

**AT A GLANCE ...**

Ontario proposes bigger CPP with expansion of YMPE to \$70,800 ..... 1 & 2

Ontario government's proposed CPP reforms at a glance..... 2

CPP reports investment record..... 3

YMPE set at \$48,300 for 2011 ..... 3

Cancer now top killer in Canada ..... 3

The top 10 causes of death ..... 3

Retiree benefits mean homework for plan sponsors and members..... 4 & 5

"Liberation therapy" for MS needs clinical trials, originator says ..... 5

Arbitrator's ruling kills public sector wage freeze..... 6

Pilots challenge mandatory retirement ..... 6

Quebec scraps plan for \$25 health care deductible ..... 6

Canada's pensions rank fifth .... 7

Double dipping rules clarified in divorce drama ..... 7

Fast facts ..... 8

Life expectancy continues to increase..... 8

## Ontario proposes bigger CPP with expansion of YMPE to \$70,800

Canada's premiers will soon be reviewing various proposals to dramatically expand the size and scope of the Canada Pension Plan (CPP).

While various provinces, industry and labour groups have offered a range of proposals to update Canada's universal pension plan, a consensus appears to be emerging that involves a substantial increase in the plan's contribution requirements by workers and employers.

Among proposals under consideration is an Ontario government consultation paper entitled *Securing Our Retirement Future* which, if adopted, would substantially increase CPP contribution requirements in return for a 40 per cent improvement in the retirement income replacement ratio.

Highlights of the Ontario government plan include the following:

- Increasing the CPP retirement income replacement ratio from the current level of 25 per cent of an individual's career average earnings maximum to 35 per cent. In 2010 terms, if an individual's career average earnings equalled the yearly maximum pensionable earnings (YMPE), his/her maximum annual CPP benefit would increase from \$11,210 to approximately \$16,500.
- Increasing the yearly maximum pensionable earnings by 1.5 times to a 2010 level of **\$70,800**. (The YMPE for 2010 is \$47,200. It will increase to \$48,300 in 2011.)

According to the Ontario position paper, only 37 per cent of CPP contributors

earn more than the YMPE. Those that earn more than the YMPE in a year do not have to make further CPP contributions until the next year. Under the arrangement being considered by the Ontario government, increasing the YMPE to \$70,800 or more would ensure that CPP contributions would be required on a year-round basis by all but the highest income earners.

An alternative suggestion under review by the Ontario government proposes raising the YMPE limit to **\$94,400**, a doubling of the current limit. In return, the retirement income replacement ratio would increase to 40 per cent of an employee's final average earnings.

In terms of contribution levels, the Ontario paper remains vague, stating that: *"The extent of a contribution rate increase required to fund the new benefits would depend on the level of benefit improvement. While an increase in the retirement benefit over time is an objective, it must be done without placing undue hardship on employees and employers."*

Current CPP contribution levels are 9.9 per cent of the YMPE, with employers and employees each paying 4.95 per cent. Increasing the YMPE to the \$70,800 or \$94,400 levels would substantially increase the potential CPP funding pool. However, whether that extra funding would be enough to support an increase in income replacement levels to 35 per cent of an employee's career average earnings from today's 25 per cent is still to be decided. Earlier estimates from Bernard Dussault, former chief actuary of the CPP, indicate that an increase of the income replacement level to 40 per cent would

...continued from cover

## Ontario proposes bigger CPP with expansion of YMPE to \$70,800

require an additional 3.3 per cent contribution, split evenly between employers and employees. Using his estimate as a base, a 35 per cent income replacement level could require an increase of 2.2 per cent, for a total joint contribution level of 12.1 per cent of employee income.

In addition, the raising of the YMPE to include the 35 per cent of workers earning above the current \$47,200 level will place an additional tax burden on both workers and employers. How willing either group will be to pay additional contributions for the government benefit remains to be seen.

If implemented, the YMPE hike could come at the expense of higher paying jobs as employers might be less willing to pay what would amount to an extended payroll tax on employees earning more than \$47,200.

The implementation of the higher YMPE with higher CPP benefit payouts could also impact existing defined contribution pension plans, and individual and group registered retirement savings plans (RRSPs.)

