appropriateness.

Notwithstanding the absence of comment on the specifics of the pension arrangements, the importance of having a good pension for MHAs was emphasized on a number of occasions. Stress was placed on the special position of elected officials and, in particular, the lack of long-term job security flowing from the uncertainty of re-election. Concerns were expressed relating to the MHA's prospects for re-employment following defeat at the polls or upon a decision not to offer oneself for re-election. Although there are exceptions, the "shelf life" of an elected politician is relatively short; in most cases, it is certainly not a lifetime career. Absence from the job market for a period of time, changing professional standards requiring upgrading and the perception, sometimes held, that a "has

---

[1] Mercer Human Resources Limited, *The Mercer Pension Manual,v*ol.1, (Toronto: Carswell, 1994), p. 1-11 (M.P.M.) (2006-Rel. 6).
[2] See Appendix 1.2, item 1 (ii).

been" politician has, during his or her political career, acquired few specialized skills to offer in private business all militate against an easy transition back into private employment after serving as an MHA. Accordingly, in examining pensions, I was asked to bear in mind the characteristic uncertainty of long-term employment and the associated earnings vulnerability of elected officials.

Having said that, the analysis performed by the Commission's research staff has satisfied me that the current MHA Plan by various measures is considered generous and quite costly. In addition, the Commission's research indicates that the relative position of the MHA Plan in this province, when compared to the arrangements for elected officials in a number of other Canadian provinces, appears to have changed over the years. Accordingly, before examining the current plan structure, it is useful to review the evolution of the present MHA pension arrangements.

Historical Perspective

Pension arrangements for MHAs in Newfoundland and Labrador were first introduced in 1962 under the *Members of the House of Assembly Contributory Pension Plan Act*.[3] Under that plan, individual members and government each contributed an amount equal to 7% of the members' sessional indemnity into a fund established as part of the Consolidated Revenue Fund. While a separate trust fund was said to have been established, it remained part of the overall Consolidated Revenue Fund - "no assets were accumulated and obligations were paid from the Consolidated Revenue Fund as they became due."[4]

This initial pension arrangement was subsequently replaced, effective January 1, 1976, by the *Members of the House of Assembly Pension Plan* (MHA Plan) under the *Members of the House of Assembly (Retiring Allowances) Act.*[5] The MHA Plan is characterized as a "Defined Benefit Pension Plan":

> A defined benefit plan defines the benefits to be paid to each member, by a formula related to the member's length of service and earnings.[6]

At the time it was introduced, the revised MHA Plan was assessed as being in line with "the format established for other MHA plans throughout Canada."[7] Some of the more significant elements of the MHA Plan (prior to the more recent amendments in 1998) provided for:

---

[3] S.N.L. 1962, c. 71.
[4] Submission of the Department of Finance, to the Commission of Enquiry on Pensions, Concerning the Members of the House of Assembly Pension Plan, (November 1989), p. 3.
[5] S.N.L. 1975-76, c. 15.
[6] Mercer Human Resource Consulting, *The Mercer Pension Manual*, Vol. 1, (Toronto: Carswell, 1989). See Chapter 4.6 (a).
[7] Submission of the Department of Finance to the Commission of Enquiry on Pensions, Concerning the Members of the House of Assembly Pension Plan, (November 1989), p. 3.

- an annual benefit accrual rate: 5% for 10 yrs., 4% for 5 yrs., and 2.5% for 2 yrs.
- maximum pension entitlement : 75% of salary at 17 years service
- pension eligibility: age plus service = 60 (55 for Premier)
- pension based on an average of the highest three year salary
- MHA contribution rate of 7%.

While there have been subsequent amendments to the Plan over the years, the benefit structure set forth in that legislation some 30 years ago essentially forms the basis for the current MHA pension plan. The Plan provided the most costly benefit arrangements of all other public service plans in the province, namely the Public Service Pension Plan (PSPP), the Teachers' Pension Plan (TPP) and the Uniformed Service Pension Plan (USPP).[8] Contribution rates did not cover the full cost of the MHA benefit structure (but nor did the contributions in two of the other public sector pension plans at the time). Government chose not to fund the accumulating actuarial liabilities associated with the MHA pension benefits as they were earned:

> [A]s was the case with other Government plans, the Province continued to deduct contributions from MHAs which were paid into the Consolidated Revenue Fund, and pay benefits as they became due. The trust fund established in the previous plan was discontinued and collapsed into the Consolidated Revenue Fund.[9]

Government eventually initiated pension funding for its various pension plans in 1980, but only on a go forward basis. However, by 1989, inaction with respect to past service liabilities and inadequate funding of future liabilities had resulted in an unfunded pension liability of some $2.4 billion in the aggregate in respect of all of government's pension plans.

Commission of Enquiry on Pensions

At the national level at this time, a broad-based movement focused on the need for pension reform generally was developing. In addition, a number of federal tax reform initiatives related to pension plans and retirement arrangements were initiated.

[8] The separate pension plan for Provincial Court Judges (JPP) was not introduced until 2004, and was retroactive to 2002.
[9] Submission of the Department of Finance to the Commission of Enquiry on Pensions, Concerning the Members of the House of Assembly Pension Plan, (November 1989), p. 3.

It was in this context, as well as the ongoing fiscal challenges confronting the province, that the government of Newfoundland and Labrador appointed a Commission of Enquiry on Pensions on August 31, 1989.

The Commission, chaired by George M. Cummins, M.B.A. L.L.B.,[10] had a broad scope with a detailed terms of reference that encompassed virtually all aspects of government's four pension plans at the time, including: benefits, contribution rates, past service unfunded liabilities, un-worked (purchased) service, indexation of pension payments, and investment programs.

In its report, the Commission summarized its terms of reference in the form of three questions. Perhaps the one that best characterized the broad scope of that commission was its first question:

> Should taxpayers of the province continue pension plans in their current form for Public Service Employees, Teachers, Members of the Uniformed Service and Members of the House of Assembly taking account of contemporary concepts of pension adequacy, of similar plans across Canada, of the National Pension Reform Consensus, and the Tax Reform initiative with respect to Retirement Savings Plans?[11]

The Commission made a range of recommendations in respect of all four pension plans. While not all were accepted, some of recommendations, when combined with the national trend toward pension reform and the changes to the *Income Tax Act*, formed the basis for fundamental changes in pension plan structure for the three public sector pension plans in the early 1990s. The changes made to the three public sector plans varied, but encompassed such matters as: increased contribution rates, funding current service costs as they were incurred, scaled down benefits in some areas, and a targeted approach to pension funding. It is not necessary to review the detail of the individual changes in these other plans except to note that the MHA Plan was not amended at the same time to provide for corresponding changes.

In its brief to the Cummins Commission in November 1989, the Department of Finance placed particular emphasis on its interprovincial comparative analysis of pension plans. At the time, that comparison indicated that the MHA Plan in this province was very much in-line with provincial plans for elected officials in other provinces. The department also went to some length to explain how the particular circumstances of the elected official differed from others employed in the public service, a point very similar to some of the concerns expressed to this Commission by certain MHAs:

---

[10] There were two other commissioners: David W. Earle, C.A. and Michael F. Power, C.A.

[11] *Report of the Commission of Enquiry on Pensions*, Volume 1, (March 1990), p. 29.

