

GM pensions: Who's responsible?

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When Brian Rutherford retired from his job as a logistics manager at **General Motors of Canada Ltd.** in 2006, he never imagined there was reason to worry about the security of his pension after more than 30 years at the company.

"Being fat, dumb and happy, I never really gave it much of a thought," he says. "That was until last summer, when I saw the Canadian, U.S. and world economy going south."

Since then, Mr. Rutherford and thousands of former and current GM Canada employees have watched with mounting fear as the company has warned of potential collapse.

Both General Motors Corp. [[GM-NJ](#)] and Chrysler LLC have appealed to governments in the United States and Canada for bailout funds to stay afloat. Thursday, GM said its auditors have raised doubts about whether the company can continue operations, and warned it may have to seek bankruptcy protection if it can't complete a restructuring plan.

The pension issue is a powder keg, and bound to become one of the thornier problems in the Canadian bailout talks. GM Canada says the fund will crush the company, warning there will soon be five retirees for every active worker. The 56,000 plan members say it's up to the Ontario government to help fund the shortfall, arguing legislation from the Bob Rae era hurt the plans.

And the province fears it is left with a painful choice: to prop up the company or save the pensions.

"The province has choices, but they are choices that are politically distasteful and painful," notes Robert Brown, a professor of actuarial sciences at the University of Waterloo.

GM's pension plans – one for salaried employees, the other for hourly workers – were deeply underfunded as far back as the end of 2007, before the market collapse savaged their assets.

Pension experts estimate GM Canada's total pension shortfall may have ballooned to over \$6-billion from \$4.5-billion as of Nov. 30, 2007 (an updated valuation will not be available until this summer). That means the Canadian plans may have assets worth as little as 50 per cent of their obligations.

For salaried retirees, who recently formed a group aimed at winning a voice at the table, filing for bankruptcy protection had seemed a distant risk.

"We never thought we'd really get to this point for years – if ever – and all of a sudden we came into this situation where GM is restructuring," says Lynn McCullough, who retired from GM Canada in 2008 after 44 years.

While GM says it must cut its "legacy" pension and benefits costs, the company's salaried retirees and the Canadian Auto Workers union, which represents hourly employees, both say the province should help fix the two pension plans, arguing its policies from the early 1990s helped make the pension dangerously underfunded.

CAW president Ken Lewenza said Thursday that the pension underfunding is a matter entirely between the province and GM.

"It's not a result of the workers or our collective agreement," he said. "It's because of the government approval to give [GM Canada] some relief in the area of funding the pension plan."

Provincial officials have so far made no commitments to take on GM's pension, but they will undoubtedly feel pressure to act. GM's liability could land squarely on Ontario's shoulders if the company were to collapse, because the province's Pension Benefits Guarantee Fund is required to backstop retirees' pensions.

Mr. Rutherford and Mr. McCullough, who say retirees have been astonished by the speed at which GM has eroded, have helped set up a new group this year to give salaried workers a voice in GM talks with government. They want to ensure part of any bailout money is allocated to help fund their pension, and are seeking a seat at the table as the company negotiates for assistance.

The Genmo Salaried Pension Organization has so far signed up almost 1,500 members out of 13,000 retirees and active workers covered by the plan.

Both Genmo and the CAW argue Ontario must help their pension plans because the province helped create their precarious funding position through a relief measure that was offered to several large employers in 1992 by the New Democratic government of the day.

"We were victims of this," Mr. Rutherford says.

The program was designed to give a handful of the province's largest pension plan sponsors the right to fund their pensions to a less-onerous "going concern" level, which assumes the companies will continue to operate and only need to cover shorter-term service costs. Companies normally must fund their pension plans to a "solvency" level, which requires funding as if the companies are going to wind up and close their doors.

The program was nicknamed "Too Big To Fail," referring to the fact only the biggest employers were eligible. Ironically, the other two main beneficiaries – Algoma Steel Inc. and Stelco Inc. – both later filed for bankruptcy protection and have since been sold.

The pension policy was cancelled in 2002 by the province's then-Conservative government as Algoma was going through a restructuring. GM was the only company "grandfathered" under the program.

Pension lawyer Murray Gold of Toronto law firm Koskie Minsky LLP, who is representing GM Canada retirees, says all the companies that opted to use the program ended up with underfunded pension plans.

"It was one of the worst pension policies that we've ever seen in this province," he said. "The fact is, if you're going to make a pension promise, we all accept that you have to keep it. And if you're going to keep it, that means you have to set enough money aside so there is a pension to be paid at the end of the day."

But Hugh O'Reilly, a former pension policy adviser in the Ontario government, defends the policy, arguing the province had little choice at the time. Mr. O'Reilly, who is now a pension lawyer in private practice in Toronto, helped draft the reform while working for former premier Bob Rae in the early 1990s.

He says the Canadian economy was mired in recession at the time, and the Detroit Three auto makers were slashing jobs and closing plants. GM Canada argued that its pension costs would curtail its growth in Canada.

"We did it on the basis of maintaining those jobs, maintaining those pension plans," he said. "It allowed people to continue to draw a good pension, to continue to work."

Mr. O'Reilly said successive governments could later have reversed the GM Canada program as the economy improved, but did not.

The province's current Liberal government has so far made no commitments to help fix GM's pension woes, but has pledged it will participate in a \$6-billion to \$7-billion loan assistance program being sought by GM in Canada.

But politicians face the dual pressures of selling pension relief to weary taxpayers while also eyeing the risks facing its Pension Benefits Guarantee Fund, which promises to pay retirees' pensions to a maximum of \$1,000 a month when their companies fail.

Prof. Brown notes that 80 per cent of private sector workers in Ontario have no pension plan at all, which could leave many voters unwilling to fund GM's generous plans.

"You're asking them to pay the pension deficit for GM, which has one of the nicest pension plans in Ontario," he said. "Is that fair? No."

GM Canada's hourly workers do not make contributions to share the funding costs of their pension plan, although its salaried workers make contributions. Prof. Brown said 83 per cent of Canadians with traditional pension plans contribute to their pension funding.

The CAW says workers have earned the full funding through other concessions.

"We have over the years bargained a system of non-contributory pensions," CAW economist Jim Stanford said. "It doesn't mean that they are free. It is part of the cost of every collective agreement that we bargain."