Will the near doubling of the YMPE simply transfer an employee's retirement savings room from the private arena to the government plan? It is conceivable

that cash-strapped employees earning at or near today's YMPE level could be squeezed out of the private pension and RRSP markets by the extended and mandatory CPP contribution requirements. This could have a direct impact on the financial services sector, such as the mutual fund industry, banks and insurance industry, all of which offer their own private retirement savings plans.

The Ontario position paper admits that the prospect of increased contribution requirements could result in reduced fees from private financial providers as they attempt to compete against a larger CPP. Plus, the potential reduction of private contributions and savings would likely be offset by greater employee participation in a more viable universal pension arrangement, the study suggests.


As well, the change to the CPP would likely have to be accompanied by a reform of the federal Income Tax Act to include a modernization of many of its principles, such as its requirement that pension plans have an employer-employee relationship. The revision of the pensionable employment relationship to include the self-employed, dependants and others who do not have pension coverage would

significantly expand the availability and scope of both the CPP and private retirement savings options, the Ontario government research paper suggests.

While the Ontario government position paper remains in the proposal stage at this point, it has not encountered opposition from either Alberta and British Columbia, both of which had favoured the establishment of their own supplementary defined contribution pension plan to work in concert with the CPP, or from Quebec, which is facing its own long-term funding challenges with the Quebec Pension Plan (QPP).

Politically, as the home to 40 per cent of the Canadian population and regulator of the plurality of pension plans in the country, Ontario's pension management proposals for an enlarged CPP will likely be given priority in coming federal-provincial discussions on pension reform.

Detailed information on potential reforms to the Canada Pension Plan will be provided as it becomes available.

More information on the Ontario government discussion paper can be found at [www.fin.gov.on.ca](http://www.fin.gov.on.ca) in the *Public consultations* link. 

### Ontario government's proposed CPP reforms at a glance

	Present	Proposed
Maximum benefit:	\$11,210	\$16,500
YMPE 2010:	\$47,200	\$70,800
Retirement income replacement ratio	25%	35%
Joint employer-employee contributions as per cent of income	9.9%	Potentially 12.1%

## CPP reports investment record

The Canada Pension Plan (CPP) Investment Board reports that its asset holdings increased to \$138.6 billion in the second quarter of 2010, a record high.

The increase in assets is attributed to the favourable return on its equity investments over the past year.

The previous record was \$127.7 billion reported in June 2008, just months before the market crash. At the depth of the market crash, the CPP fund lost \$19 billion, almost one-fifth of its previous value. 📉

## YMPE set at \$48,300 for 2011

The yearly maximum pensionable earnings (YMPE) level for Canada Pension Plan (CPP) contributions will be \$48,300 in 2011, up from \$47,200 in 2010.

The combined employer and employee contribution rates will remain 9.9 per cent, or 4.95 per cent each. In dollar terms, the maximum contribution for both employers and employees will be \$2,217.60 per employed individual. The maximum self-employed contribution will be \$4,435.20.

The basic personal exemption level remains unchanged at \$3,500. 📉

## Cancer now top killer in Canada

Statistics Canada reports that Canadian mortality trends have changed significantly as more people are dying from cancer than cardiovascular disease.

This is the first time in history that deaths from cancer exceeded those from heart attacks and related illnesses, the government agency says.

According to Statistics Canada's findings, 69,595 people died of cancer in 2007, compared to 69,503 from cardiovascular disease.

For decades, cardiovascular diseases accounted for the largest portion of Canadian mortality statistics. However, for the past decade, cardiovascular disease rates have gradually declined, a trend attributed to healthier lifestyles and more effective public education programs.

In contrast, the number of people dying from various forms of cancer has increased steadily, partially as a result of extended lifespans.

Combined, cardiovascular disease and cancer account for 59 per cent

of all deaths in Canada, Statistics Canada says.

The increase in cancer incidence rates could have a direct impact on plan sponsors and their group benefits plans. According to Dr. Alain Sotto, chief physician for Ontario Power Generation, Ontario's largest hydroelectric power supplier, 30 per cent of all new cancers and 18 per cent of all deaths from cancer occur among the 20 to 59 age group, the primary working ages.