> From reviewing the benefits under this plan in comparison to other plans sponsored by the Province and those in other provinces, it can be concluded that all provincial plans for elected officials and Members of Parliament cannot be considered pension plans in the traditional sense.
>
> The Plan does not have a retirement plan which has as its sole purpose the provision of suitable retirement income. The very nature of our democratic system forces certain Members to retire at a relatively young age but on pensions which, more often than not, force them to seek alternate employment. For them the plan is, in effect, a specific salary continuance program which helps to compensate former Members who are forced to begin second careers at a time in their life when their counterparts are fully established. Since this is the accepted means of pension compensation for MHAs throughout Canada, it is difficult to see this province moving to more traditional but less costly arrangements.[12]

The Cummins Commission appears to have struggled with the contrast between the MHA pension plan structure and the other provincial public sector plans. In fact, the Commission was split in its recommendations in respect of the MHA Plan. Two members of the Commission had indicated that the teachers' pension plan and the uniformed services plan were overly generous and recommended changes to bring them in-line with the public service pension plan. Furthermore, they took the position that "a member of the House of Assembly should be treated exactly the same as public service employees, teachers and members of the uniformed services."[13] On the other hand, the Chair of the Commission took the position that the circumstances confronting Members of the House of Assembly were substantially different than public sector employees and as such required special consideration:

> Members of the House of Assembly are unique when compared to public servants, teachers and uniformed services. Members of the House of Assembly must expend considerable amounts of time, effort and money before they are elected.
>
> Even after they are elected, they do not qualify for a retiring allowance until they are elected for a second term. It could occur that an MHA who is performing adequately, or perhaps even above average, is not re-elected due to a change in the mood of the electorate or the "time to change" syndrome. On the other hand, it is unlikely that a public servant, teacher or a member of the uniformed services would be dismissed in such circumstances.

[12] Submission of the Department of Finance to the Commission of Enquiry on Pensions, Concerning the Members of the House of Assembly Pension Plan, (November 1989), p. 42.
[13] *Report of the Commission of Enquiry on Pensions*, Volume 1, p. 17.

> It has also been alleged that, once a person becomes an MHA, their life is not their own. Commitments must be made and honoured outside what most of us would consider their normal working day. There is no such thing as an 8-hour day or 40-hour week for an MHA, particularly if the MHA is dedicated and committed.[14]

Though stressing that the MHA Plan was unique in the provincial public sector, the Chair concluded that the type of plan was generally in-line with the benefit trends for this type of position in Canada at that time. He also drew a distinction between the use of the terms "pensions" and "retiring allowances". He emphasized that, from his perspective, the "difference in terminology evidences a fundamental difference" between the arrangements for MHAs and the pension plans for the members of the various groups in the public service:

> Because the Retiring Allowance for Members of the House of Assembly is not a true pension plan, it should be properly considered elsewhere. In my view, it was, and is part of the terms of reference and within the purview of the Commission on the Remuneration to Members of the House of Assembly (The Morgan Commission). According to their own report, their report "ought to deal with … all allowances … received by Members of the House of Assembly." Accordingly, I recommend that the question of Retiring Allowances for Members of the House of Assembly be referred once again to the Commission on Remuneration to Members of the House of Assembly.[15]

It appears that neither the majority recommendation (to harmonize the plan with the public service) nor the Chair's minority recommendation (to refer the MHA pension plan back to the Morgan Commission) was adopted by government. In fact, there were no changes to the MHA Plan for several years.

The minority recommendation of the Cummins Commission raises an important general question for consideration in relation to the evolution of pension policy for MHAs in this province over the years.

Approach to MHA Pension Policy

While few would argue with the notion that pension benefits are a very important component of the MHA compensation package, pensions were not dealt with as part of the mandate of the Morgan Commission, which addressed the other substantive components of MHA remuneration. (Of course, pensions have not been addressed by a commission since, because no commission has been appointed over the intervening years.) Of equal significance is the fact that the Commission of Internal Economy has not generally addressed

[14] Ibid., p. 14.
[15] Ibid., pp. 15-6.

policy considerations relating to amendments to the pensions/retiring allowances of MHAs. Unlike all other aspects of MHA compensation, it appears the responsibility for pension policy and administration has remained entirely with the executive branch of government.

When substantive changes to the MHA Plan have been made, the changes generally originated in the executive branch. In particular, the changes have mostly originated in the Department of Finance which, it should be noted, oversees pension policy and administration on behalf of the entire executive branch. Over the years, recommendations to alter MHA retiring allowances have been presented to Cabinet over the signature of the Minister of Finance. Direction to draft amending legislation was provided by Cabinet Directive to the Office of the Legislative Counsel. There is no indication in the minutes of the IEC that proposed legislative amendments in this regard were even vetted by the IEC before presentation to the House of Assembly.

Pension Plan Changes in the Early 1990s

Government assessed the Report of the Cummins Commission, which was submitted in March of 1990, in the context of national pension trends and the changes in the *Income Tax Act.* In many respects, the thrust of the changes at the national level were designed to bring about a greater degree of long-term financial stability to public sector pension plans and to provide a level of uniformity in the application of tax policy to registered pension plans in terms of both exemptions and taxable benefits.

Through the course of 1991 and 1992, a series of steps were taken to modify the Public Service Pension Plan, the Teachers' Pension Plan and the Uniformed Services Pension Plan. These steps included:

- Contribution rates were increased for all employee plans to "meet the costs of benefits as they are earned";
- Some of the most "generous" provisions of the USPP were eliminated (i.e., pension based on final salary was replaced by a three-year average, and higher accruals in years 21-25 (4%), and year 30 (7%) were eliminated);
- Pension funding targets were established and initiatives were undertaken to provide special payments annually to begin to address the large, and growing, unfunded liability in respect of prior service for the teachers' plan and the public service plan;
- Service accrual rates under the TPP were reduced to 2% from 2.22%; and
- The ability to purchase "un-worked service" and teacher training years was eliminated.

Highlighting these significant changes in the other provincial plans serves to bring into stark perspective the fact that no similar modifications to the MHA Plan were made in the same time frame.

Through discussions with officials of the Department of Finance, the staff of this Commission learned that recommendations for changes to the MHA Plan were brought forward by the Minister of Finance in November of 1992, but they were deferred by Cabinet at that time. While it appears that the matter continued to receive ongoing study and analysis within the Department of Finance over the course of following years, there was no definitive action taken for several years.

Concerns Over Status of MHA Plan - Mid 1990s

In 1995, a further set of recommendations was drafted by finance officials who proposed the discontinuance of the MHA Plan at the end of the 42nd General Assembly.[16] Under this concept, existing MHAs would have been entitled to their accrued pension earned to dissolution and, on a go forward basis, would participate in a group registered retirement savings program (RRSP).

In presenting a case for a significantly modified structure for the MHA Plan in 1995, the Department of Finance indicated that all plans in the provincial public sector, except the MHA Plan, were by then financing the current service cost and, in fact, making a net contribution to reducing the unfunded liability. The MHA pension plan, on the other hand, was estimated to have a current service cost equivalent to 42.6% of salary. The contributions of MHAs and government at 7% each (14% in total), left a relatively huge funding deficit of 28.6% in relation to current service costs alone.

The analysis of the Department of Finance at that time also suggested that: i) in comparison with other public sector plans, the MHA benefits were "too generous and difficult to justify in the economies of the 1990's"; ii) given the measures taken to reduce benefits and increase contributions for teachers and other public service employees to address unfunded liabilities, similar actions should be taken with respect to "the most generous of all four plans"; iii) under new income tax rules the MHA Plan would be ineligible for registration unless the benefits were substantially reduced; and iv) "the increasing media focus questions the integrity of those Governments which fail to address the excessive features of those pension plans of elected officials."[17]

[16] Letter from the Assistant Deputy Minister, Debt Management and Pensions, to the Minister of Finance and President of Treasury Board (February 17, 1995).

[17] Draft Cabinet paper appended to the letter from the Assistant Deputy Minister, Debt Management and Pensions, to the Minister of Finance and President of Treasury Board (February 17, 1995).

It appears the draft Cabinet paper and the associated recommendations did not find favour and was never submitted to Cabinet.

Changing Trends in Other Provinces - Mid 1990s

While in 1989 the Department of Finance had acknowledged that the MHA Plan in this province was generally in line with the other Canadian jurisdictions, by 1995 that assessment had begun to change:

> During the review by the Commission of Enquiry on Pensions most MHA plans in Canada were relatively comparable. In several provinces the financing of these plans have now been addressed and many of the more generous provisions have now been removed. In fact, in some instances the plans have been discontinued altogether.[18]

This was a very significant change, and one that appears to have become more pronounced in the succeeding years. A key element, interprovincial comparability, which had helped rationalize the existing plan structure in the past, had been diminished. It was not until the provincial budget in the spring of 1998, six to seven years after the changes to the public service plan and the teachers' plan, that government signified its intention to amend the MHA pension plan.