*"Cancer affects all employers,"* Dr. Sotto told a recent meeting of the Toronto Chapter of the International Society of Certified Employee Benefits Specialists. *"Many companies have weight loss programs and smoking cessation plans but where are you for cancer prevention? That's the biggest bang for your buck."*

Workplace cancer screening programs and increased employee education about cancer and its early detection could reduce incidence rates and treatment costs over the long term, he suggests. 📉

## The top 10 causes of death

Cause of death	Rate per 100,000
1. Malignant neoplasms (cancer)	174
2. Heart disease	129
3. Cerebrovascular disease	35
4. Chronic lower respiratory disease	25
5. Accidents	25
6. Diabetes	20
7. Alzheimer's disease	13
8. Influenza and pneumonia	13
9. Suicide	11
10. Renal failure	8

(Source: Statistics Canada, CANSIM table 102-0552) 📉

## Retiree benefits mean homework for plan sponsors and members

Retiree benefits are frequently confusing and contentious for both plan sponsors and retirees. While it may be tempting to view or administer them in the same manner as “regular” employee benefits, doing so could be both complicated and costly as the following cases prove:

### Class actions come with no guarantees

A group of non-unionized employees of a large Ontario municipality elected to take an early retirement package offered by their employer. Until 2000, the employer paid 100 per cent of its retirees’ benefits. In 2001, it offered enhanced optional benefits to its retirees on a “*cost sharing basis*.” However, a later examination of its costs found that the city was paying more than 50 per cent of the costs of its retiree benefits program. As a result, it adjusted the program’s premium structure to reflect a 50-50 cost sharing arrangement.

That new arrangement faced an objection by one former employee who argued that no documentation had been provided confirming that benefits costs were to be shared equally between the employer and retirees. As well, on retirement, the employee had also received a letter indicating that her benefit premiums would be “fixed” at a certain monthly amount.

The employee then attempted to initiate a class action suit against the municipality.

However, on reviewing the file, the court held that the case did not meet the criteria for a class action suit. According to the court, the retiree could not prove that a class action would advance the liability claim against the employer. As well, in filing her suit, the retiree had used

class definitions that were “*too broad yet with too few members who were affected*” and that “*extensive individual fact finding would be required for each affected member.*”

### The lesson:

**For plan sponsors:** Retirees are aware of their benefits and follow premium developments closely. “*Quiet members*” doesn’t necessarily translate into “*uninformed*” or “*uninterested members.*”

**For plan members:** If you resort to law suits to protect your benefit entitlements, then do your homework. Class action lawsuits can be both lengthy and complicated and may not address a grievance as effectively as an individual lawsuit.

### Retiree benefits are not linked to pension incomes

A 54-year-old municipal employee in Ontario with 31 years of service applied for early retirement in order to work for another employer. His employer told him that he could not receive a pension until age 55. However, he was allowed to retire with pension payments deferred until he turned age 55.

During the course of his termination, he signed a number of papers including one in which his status was designated as “*resigned*” instead of “*retired.*” The city then cancelled his group medical benefits, stating that such benefits were available only to active employees and retirees, not those who had resigned from their jobs.

The case then went to litigation.

In its submission to the court, the city argued that retiree benefits could only be provided to retirees *in receipt of a pension income*. Since the employee had signed documents stating that

he had resigned from his position with no pension income immediately forthcoming, he was therefore, ineligible for retiree benefits coverage.

The employee’s counter-argument was more thorough and complex.

According to his position, retiree benefits were not provided by the benefit plan itself but by a municipal bylaw that stated that health benefits were to be continued to former employees who accepted “*early retirement.*” However, the bylaw did not define that term.

The courts agreed with the employee, stating that the bylaw authorized the coverage. Further, the court reasoned, the provision of health benefits to a retiree by an employer “*are fundamentally different and not to be confused with a pension benefit.*” As a result, benefits could be provided to a retiree not in receipt of a pension income.