Changes in the MHA Plan - 1998

Pursuant to a commitment in the 1998 provincial budget, the House of Assembly amended the *Members of the House of Assembly (Retiring Allowances) Act* in June of 1998. The principal amendments provided for:

- An increase in the MHA contribution rate from 7% to 8% effective April 1, 1998, and to 9% effective April 1, 1999, to be matched by government;

- Modification to the service accrual formula for new members elected for the first time after the 43rd General Assembly - this effectively increased the service requirement for the attainment of full pension from 17 to 20 years; and

- The integration of Canada Pension Plan (CPP) benefits with those provided by the MHA Plan.[19]

---

[18] Ibid.

[19] This was a benefit reduction from the previous arrangement whereby benefits of the two plans were effectively added together or "stacked." The benefits of the Teachers Plan were also integrated with CPP in 1998. Government at the time had taken a firm position that the TPP should be integrated with the CPP in order

Changes in the MHA Plan - 2005

The MHA Plan was further amended in 2005, primarily in response to the requirements for registration under the *Income Tax Act (ITA).* The benefit structure of the MHA Plan in the aggregate exceeds the maximum permitted to enable the plan to be considered a "registered" plan, and thereby have contributions considered tax-deductible under the *ITA.* Accordingly, as has been done in other cases with benefit plans that exceed the *ITA* maximum, the plan was split into two parts:

i. A "registered pension plan" component (RPP), which provides for benefits up to the maximum permitted under the *ITA*; and

ii. A "supplementary employee retirement plan" (SERP), which provides for the balance of the benefits as stipulated in the MHA Plan, which are in excess of the amounts permitted under an RPP. These are sometimes referred to as "offside" arrangements.

These changes were made solely to preserve the tax status of the plan and did not alter the benefit structure or the contribution rates which, arguably, should have been made years before.

The MHA Plan was also amended in 2005 to rationalize the level of credit awarded in respect of "other service" - for future Members only. Previously, the benefit attached to other service was based on both MHA and ministerial remuneration. With this amendment, it was to be based on the MHA remuneration only. The MHA Plan was also amended to eliminate "rounding" of service to the nearest full year. Service is now to be based on years and months of service for future Members.

These changes to the MHA Plan in Newfoundland and Labrador, while important, did not approach the level of significance of the changes which were occurring in many other Canadian jurisdictions.

Current MHA Pension Plan Overview

The MHA pension plan as it exists today still reflects the basic structure implemented in 1976. Even with the revised benefits, resulting from subsequent amendments noted above, the MHA Plan would, by most measures, be considered generous and, from a financial perspective, be regarded as quite costly.

---

to reduce the huge unfunded liability and it appears the integration of the MHA plan at the same time was part of a strategy to help gain acceptance of integration by the teachers. The benefits under the public service pension plan had always been integrated with the CPP.

The 1998 amendments scaled back the pension benefit accrual rate for new MHAs, but “grandfathered” the arrangements for sitting MHAs and previous Members who had been elected prior to the 44th General Assembly. Accordingly, there are effectively two pension accrual formulae for MHAs depending on when they were first elected.

MHAs elected for the first time since the end of the 43rd General Assembly accrue pension benefits according to a formula that builds to a maximum entitlement of 75% of the best three years’ average salary with 20 years of service. The formula reflects a higher accrual rate (5% per year of service) for the first 10 years as an MHA, and then a lower accrual rate (2.5% per year of service) for service beyond 10 years.

For Members elected for the first time prior to the 44th General Assembly, the MHA Plan remains more generous. It provides an accrual rate of 4% per year for years of service from year 11 to year 15, and thereby provides for a maximum pension entitlement upon the attainment of 17 years of service. Accordingly the two formulae are summarized in Chart 11.1 as follows:

Chart 11.1

MHA Pension Plan

Pension Formula - Benefit Accrual Rates and Entitlements

Pension Accrual Rates	*Formula*			*Benefit (as % of salary)*
Members first elected **after February 1999** (44th General Assembly and since)				
5.0%	for first 10 years x best 3 years' average salary		=	50.0%
2.5%	for next 10 years x best 3 years' average salary		=	25.0%
	20 years	**Maximum**	**=**	**75.0%**
Members first elected **prior to February 1999** (prior to 44th General Assembly)				
5.0%	for first 10 years x best 3 years' average salary		=	50.0%
4.0%	for next 5 years x best 3 years' average salary		=	20.0%
2.5%	for next 2 years x best 3 years' average salary		=	5.0%
	17 years	**Maximum**	**=**	**75.0%**

Source: Data extracted from the *Members of the House of Assembly Retiring Allowances Act* S.N.L. 2005, c. M-6.1.

The base “salary” used to calculate the basic MHA pension benefit entitlement is the sessional indemnity plus the non-taxable allowance and, where applicable, will also include other remuneration such as allowances paid to the Deputy Speaker, chairs of committees and other parliamentary officer remuneration. The same pension entitlement formulae are also applied to the additional salaries paid to various MHAs in respect of their roles of Ministers, and to the Speaker and the Leader of the Opposition for the years served in those respective roles.

The MHA annual salary base for pension purposes for a Member who does not hold any other office is $72,390[20] (sessional indemnity $48,260 + non-taxable allowance $24,130). In the case of a Cabinet Minister, the additional ministerial salary is $50,968. This yields a combined salary base of $123,358, for pension purposes for an MHA who is also a Minister:

Chart 11.2

Maximum Pension Entitlement

MHAs and Ministers

Plan Member	***Salary Base****	***Service Years*****	***Maximum Accrual***	***Maximum Pension***
	$		%	$
MHA	72,390	17 or 20***	75	54,293
MHA/Minister	123,358	17 or 20***	75	92,519

* *assume the three year average equals the salary indicated for the 2006-07 fiscal year.*

** *assuming the MHA has no other credited service*

*** *17 or 20 years to accrue maximum entitlement, depending on when first elected.*

Source: Application of formulas under the *Members of the House of Assembly (Retiring Allowances) Act,* S.N.L. 1975-76, c.15 to current remuneration levels as provided by Pensions Division, Department of Finance.

It is recognized that the electoral process and cabinet minister turnover add a significant degree of uncertainty to the continuity of service for elected officials. In particular, it is rare for an MHA to acquire 15 to 20 years as a Minister.

(i) Other Service

In addition to credit for service in the House of Assembly, an MHA who has "other service" with an affiliated organization may elect to transfer that service for credit towards pension entitlement under the MHA Plan, based on an accrual rate of 2% per year of other service.

The calculation of benefits transferred in this regard is based upon the application of the additional percentage accrued in relation to the other service, to the MHA salary base ($72,390), or the combined MHA/ministerial salary base ($123,358) as the case may be. This application of other service accrual to the combined salary base was modified in the 2005 amendment to apply to MHA remuneration only - but for new members only.

[20] MHA earnings in the 2006-07 fiscal year as reflected in Chart 9.1 in Chapter 9 (Compensation).

This type of service transfer can, of course, in various circumstances significantly reduce the time required to be served as an MHA in order to be entitled to a full pension. For example, an MHA who transferred ten years of service as a teacher or service under the public service pension plan could be entitled to full MHA pension after 12 years of service, even under the scaled back new accrual rates. In any event, the maximum benefit is capped at 75% of total salaries. In this regard, it is estimated that 14 or 30% of the current MHAs have potential service transfer entitlements as teachers, provincial and /or federal public servants.

(ii) Qualification for the Commencement of Pension Benefit Payments

MHAs who are no longer serving in the House of Assembly may begin to collect their pension benefits when their age plus service as an MHA equals 60 (55 for the Premier) and they have served at least five years spanning a minimum of two General Assemblies. Unlike many pension plans, there is no minimum age stipulation as such, and no benefit reduction formula applicable to reduce benefits in cases where the payment of pension benefits commences prior to a specified age.

(iii) Integration with Canada Pension Plan

The pension benefits payable to MHAs are integrated with the entitlements under the Canada Pension Plan. As a result, MHA pension benefits are reduced at age 65 by a "formulated" amount that is slightly less than the CPP pension benefits payable from age 65. The integration of CPP benefits is now a common feature in public sector pension plans and pension plans for elected officials where defined benefit plans remain in place.

(iv) No Indexing of Benefits

There is no automatic indexing of benefits within the MHA pension plan in this province. Over the years there have been periodic *ad hoc* adjustments to benefit levels but, unlike certain other public sector plans within this province and plans in certain other provinces, there is no formula to adjust benefits automatically relative to the escalation in the cost of living (the last *ad hoc* increase was provided in 1989). The USPP also does not have an indexing provision. It was suggested to the Commission that this was due to the other relatively generous provisions of that plan in the past.

It is estimated that the cost of instituting a form of limited indexing for MHAs, comparable to that in the public service plan (60% of CPI to a maximum of 1.2% in a year, payable from age 65), would be 6.4% of salary - if applied in respect of active Members and all retirees. The cost is estimated at 3.6% of salary if it were only applied to current

Members and retirees who retired after 1998 with integrated pensions (similar to TPP indexing).[21]

(v) Survivor Benefits

In the event of death, survivor benefits of 60% of the former MHA's pension entitlement are paid to the spouse. This is applicable both in the case of an elected official who dies while still serving as well as in the case of a death after retirement.

MHA Pension Benefits vs. the Public Service Plans

The MHA pension plan is the most attractive of all provincial public sector plans in Newfoundland and Labrador. The key benefits are the rapid accrual rate to a maximum potential benefit of 75% of salary with 20 years of service as an MHA (with a reduction of service years in the case of a carry-over of other service) and the ability to retire early and draw a pension with no penalty. An MHA can accumulate a pension entitlement equal to 50% of the salary base in ten years, whereas it would take a public servant 25 years to reach that level of accrued benefit.

Chart 11.3 provides a summary comparison of some of the main elements of the respective pension plans in the provincial public sector. (It will be noted that this table includes the Provincial Court Judges' Plan, which was only introduced in 2004 with effect from 2002):

One of the most significant benefits of the MHA Plan that is not apparent from Chart 11.3 relates to early retirement without penalty. There is no minimum age requirement for full pension under the MHA Plan. An MHA can draw the full pension under the basic calculation based on credited service, provided his or her age plus credited service equals 60 and he or she has served in two assemblies with a combined minimum total service in the House of 5 years. For example, an MHA aged 45, with 15 years service in the House, could begin drawing a pension equivalent to 62.5% of his or her three-year average at age 45. It should be noted, however, that only service under the MHA Plan counts in terms of determining eligibility in this regard.

[21] Estimates provided by the Pensions Division of the Department of Finance.

Chart 11.3

Comparison of Pension Plans
Government of Newfoundland and Labrador
Key Elements in Benefit Structure

Pension Plan	*Annual Benefit Accrual*	*Pension Salary Base*	*Maximum Pension Accrual*	*Pension Accrual*		*Indexing to CPI**
				20 years	*35 years*	
MHA Plan	5.0% 1st 10 yrs. 2.5%11-20 yrs.	Avg. best 3 yrs.	75.0%	75.0%	75.0%	No
Public Service (PPSP)	2.0%	Avg. best 5 yrs.	No max.	40.0%	70.0%	60% of CPI Max. 1.2%
Teachers (TPP)	2.0%	Avg. best 5 yrs.	No max.	40.0%	70.0%	60% of CPI Max. 1.2%
Uniformed Service (USPP)	2.0%	Avg. best 3 yrs.	75.0%	40.0%	70.0%	No
Provincial Court Judges(JPP)	3.3%	Final Salary	66.6%	66.6%	66.6%	60% of CPI Max. 1.2%

**Indexing applies from age 65*

Source: Data provided by the Pensions Division, Department of Finance.

Other public sector plans generally have significant minimum service thresholds of 25 to 30 years and/or strict age limitations of 50 to 60 years of age before an employee/plan member may begin drawing pension. In some cases, there are pension reduction factors applied to reduce benefits to those who are eligible to retire early and draw pension. There are no such early retirement penalties under the MHA Plan.

In addition to the rapid accrual rate and the relative absence of early retirement restrictions and penalties, the MHA pension is based on the average of the best three years' salary, compared with the best five years for the two largest public sector plans.

It is noted that the pension plan for provincial court judges, which was introduced in 2004, is quite attractive as well. However, the accrual rate on the front-end is much lower. Furthermore, while pension is based on final salary, it is at a lower maximum than can be attained under the MHA Plan.

Current Service Cost and Contribution Rates - MHA Plan

As explained previously, the MHA Plan was restructured into two components in 2005 based on the limits prescribed in the federal *Income Tax Act*: i) the registered portion (RPP), which is administered and funded within the Province of Newfoundland and Labrador Pooled Pension Fund, and ii) the supplementary employee retirement plan (SERP), which is funded directly through the Consolidated Revenue Fund of the province.

From a benefit perspective for the MHAs, there is effectively only one plan that reflects the combination of both the RPP and the SERP. However, from an actuarial perspective, each component of the MHA Plan is evaluated separately. At the time of the last formal actuarial evaluation of the Plan (as of December 31, 2003), the current service cost for active members was as follows:

Current Service Cost - As a Percentage of Payrolls
MHA Pension Plan: December 31, 2003

Plan	*%*
Registered Plan (RPP)	12.9
Supplementary Plan (SERP)	29.0
Total MHA Plan	**41.9**

Source: Actuarial Evaluation for Accounting Purposes as of December 31, 2003 prepared by Mercer Hurman Resource Consulting.

While the RPP is funded, the SERP is not. The SERP is by far the most expensive component of the MHA Plan, and any contributions to fund SERP obligations in advance would not be on a tax-assisted basis. In order to fund the SERP on a tax-assisted basis, government would have to establish a Retirement Compensation Arrangement (RCA) as provided under the federal *Income Tax Act*, whereby 50% of the contributions to fund the SERP could be paid to the RCA, while the other 50% would be remitted to the Canada Revenue Agency to be held until SERP benefits commence to be paid. Because of the complexities related to funding SERP arrangements, many plan sponsors, particularly for public sector plans, elect not to fund them.

With the formal split of the plan in 2005 into the RPP and the SERP, and in order to optimize the tax position and preserve the "registered" status of the RPP, government moved to cash funding of the RPP only. This means that the entire obligation of the SERP is now carried on government's books as an unfunded liability.

MHAs now contribute 9% of their salary base toward the cost of their pension plan and this goes entirely towards the RPP. Accordingly, the balance of the current service cost, an amount equivalent to 32.9% of salary, is effectively borne by government. Government contributes 3.9% in cash to fund the remainder of the cost in respect of the RPP, while the 29% related to the SERP is carried as an unfunded liability.