### The lesson:

**For plan sponsors:** There were many lessons for this plan sponsor. Among them: Know the details of your pension and benefits plans — and the various links that may derive from plan complexities. A benefit plan is not a pension and vice-versa. They are not necessarily linked. As well, other documentation or agreements, such as a bylaw or agreements separate from the benefits or pension plan, could have a direct impact on retiree benefit entitlements.

**For plan members:** Check — and understand — the paperwork involved with your retirement. Mis-use of terms such as “*resignation*” and “*retirement*” can have a significant impact on entitlements and could result in years of stress and potentially costly litigation.



### Employment after retirement is “irrelevant”

A transit worker retired at age 55 with health benefits coverage. However, after retiring from the transit company, he joined another employer. The transit company then terminated his benefit coverage on the grounds that retiree coverage was only available to those who had retired from “*all active employment*,” not just employment with that company.

The member’s union filed a grievance arguing that the member’s employment with another company after retirement had no bearing on his eligibility to receive retiree benefits.

The arbitrator agreed with the union, stating that under the group’s collective agreement, the definition of the term “*retirement*” did not contain any restrictions on employment after retirement. When it comes to retirement benefit entitlements, employment after retirement is considered “*irrelevant*,” the arbitrator ruled.

### The lesson:

**For plan sponsors:** Key terms such as “*retirement*” and “*active employment*” should be clearly defined. Attempted enforcement of such terms without a clear frame of reference invites litigation.

**For plan members:** If you plan on working after retirement, check your collective agreement, employment contract or other relevant documentation. Provisions that restrict your entitlements could be in place. 🗣️

## “*Liberation therapy*” for MS needs clinical trials, originator says

Dr. Paolo Zamboni, the originator of “*liberation therapy*” for multiple sclerosis (MS), has called on the Canadian government to conduct clinical trials of his new and controversial medical procedure.

Dr. Zamboni, an Italian medical professor based at the University of Ferrara, says that since the publishing of his theory suggesting that MS is caused by blocked veins in the neck and can be cured by angioplasty, an “out of control” industry has developed that has been associated with medically dangerous practices that have led to accidental injuries and deaths.

To date, hundreds of Canadians have undergone “*liberation*” treatments in other countries. In October 2010, a Canadian man died shortly after receiving a variation of his treatment in Costa Rica.

The Canadian government’s position against clinical trials is based on the recommendations of an expert panel that was formed to review Dr. Zamboni’s medical theories. To date, it has warned against the conducting of trials until there is more research to prove the possible link between MS and blocked veins.

*“Just because people are going to get it anyway, doesn’t make the procedure safe”* says federal Ministry of Health spokesperson Tim Vail. *“We make our own decisions based on the expert advice of Canadian doctors and Canadian researchers.”*

Dr. Zamboni agrees with the Canadian position that there has been no direct medical proof that angioplastic procedures can relieve the symptoms of MS. He has also condemned the Costa Rican procedure that used a stent to hold the veins open during the treatment

that killed the Canadian patient.

However, unlike the Canadian government, the Italian professor feels that formal clinical trials should be conducted to “*clear up any residual doubt*” about the new MS therapy.

While up to 15 such trials are scheduled to take place in Italy, in Canada, only the province of Saskatchewan has said it will approve clinical trials of Dr. Zamboni’s procedure. Trials there could begin as early as the spring of 2011.

Plan sponsors and plan members are reminded that group medical plans only provide reimbursement for procedures that have been clinically proven and approved by Health Canada and the governing provincial medical association. Until such approvals have been received, claims for “*liberation therapy*” treatments for MS cannot be approved. 🗣️

## Arbitrator's ruling kills public sector wage freeze

The Ontario government's plans to freeze the salaries of public sector workers were cut short recently when an independent arbitrator ruled that 16,000 members of Service Employees International Union (SEIU) employed in 38 hospitals across the province are to receive a two per cent wage increase over the next two years.

The ruling overturns the government's plan to impose a two-year wage freeze on the more than 1 million health care workers, teachers and other public servants employed by the province.

In his ruling, Arbitrator Kevin Burkett noted that, while the province faced difficult economic times, declarations of intent are not enough to override the terms of a collective agreement.

*"Government pronouncements of intent with respect to future funding are not in and of themselves sufficient to override what would otherwise be the content of an arbitrated award,"* Mr. Burkett ruled.