MHA Current Service Costs and Contributions vs. Public Service Plans

A comparison of the current service cost and contribution arrangements of the MHA Plan with other plans in the public sector of this province indicates the current service cost of the MHA Plan is clearly the most expensive. On a relative basis, therefore, the MHA Plan has the greatest ongoing financial deficiency as a percentage of payroll, as illustrated by Chart 11.4:

Chart 11.4

Current Service Cost and Contributions

Pension Plans - Government of Newfoundland and Labrador

Pension Plan	***Current Service Cost (% of pay)***	***Member Contribution (% of pay)***	***Total* Contribution (% of pay)***	***Excess (Deficiency)***
MHA Plan				
Registered Plan (RPP)	12.9	9.00	12.9	0.0
Supplementary (SERP)	29.0	0.00	0.0	(29.0)
	41.9	9.00	12.9	(29.0)
PPSP	11.3	7.25	14.5	3.2
TPP	13.3	9.35	18.7	5.4
USPP	12.8	7.20	14.4	1.6
JPP	37.5	9.00	12.8	(24.7)

** Includes both employer/government and employee/member contributions.*

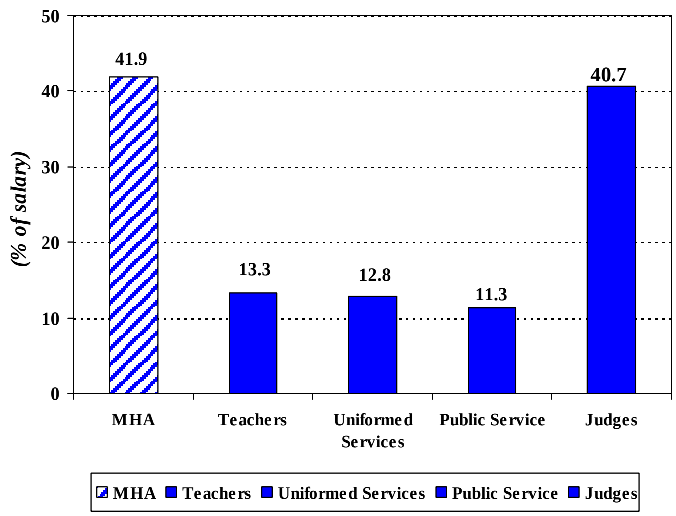
Source: Actuarial Reports of respective Pension Plans of the Province of Newfoundland and Labrador as of December 31, 2003, except in the case of the TPP, August 31, 2003, and the J PP, December 31, 2004.

The relative overall cost of current service accruing under the MHA Pension Plan, in comparison with the cost of the respective public service pension plans in the province, is more graphically illustrated in Chart 11.5:

Chart 11.5 **Pension Plan Costs**

Current Service Cost - MHA Plan vs. Various Provincial Public Sector Plans

Actuarial Value of Plan Benefits as a Percentage of Annual Salary



Source: Actuarial Reports of respective Pension Plans of the Province of Newfoundland and Labrador as of December 31, 2003, except in the case of the TPP, August 31, 2003, and the J PP, December 31. 2004

Pension Plan Funding Status

The overall cost of the MHA pension plan has exceeded the annual funding arrangements from the outset and, for a period, there was virtually no funding arrangement. While the current service cost of the RPP is funded, current service cost of the SERP is not funded. On an ongoing basis, this results in an annual contribution deficit equivalent to 29% of payroll (estimated at $1.3 million for fiscal 2005-06).

The accumulated net unfunded pension liability in the MHA Plan at the time of the last actuarial valuation in December of 2003 was estimated at $60.8 million. While there has not been an actuarial study prepared since December 31, 2003, assumptions and estimates are made annually to update the projections since the last formal report. Accordingly, as of March 31, 2006, the unfunded liability on the MHA Plan, based on the latest actuarial assumptions, was estimated at $65.1 million.

Chart 11.6 that follows summarizes the funded status of all provincial public sector pension plans in Newfoundland and Labrador based on the most recent actuarial assumptions:

Chart 11.6

Funded Status of Pension Plans
Government of Newfoundland and Labrador
Actuarial Funding Estimates of 31 March 2006

Pension Plan	*Active MHAs / Employees*	*Pensioners*	*Value of Fund*	*Estimated Net Unfunded Liability**	*Funded Ratio*
			($millions)	*(millions)*	*%*
MHA Plan	48	111	10.3	65.1	14
Public Service (PSPP)	25,879	12,144	2,388.4	1,783.0	57
Teachers (TPP)	5,839	7,082	2,851.1	338.3	89
Uniformed Service (USPP)	600	609	83.6	173.1	32
Provincial Court Judges (JPP)	10	0	1.7	3.5	33
	32,376	19,946	5,335.1	2,363.0	

** The most recent valuation dates: MHAPP, PSPP, USPP, December 31, 2003; TPP, August 31, 2003; & JPP December 31, 2004.*

Source: Data provided to the Commission by the Pensions Division, Department of Finance, Government of Newfoundland and Labrador.

The foregoing analysis indicates that the MHA Plan has the lowest funding ratio in the provincial public sector - it is only 14% funded. Conversely, therefore, it has by far the largest funding deficiency of some 86%.[22]

[22] *Actuarial Funding Assumptions vs. Accounting Assumptions*
At the risk of confusing an already complex assessment, it should be noted that actuarial estimates for funding purposes, such as those illustrated above, do not always correspond to actuarial estimates made for accounting purposes. This is not unique to the assessment of the funded status of this Province's public sector pension plans.

Actuarial estimates for funding purposes are made in accordance with accepted actuarial practice. Their estimates deal with extensive multi-year projections, decades into the future. They are inclined to use conservative assumptions when estimating the long term growth of salaries, assets, liabilities and the resultant funding requirements.

Another actuarial calculation is made for each pension plan being evaluated to determine the costs for accounting purposes. Estimates made for accounting purposes are made in accordance with accounting principles promulgated by the Canadian Institute of Chartered Accountants (CICA) under Section PS3250 of the *CICA Handbook*. These estimates provide the data used to account for the costs of the retirement and other post employment costs over the estimated service lives of the individuals covered by the plans. These estimates differ principally from those used in the funding calculation as these use best estimates for salary and asset

Escalating Unfunded Liabilities in the MHA Plan

Quite apart from the technicalities associated with the different approaches to assumptions (as outlined below), it is significant to note that, under the accounting estimates contained in the Public Accounts for the MHA Plan, the year-over-year numbers (2006 vs. 2005) reflect an increase of $11.8 million in the unfunded liability.

The Public Accounts data indicate that, in respect of the MHA Plan, pension benefits earned during the period, together with interest expense and current amortization, exceeded the combined contributions from MHAs and government during fiscal 2006 by $1.4 million.[23] In addition, the Auditor General notes in his report released December 12, 2006:

> … commencing in 2001-02, the Province began making annual payments of $7.5 million to the Members of the House of Assembly Pension Plan, however, these payments will only be allowable under the federal *Income Tax Act* to the extent that they fully fund the Registered component of the Plan. There were no special payments made to the Members of the House of Assembly Pension Plan in 2005-06.[24]

The staff of this Commission explored this matter with officials of the Department of Finance and learned that the review of the funding status of the MHA Plan in fiscal 2006 (following the formal split of the Plan into the RPP and the SERP) indicated that the RPP had in fact been "over-funded" by some $10.4 million to that point in time. Accordingly, in order to remain "onside" with the requirements of the *Income Tax Act,* there could be no special funding in 2005-06. In fact, it was necessary to transfer $10.4 million out of the MHA component of the pension fund. This $10.4 million was moved to the teachers' fund and consequently the unfunded component of the MHA Plan increased by $10.4 million, which combined with the $1.4 million, explained previously, accounts for the entire $11.8 million year-over-year change in the unfunded liability.

Based on the foregoing, and given the relatively significant obligation associated with the SERP, it would appear that, with the current benefit structure and tax strategy, the scope for additional funding in the MHA Plan is minimal. Government is effectively funding the RPP benefits, and operating the SERP on a "pay-as-you-go" basis. Barring a significant policy change, the unfunded liability in respect of the MHA pension benefits is destined to

---

growth. The fact that the estimates are to be used for differing purposes explains the difference between the unfunded liability in the MHA plan of $65.1 million outlined above (based on actuarial assumptions for funding purposes) and the estimate of $52.1 million (based on actuarial assumptions used to account for costs in accordance with Canadian generally accepted accounting principles) contained in the public accounts released on December 13, 2006.

[23] *Report of the Auditor General to the House of Assembly on the Audit of the Financial Statements of the Province of Newfoundland and Labrador for the Year Ended March 31, 2006,* extracted from fig. 4, p. 41.

[24] Ibid., p. 42.

continue to escalate, particularly in relation to the mounting interest impact on the proportionately high unfunded liability.

Overall Financial Perspective of MHA Plan

The MHA Plan has the lowest funded ratio (14%) of all five provincial public sector pension plans, which is a reflection of a number of factors: i) lack of any form of funding in the early years of the Plan (a problem common to all plans in the provincial public service); ii) a very costly benefit structure; iii) low contribution rates relative to the actuarial cost of the benefit framework; iv) an income tax environment that is not conducive to the funding of benefits beyond certain established norms; and v) the lack of special incremental contributions to reduce or eliminate the accumulated funding deficit related to past service.

The MHA Plan encompasses a relatively small group. There are only 48 active members; pensioners (111) outnumber active members 2.3:1. The ongoing annual payout to pensioners today exceeds the combined funding contributions of active members and government by a multiple of 8. For the 2006-07 fiscal year, contributions for the MHA Plan were estimated at $570,000 ($400,000 from MHAs and $170,000 from government), while pensions paid out to former MHAs ("supplementary allowances") were budgeted at $4,500,000.[25] These pension payments to former MHAs are made directly out of the Consolidated Revenue Fund and constitute ongoing expenses reflected in the annual operating budget of the province.

It should also be noted that the pension payments, or "supplementary allowances," paid to retired MHAs are not reflected in the budget of the House of Assembly, but are contained in the budget of Consolidated Fund Services. The significance of these payments to pensioners is highlighted by the fact that they exceed the total current salary costs of sitting MHAs (sessional indemnities and non-taxable allowances). See Chart 11.7.

Due to the prolonged historical and ongoing funding deficiencies, pensions paid to former MHAs have a greater ongoing budgetary impact than the salaries paid to sitting Members of the House. In this regard, it is noted that since pension expenses are not included in the House budget, the accounts of the House of Assembly are not truly reflective of the actual costs associated with the operation of the legislative branch of government.

[25] Data provided to the Review Commission by the Pensions Division, Department of Finance, Government of Newfoundland and Labrador.

Chart 11.7

MHA Salary Costs & Cost of Pensions to Former MHAs
Annual Expenditure Impact
(estimated 2006-07)

Cost Component		*Annual Cost*
		$
Current MHA Salary Costs:		
Sessional Indemnity	2,300,000	
Non-taxable Allowance	1,150,000	
		3,450,000
Former MHA Pension Costs:		
Pensions / Supplementary Allowances		**4,500,000**
		7,950,000

Source: Data provided to the Commission by the Pensions Division, Department of Finance, Newfoundland and Labrador (estimates rounded).

Interprovincial Comparison of MHA/MLA Pension Trends

As noted earlier, at the time of the *Report of the Commission of Enquiry on Pensions, 1990*, the pension benefit structure for MHAs in this Province was considered to be very much in-line with benefit arrangements generally prevalent in other Canadian jurisdictions. That pattern changed significantly over the course of the next several years, and there are now two very different approaches to retirement benefits for elected officials - one reflects a continuation of the type of defined benefit plans for elected officials that were predominant in Canada in the 1980s; the other represents a distinct movement away from the defined benefit structure. This is illustrated by the following analysis based upon a July 2006 survey prepared by the Manitoba Civil Service Superannuation Board, augmented by follow up consultations by the Pensions Division of the Department of Finance with representatives of various other provinces.

(i) Provinces that Retained Defined Benefit Plans

Quebec and the Atlantic provinces have retained the relatively generous, and costly, defined benefit structure that was broadly prevalent prior to the 1990s. Chart 11.8 summarizes some of the key elements of those plans:

Chart 11.8

Interprovincial Comparison - MHA/MLA Defined Benefit Pension Plans
For those provinces that have retained defined benefit plans
Key Elements in Plans

Pension Plan	*Annual Benefit Accrual*	*Pension Salary Base*	*Maximum Pension Accrual*	*Min Age (no benefit reduction)*	*Indexing to CPI*	*Benefit Accumulation Rate (1 yr.)**
Newfoundland and Labrador	5.0% 1st 10 yrs. 2.5% 11-20 yrs.	Avg. best 3 yrs	75%	no min. age 5yrs./2 terms	No	$3,820
Quebec	4.0%	Annual Salary	none	Age + Svce. =65 & age 50	CPI less 3%	$3,218
New Brunswick	4.5%	Avg. best 3 yrs	none	60	CPI to 6% max.	$1,872
Nova Scotia	5.0%	Avg. best 3 yrs Includes Expense All	75%	55 5yrs./2 terms	CPI to 6% max.	$3,278
P.E.I.	2.0% of Contributions (4% if elected 2x & serve 5yrs.)	Annual Salary	none	55	CPI to 8% max.	$1,927

**Calculations based on remuneration rates as of October 2006.*

Source: Data extracted from the Manitoba, Civil Service Superannuation Board, "Public Sector Pension Plan Survey, as of December 31, 2005," (July 2006).

(ii) Movement Away from Defined Benefit Plans

In comparing pension plans across jurisdictions, there are two distinct structures noted: defined benefit plans and defined contribution plans. While the concept of the *defined benefit pension plan* was previously outlined, it is worth comparing this concept with that of the *defined contribution plan* to facilitate an understanding of pension trends in various Canadian provinces:

Defined Benefit Plan

A defined benefit plan defines the benefits to be paid to each member, by a formula related to the member's length of service and earnings.

Defined Contribution Plan

> A defined contribution, or money purchase, plan defines the contributions to be credited to members. Individual accounts are kept at the contributions paid by each member and by the employer on the member's behalf. The Pension payable is the amount that can be paid by the sum of the contributions plus the investment income.[26]

Five provinces (Ontario and the western provinces) substantially altered the pension structure for members of their legislative assemblies in the last several years. In those cases, there was a marked shift from the previous defined benefit arrangements to a more conservative approach based on defined contribution plans or registered retirement savings plans (RRSPs). In the case of Alberta, the plan was cancelled entirely.[27]

- 1993: Alberta discontinued its MLA plan, retroactive to 1989.

- 1995: Manitoba cancelled its MLA plan. Benefits to April 1995 were grandfathered. The plan was replaced by a 7% member plus a 7% provincial contribution to the MLA's choice of private RRSPs.

- 1996: British Columbia cancelled its MLA pension plan. Benefits earned to June 1996 were grandfathered. The plan was replaced by a private RRSP arrangement.

- 1996: Ontario converted its pension plan to a money purchase plan. Benefits prior to June 1995 were commuted to the new plan or paid into personal locked-in retirement accounts. For service on or after June 1995, the Ontario government contributes 5% of the member's remuneration.

- 2002: Saskatchewan repealed its MLA pension plan effective September 2002, and MLAs now contribute to the Public Employees Pension Plan, which is a defined contribution, money purchase plan. Members contribute 9% of their salary, and the province of Saskatchewan matches the members' contributions to the maximum permitted by the federal *Income Tax Act*.[28]

Accordingly, by 2002, the five provinces that encompass almost 70% of the country's population and, ironically, include the strongest provincial economies, had moved to more conservative and far less lucrative retirement benefit arrangements for their elected officials. This has resulted in a wide variation in the value of the MHA/MLA pension benefits provided in various jurisdictions across the country. It should be noted also,

---

[26] *Mercer Pension Manual*, Volume 1, Chapter 4.6 (a) and (b).
[27] See Manitoba, Civil Service Superannuation Board, "Public Sector Pension Plan Survey, as of December 31, 2005," (July 2006).
[28] The maximum that can be contributed to a registered pension plan is 18% of taxable earnings, to a maximum of $18,000 for the 2006 calendar year.