In its budget tabled in March 2010, the provincial government declared its intention to freeze public service salaries. However, hospital workers represented by two other unions received two per cent wage increases prior to the passing of the budget legislation.

Mr. Burkett felt that SEIU members would be at a *"significant disadvantage"* if they were treated differently from the other union members who received wage increases. He also noted that *"a legislative directive"* would be required to override SEIU award.

Ontario Finance Minister Dwight Duncan has vowed not to accommodate the award.

*"Those that reach non-compliant agreements will have to find the money elsewhere,"* he said, leaving the 38 hospitals with a potential budget dilemma.

For plan sponsors, the Burkett ruling reinforces the binding power of collective agreements over documents of *intent* such as budgets. To override or change an agreement, plan sponsors, including major organizations like provincial governments, are expected to table and pass appropriate motions to legally legislate a change in the terms of a specific collective agreement.

The provincial government has not indicated whether it will appeal the ruling. 🗣️

## Pilots challenge mandatory retirement

Two Air Canada pilots have won the right to continue to work past the airline's mandatory retirement age.

George Vilven, 67, and Neil Kelly, 65, were each forced to retire from Air Canada at age 60, based on the terms of their collective agreement. The two pilots wished to continue working past age 60 and filed a complaint with the Canadian Human Rights Tribunal.

On reviewing their case, the Tribunal ordered the two men be allowed to return to work *"subject to retraining, a current pilot licence and a valid certificate showing that they are fit to fly a commercial aircraft under Transport Canada medical standards."*

According to Air Canada, more than 150 retired pilots are seeking to return to work. However, the Tribunal's ruling applied only to the two pilots

in question and does not set legal precedent.

Both the airline and the Air Canada Pilots Association have appealed to the Federal Court of Canada.

If ultimately successful, the pilots' case could nullify collective agreements and other employment contracts requiring employees to retire at specific ages. 🗣️

## Quebec scraps plan for \$25 health care deductible

The Quebec government has withdrawn its proposal to charge a \$25 user fee for doctors' visits.

Originally proposed in the province's March 2010 budget, the fee would have been applied on each medical

visit to a maximum of one per cent of family income. In effect, the fee would have acted as an income-based deductible on the Quebec health care plan.

It was expected to generate as much

as \$500 million in revenue for the province's health care system.

The proposal was met with universal condemnation by political, health care, labour and citizen groups throughout the province. 🗣️

## Canada's pensions rank fifth

Canada's universal pension system ranks fifth worldwide, according to the Melbourne Mercer Global Pension Index, sponsored by the Australian Centre for Financial Studies.

The Index compares pension systems around the world and ranks them based on adequacy, sustainability and integrity. The Netherlands' pension plan led the world rankings. At fifth, Canada's pension system surpassed the US, the United Kingdom, France and other developed countries.

### The rankings were:

- |                  |              |
|------------------|--------------|
| 1. Netherlands   | 8. Brazil    |
| 2. Switzerland   | 9. Singapore |
| 3. Sweden        | 10. USA      |
| 4. Australia     | 11. France   |
| <b>5. Canada</b> | 12. Germany  |
| 6. UK            | 13. Japan    |
| 7. Chile         | 14. China    |

## Double dipping rules clarified in divorce drama

"Double dipping" is often used as a charge against public officials who earn a salary from a government while drawing pension or other income from it at the same time. However, a recent ruling by Alberta's courts moved questions about that term from the political arena to divorce courts involved in pension asset splitting.

The case involved a couple that divorced after almost 18 years of marriage. In the divorce settlement, the wife received one-half of the accumulated value of the husband's pension that had accrued during their marriage. (The man had 27 years of service with his employer.) In addition, he agreed to pay the wife \$1,200 per month in spousal support.

Four years later, the man turned age 55 and began collecting a pension of \$4,100 per month. At that time, he applied to terminate the spousal support payments, arguing that the \$1,200 monthly payments would now have to be paid from his pension, an asset that had already been divided as part of the divorce settlement. In effect, he maintained, the wife was "double dipping".