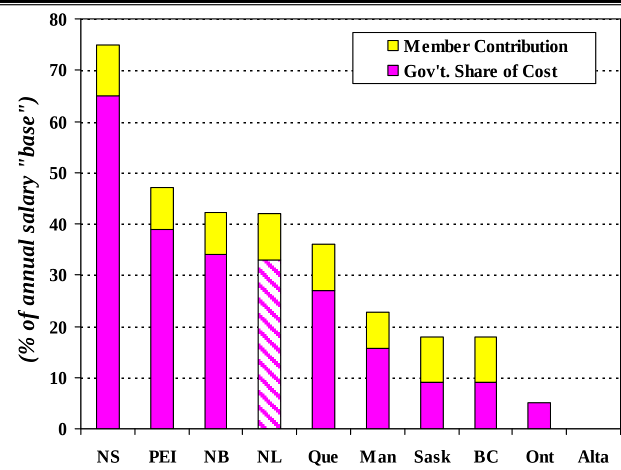
however, that given that previous and sitting MLAs tended to be "grandfathered" when plan changes were made, there are distinctly different benefits prevailing within certain jurisdictions.

Chart 11.9 illustrates the estimated value of the pension benefits provided by governments to MHAs (MLAs) in various jurisdictions[29] across the country in 2006 as a percentage of the members' salaries, taking account of the government's share of the cost only (i.e. excluding MHA contributions) and relating to "go forward" arrangements only, as opposed to "grandfathered" benefits:

Chart 11.9 **Relative Cost of MHA Pension Benefits**

Inter-provincial Comparison – 2006

*Sharing of Pension Costs => Gov't. Share & Member Contributions**



** Comparative data is provided for the other provinces; however similar data was no available for Nunavut, the Yukon and Northwest Territories.*

Source: Data obtained from the Pensions Division, Department of Finance, Government of Newfoundland and Labrador based on surveys and contacts with plan administrators in other provinces. The data used does not reflect the most recent adjustments to members' compensation referred to in Chapter 9.

The lack of consistency is clearly quite pronounced. It should be noted that the value of the benefits under pension plans with small memberships (such as MHA/MLA plans) can vary considerably as a result of the age and service profile of the plan membership, and the differences in key benefits, such as indexing and early accessibility.

It should be noted, as well, that the percentage values reflected in Chart 11.9 apply to the "salary base" used to calculate the pension benefit. This base is not the same in all provinces. For example, in New Brunswick the salary base for pension calculations does not include the non-taxable allowance, which it does in Newfoundland and Labrador.

[29] Comparative data is provided for the other provinces, however similar data was not available for Nunavut, the Yukon and the Northwest Territories.

Accordingly, it is perhaps more meaningful to examine the value of pension benefits in the context of total compensation.

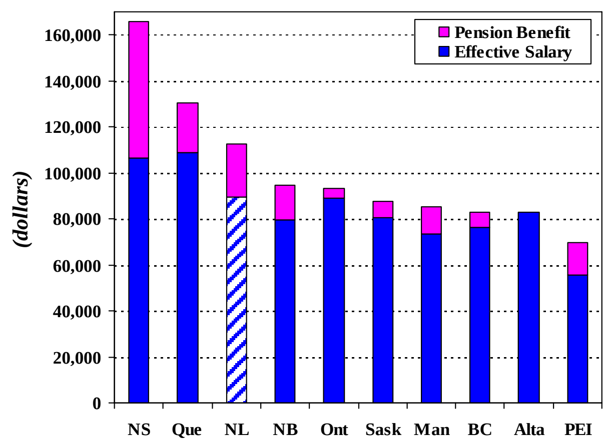
(iii) Pension Benefits and Total MHA Compensation

Clearly, pension benefits constitute a significant component of total compensation for MHAs in Newfoundland and Labrador. In other jurisdictions, however, the significance of the pension benefits provided by governments varies quite markedly. In this regard, Chart 11.10 illustrates an interprovincial comparison of total compensation (which encompasses "effective" salaries including: sessional indemnities, non-taxable allowances and the estimated value of the tax benefit) combined with the estimated cost of the government share of the pension benefits in each case in 2006:

Chart 11.10 **MHA Total Compensation**

Inter-provincial Comparison – 2006

Effective Total Salary & Value of Gov't. Share of Pension Cost



Source: Salary data based on survey of provinces and estimated value of tax benefit prepared by this Commission. Pension benefit cost provided by the Pensions Division, Department of Finance, Government of Newfoundland and Labrador based on surveys and controls with plan administrators in other provinces. The data used does not reflect the most recent adjustments to members' compensation referred to in Chapter 9.

This chart illustrates that, with the relatively high salary component combined with the relatively valuable pension benefit package, the total compensation arrangement for MHAs in Newfoundland and Labrador ranks amongst the highest in the country.

(iv) Recent Developments

The foregoing comparison and analysis illustrates members' pension arrangements in the various jurisdictions as reflected in survey data collected in 2006. However, the practices continue to evolve and there are indications that two western provinces may be reverting to defined benefit arrangements. Recent consultations indicate that in 2006 Manitoba introduced a defined benefit plan option for Members based on an accrual rate of 2% a year (still substantially less than the accrual rates for MHAs in this province - 5% a year for the first 10 years and 2.5% for the next 10 years). In British Columbia, the Report of the Independent Commission to Review MLA Compensation was filed on April 30, 2007 and it recommended that the Group RRSP plan for Members be terminated effective April 1, 2007, and that it be replaced by a defined benefit plan - including a benefits accrual rate of 3.5% a year, but providing for benefit reductions for early retirement prior to age 65 (also less than the benefit formulae currently applicable in Newfoundland and Labrador). It should be noted that there is very little rationale provided in the BC report for the changes recommended and it is not known whether these recommendations will ultimately be accepted and implemented.

Summary

In summary, the review of the evolution of the MHA pension arrangements in Newfoundland and Labrador, in the context of other pension plans in the provincial public sector and in other provincial jurisdictions in Canada, highlights a number of key factors:

(i) Roots of the MHA Plan date back to the 1960s:

Separate pension arrangements for MHAs were introduced in 1962 and subsequently modified in 1976. Although that framework has been modified somewhat since, the basic 1976, thirty-year-old, structure still forms the basis of the retirement benefit framework for MHAs in this province today.

(ii) National focus on pension reform in the late 1980s:

In the late 1980s, a national focus on pension reform emerged, along with a range of federal tax reform initiatives aimed at ensuring consistency in the application of federal tax policy to pension plans across the country. This spawned a wave of revisions in varying degrees to the pension plan framework in both the public and private sectors across the country. It appears that it was in response to these factors, coupled with Newfoundland's ongoing fiscal challenges, that the provincial government appointed a Commission of Enquiry on Pensions.

(iii) *Commission of Enquiry on Pensions 1989-90*:

The Commission of Enquiry on Pensions appointed in 1989 recommended changes in respect to the public service pension plans, including increased contribution rates and some benefit reductions. Pursuant to the Commission's recommendations, changes were made in all plans except the MHA Plan. The Commission was split in its assessment of the MHA plans. The majority recommended that benefits be scaled back to correspond with other public service plans. The Chair supported the retention of the more favourable benefits and recommended the issue of pension benefits be referred to the Morgan Commission. Neither of these recommendations was adopted. Accordingly, the potential for reform was lost.

(iv) *Benefits comparable to other provinces through to 1990*:

Comparative analysis of MHA pension benefits at the time of the Commission of Inquiry with those applicable to elected officials in other Canadian jurisdictions, indicated that the MHA pension plan for this province, while generous relative to other public sector categories, was very much in-line with the pension plans for members of legislative assemblies in other provinces.

(v) *Special or "unique" circumstances of MHAs*:

The minority report of the chair of that 1989-90 commission emphasized some of the same "unique" circumstances highlighted by various MHAs in their discussions with this commission. In particular, reference was made to the earnings uncertainties posed by the very nature of the role of the MHA in terms of the continuity and duration of time in office, as well as the implicit constraints on re-employment after leaving elected office.

(vi) *MHA pension policy under the Department of Finance - not the IEC*:

While virtually all other matters related to MHA compensation appear to have been determined by the IEC over the years, pension policy matters have been primarily determined by the executive on the recommendation of the Department of Finance. The determination of, or recommendations with respect to, pension benefits have never been referred to a commission, such as the Morgan Commission, under section 13 of the *Internal Economy Commission Act*. As well, the cost of pension benefits paid to former MHAs has been budgeted for, and has been shown in the public accounts of the province in a manner which is not reflected in the accounts of the House. Therefore, it is not reported as part of the cost of House operations.

(vii) *Reluctance and/or delays in updating MHA plans*:

There were a number of changes to the various public sector pension plans in the early 1990s, which were reflective of the recommendations of the Cummins Commission and of general trends in pension reform. However, it appears there was a reluctance to amend the MHA pension plan despite a number of analyses and recommendations by officials of the Department of Finance.

(viii) *MHA pensions remain generous relative to other public sector plans*:

The MHA Plan has a far more rapid benefit accrual rate than the public service, teachers' and uniformed services plans, with more favourable early retirement arrangements.

(ix) *MHA Plan is not indexed to the CPI*:

Pension benefits under the teachers' and the public service pension plan have a form of limited indexing (based on 60% of the escalation in the CPI to a maximum of 1.2% in a year). While the MHA Plan has a more favourable benefit structure in many other respects, there is no automatic benefit escalation related to the CPI.

(x) *MHA Plan is far more costly than other public sector plans*:

Actuarial cost estimates indicate that the benefit structure in the MHA Plan has a current service cost of 41.9% of salary, which on a relative basis is more than three times the cost of the public service pension plan, the teachers' pension plan and the uniformed services plan. It is also more costly than the Provincial Court Judges' Plan, which has a current service cost of 37.5%. This cost differential exists despite the absence of indexing in the MHA Plan.

(xi) *MHA plan significantly underfunded*:

The MHA Plan was not funded from the outset and, with the relatively generous benefit structure, the plan has accumulated a significant unfunded liability in the order of some $52 to $65 million, depending on the assumptions used to value the obligations. The Plan is now being funded to the maximum level permitted for a registered plan under the federal *Income Tax Act*. In this regard, given the implications of the federal *Income Tax Act*, government has opted to split the MHA Plan into two parts, the registered portion RPP, which is being fully funded to the maximum permitted, and a supplementary plan, which is virtually an annual "pay-as-you-go arrangement." However, the ongoing liabilities associated with the mounting benefit obligations are such that the MHA Plan is only 14% funded, compared with 89% for the teachers' plan, 57% for the public service plan and 32% for the uniformed services plan.

(xii) *Annual budgetary impact of pension payments exceed the current MHA salary bill*:

Given the lack of funding in the MHA pension plan, MHA pensions impose an ongoing budgetary obligation of some $4.5 million annually to pay the pensions of former MHAs , which is more than the $3.5 million a year paid in salaries to current MHAs.

(xiii) *Different approaches have emerged in many Canadian provinces*:

The position of the MHA Plan in this province relative to pension arrangements for elected officials in other Canadian jurisdictions has changed significantly since the time of the Cummins Commission in 1990, when there was relative uniformity in overall plan structure for MHAs/MLAs). The 2006 comparative analysis indicated a pronounced shift away from defined benefit arrangements in five provinces. In those provinces, the highly lucrative pension arrangements for elected officials had been discontinued on a go-forward basis, with previous plan members being "grandfathered." The 2006 survey indicated that only four other provinces, along with Newfoundland and Labrador, continued to provide the previously conventional, relatively generous, pension arrangements to elected officials. Those four provinces also have a form of indexing in place that may account, in part at least, for higher costs in those jurisdictions.

One province (Alberta) has discontinued providing retirement benefits to its MLAs altogether. Ontario and the remaining three western provinces had moved to defined contribution (generally RRSP-type) arrangements, whereby governments contribute amounts, mostly based on matching MLA contributions, up to the maximum level permitted for a registered pension plan under the federal *Income Tax Act*. However, there are recent indications of pension policy fluctuations in at least one and possibly two of these western provinces - reverting to versions of a defined benefit structure for their MLAs, albeit at formulae less generous than currently applicable in this province.

A comparison based on the value of the pension benefits as a percentage of the "salary base" (used to calculate benefits) indicates that in 2006 this province ranked fourth amongst the 10 provinces; however, since pension benefits are based on salary, the higher the "salary base" (and Newfoundland and Labrador's is relatively high), the pension benefit is that much higher. Furthermore, in some jurisdictions, non-taxable allowances are not included in the salary base for calculating benefits, whereas these allowances are included in the salary base in Newfoundland and Labrador.

(xiv) *Pensions a significant factor in "total compensation"*:

The level of government participation in financing pension plans/retirement arrangements for MHAs/MLAs now varies quite substantially in the different jurisdictions across the country. Accordingly, it constitutes a crucial element in the comparison of total compensation for elected officials. This analysis indicates that total compensation for MHAs in Newfoundland and Labrador ranks among the highest in the country. In fact, the pension differential, in some cases, widens the compensation differential between this province and others.

Recommendations

This analysis indicates that the MHA pension plan is relatively lucrative compared to the arrangements one might expect to prevail in a province which has historically had a relatively low fiscal capacity, high debt burden and in many respects is still regarded as "a have-not" province in economic terms. While the challenges and uncertainties confronting MHAs due to the very nature of the role are acknowledged, these same challenges exist elsewhere in the country; nevertheless, there has been a movement away from particularly generous and costly defined benefit plans. Even in the two provinces where defined benefit plans have been reintroduced or are being contemplated, the benefit formulae indicated are less generous than the existing arrangements in Newfoundland and Labrador.

While the MHA plan in Newfoundland and Labrador is not indexed, it is nonetheless relatively generous when compared to other public service plans in the province and the retirement arrangements in respect of most other Canadian provinces.

Government has been slow in adapting to changing circumstances in respect of the MHA pension plan (as exemplified by the delay to 1998 in implementing contribution rate increases and the delay to 2005 in implementing changes to conform with previously established income tax requirements). Furthermore, it appears that the movement away from defined benefit plans, evident in a number of provinces, has not been seriously addressed in recent years in this province.

Furthermore, the Commission of Internal Economy has played no significant role in addressing pension issues. While pension benefits are a crucially important component of MHA compensation, the process established to address MHA compensation under the *Internal Economy Commission Act*, through the appointment of periodic review commissions, has not been followed in respect of pensions, as, indeed, it has not been followed in respect of other aspects of MHA compensation and allowances.

Accordingly, I make the following recommendations:

Recommendation No. 78

(1) ***The House of Assembly Management Commission, assisted by the Department of Finance, should proceed to develop a proposed new pension structure for MHAs:***

- ***(a)*** ***eliminating the existing defined benefit plan and implementing a defined contribution, RRSP type of arrangement that takes account of cost and level of benefits relative to other public service plans; or***

- ***(b)*** ***significantly modifying the terms of the existing defined benefit plan to make it conform more closely, in terms of levels of benefits, with other public service plans.***

(2) ***The new pension structure should be developed on the basis that it will apply only to MHAs who have not already been elected to the House and that existing and former MHAs be "grandfathered" under the existing system*****;**

(3) ***The proposed new pension structure should be submitted to the next committee on Members' salaries, benefits and allowances constituted under the new*** **House of Assembly Accountability, Integrity and Administration Act** ***as recommended elsewhere in this report, and that that committee should be provided with sufficient funding to engage actuarial and other advice to enable a thorough study of the appropriate levels and features of the plan that should be adopted*****;** ***and***

(4) ***Following receipt of this Commission's report, government should introduce legislation within six months effecting the recommended changes*****.**

Recommendation No. 79

In the future, matters of pension policy related to the pension benefit structure for MHAs should be referred to the review committee on Members' salaries, benefits and allowances constituted under the new **House of Assembly Accountability, Integrity and Administration Act** ***as recommended elsewhere in this report, as part of the committee's mandate as a matter of course so that they can be addressed in the same context as salaries and other key compensation arrangements for MHAs.***