As part of his petition to the court, the husband also argued that the wife should begin to draw her share of the divided pension in order to offset the loss of his monthly spousal support payments.


The woman did not want to touch the pension, preferring to wait until age 65 before drawing an income from the plan.

In reviewing the case, the Alberta court noted that despite the splitting of the pension assets, the husband still had a much larger pension income than the wife, a result of the asset accumulation that occurred in the almost 10 years of pensionable service he had accrued prior to his marriage. As a result, the court said, the man owned a significant "unequalized" portion of the pension that had not been touched by the divorce settlement. It then concluded that the man could continue to pay spousal support from his pension income without triggering a "double dipping" scenario.

On the issue of her potential pension income payments, the court asserted that there was no precedent

in case law to force a spouse to begin drawing a pension income. While this may be unfair to higher earning spouses involved in divorce settlements, one spouse cannot force his/her former partner to initiate a retirement income program, the court maintained.

*"Pension assets are designed to be liquidated when the income-earning, savings-accumulating phase of a person's life is over and when the retirement phase has begun. There is no reason why spouses have to retire or start collecting a retirement pension at the same time. It is not reasonable to require [the wife] to draw on her pension entitlement at this time. Her decision to keep her pension funds invested until the age of 65 is reasonable in light of her circumstances,"* the court ruled.

For pension plan members and administrators, the Alberta court ruling reinforces the courts' commitment to the spousal support payment process. At the same time, it also underlines the principle that only plan members can effect pension income payments despite the needs or competing interests of spouses, dependants or other individuals. 

## Fast facts

- Research by the University of British Columbia indicates that those who work at night or on rotating shifts are twice as likely to be injured on the job. The university's decade-long study of 30,000 workers from 1996 to 2006 suggests that while injury rates among day shift workers declined significantly in that period, there was no corresponding drop in injuries among those working at night. More than 300,000 injury claims were filed by night shift workers in 2006.
- The pension deficit reported by the S&P 1500 companies has decreased by \$56 billion. Strong equity markets in September 2010 and October 2010 are credited with the funding improvement.
- More than 75 per cent of those living in Atlantic Canada favour increasing Canada Pension Plan (CPP) benefits, according to an Environics survey released by the Canada Union of Public Employees (CUPE). Four in 10 of those surveyed reported that they cannot afford to contribute more to their personal retirement savings plans.
- Canadians pay more than twice as much for generic drugs as Americans, according to research conducted by the Fraser Institute. According to the Institute, retail prices for generic medications are 73 per cent of their brand name equivalents in Canada compared to only 17 per cent in the United States. Lack of competition among Canadian pharmacies is cited for the price differential.
- The Office of the Superintendent of Financial Institutions (OSFI) reports that the average solvency ratio of federally regulated defined benefit pensions now stands at 0.87. In other words, federally regulated pension plans only have 87 cents of assets for every dollar of liabilities on their books. While that result represents a strong improvement from the 72 per cent assets-to-liabilities ratio reported in November 2008, it is still short of the 90 per cent ratio anticipated by market analysts.
- The German parliament has passed legislation increasing premiums for that country's universal health care plan to 15.5 per cent of an employee's gross income from the previous level of 14.9 per cent. As part of the program, premium costs will be shared between employers and employees, with employers paying 7.3 per cent and employees 8.2 per cent of the income-based premiums.

## Life expectancy continues to increase

Canadian life expectancy continues to increase, according to the 2005 life expectancy tables published by Statistics Canada. The following illustrates female and male life expectancy from 1931 to 2005.

Gender	1931	1961	1991	2005
<b>Females</b>				
Life expectancy at birth	62.1	74.2	80.9	82.7
Years remaining at age 65	13.7	16.1	19.9	21.1
<b>Males</b>				
Life expectancy at birth	60.0	68.4	74.6	78.0
Years remaining at age 65	13.0	13.5	15.8	17.9

(Source: Statistics Canada CANSIM table 102-0511)

**The Coughlin Courier is published by Coughlin & Associates Ltd.**

**Board of directors:** Brian Bockstael, Kirby Watson, Mark Hogan, Brent Moore & Ken Kaitola

**Editor:** David Whitbread **Graphic designer:** Victor Lima