

Bill 5, *The Cottage Property Tax Increase Deferral Act*: A Case Study in the Making of Useless Law

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I. INTRODUCTION

A major property value reassessment took effect on Manitoban's 2010 municipal tax bills, which created alarm from many property owners, particularly cottage owners who saw the value of their properties skyrocket. Municipal and school board taxes followed suit, putting an additional burden on cottage owners.

To respond to public pressure from cottage owners that their property taxes were becoming unmanageable, the Government of Manitoba introduced Bill 5, *The Cottage Property Tax Increase Deferral Act (Property Tax and Insulation Assistance Act Amended)*.¹ The bill allows cottage owners to defer payment of the increases in their 2010 and 2011 property taxes until the time that ownership of the cottage changes.

This paper will look at the reasons for proposal of Bill 5, examine the process of bringing Bill 5 through the Legislative Assembly of Manitoba, and

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¹ Bill 5, *The Cottage Property Tax Increase Deferral Act (Property Tax and Insulation Assistance Act Amended)*, 4th Sess, 39th Leg, Manitoba, 2010 (assented to 17 June 2010), SM 2010, c 4 [Act].

consider several alternative measures which might have accomplished better results than the solutions offered by the bill.²

II. BACKGROUND

A major property reassessment in Manitoba was reflected in 2010 property tax bills resulting in large increases in property values across the province. Cottages outside of provincial parks were especially hard hit. Values increased an average of 92% in Victoria Beach, 79% in Winnipeg Beach, and 60% in the RM of Gimli, to name a few.³ In many areas, seasonal properties increased in value much more than full-time residences, which meant that cottagers increased their share of educational funding in the local area. For example, in the Evergreen School Division, property owners in areas with a high proportion of cottages now bear 70.9% of the education tax for 2010.⁴ The total property taxes for some cottages increased from 27–130% in one year because of the reassessments and increases in the education tax rate.⁵

Manitoba relies on direct property taxes to fund education more than any other province.⁶ Along with Québec and Nova Scotia, it is one of the few provinces who have not taken the power to directly levy property taxes away from local school boards.⁷ In some areas, such as Victoria Beach

² For a broader discussion of education in Manitoba, school boards and their taxation power and provincial government involvement in education, see: Frontier Centre for Public Policy, *Revitalizing Manitoba: From Suppliant Society to Diversity & Dynamism* by Bryan Schwartz (Winnipeg: Frontier Centre for Public Policy, 2011) and Bryan Schwartz, “School system that teaches but doesn’t learn”, *Winnipeg Free Press* (5 February 2011) online: <<http://www.fcpp.org>>. The author assisted Bryan Schwartz with the research and editing of these pieces.

³ Bruce Owen, “Property taxes: Cottage country braces for hefty bills”, *Winnipeg Free Press* (20 May 2010) A9.

⁴ Bruce Owen, “Taxing year for cottage owners: Will pay biggest share of local school taxes”, *Winnipeg Free Press* (5 June 2010) A5. This refers to areas such as Gimli, Winnipeg Beach, and Dunnottar.

⁵ *Ibid.*

⁶ Dick Henley & Jon Young, “School Boards and Education Finance in Manitoba: The Politics of Equity, Access and Local Autonomy” (2008) 72 *Canadian Journal of Educational Administration and Policy* 1 at 9.

⁷ *Ibid.* at 9. Note, however, since the Henley & Young article was written, Saskatchewan has reformed its education property tax system. See Government of Saskatchewan, News Release, “Provincial Government Delivers Largest Education Property Tax Cut in

Municipality, over 60% of a property owner's municipal tax bill is used to fund education.⁸

III. SUMMARY OF BILL 5

Bill 5 amended the *Property Tax and Insulation Assistance Act* by adding Part I.1, which includes several definitions and sets out the structure of a property tax deferral system. Under this system, an owner of recreational property situated outside of a city may make an application to the provincial government to defer the increase in his/her property tax for 2009–2010 and for 2010–2011.⁹ An application must be made each year where the deferral is sought, and where the deferral is given, the provincial government will then pay the deferred increase to the municipality. The applicant will then be responsible for the reimbursing the provincial government for the amount the government has paid to the municipality.¹⁰ The provincial government will charge the property owner interest on this amount at such rate and on such terms as to be set out in regulations, which will be discussed below.

The debt can be repaid to the provincial government at any time, but becomes due at whichever of the following may apply: the end of the year that the property is transferred, 120 days after the owner has died, or 30 days after the property is no longer considered eligible.¹¹ If any payment is made before the debt is due, the payment will first be applied to the interest accumulated.¹² However, if the property is transferred to the owner's spouse or common-law partner due to the owner's death or because the owner chooses to transfer to such spouse or partner, the amount does not then become due.¹³

History" (18 March 2009) online: Government of Saskatchewan <<http://www.gov.sk.ca/news>> [Government of Saskatchewan News Release].

⁸ Bruce Owen, "Few expected to make use of cottage tax deferral: Province budgets \$125,000 for program", *Winnipeg Free Press* (3 July 2010) A7.

⁹ Act, *supra* note 1, s 8.2.

¹⁰ *Ibid*, s 8.3(4).

¹¹ *Ibid*, s 8.5 (1). An example of where a property will no longer be considered eligible is if it becomes the principal residence.

¹² *Ibid*, s 8.5(3).

¹³ *Ibid*, s 8.5(1).

To enforce collection of the debt, the government has the power to register a lien on the property, pursue a civil action, or utilize any other lawful method permitted to collect a tax debt.¹⁴

IV. DEBATE IN THE LEGISLATURE

A. First Reading

Bill 5 was introduced to the Legislative Assembly of Manitoba on 4 December 2009 by the Honourable Rosann Wowchuk, Minister of Finance and New Democratic Party (“NDP”) MLA for Swan River. The stated purpose of the bill was to provide relief to cottage owners who saw their property taxes increase after the 2010 general property reassessment.¹⁵ No other MLAs rose to speak to the bill at that time.

B. Second Reading

Bill 5 was read for a second time on 10 June 2010. Minister Wowchuk again spoke to the bill, although this time in the face of strong criticism. Minister Wowchuk noted that Bill 5 was part of a broader approach by the government to control education property taxes throughout the province.¹⁶ She pointed to an increase in funding to local school boards, an increase in the basic education property tax credit, the farmland rebate, and the tax incentive grant offered to school divisions who freeze their tax rates.¹⁷

Mrs. Heather Stefanson, Progressive Conservative (“PC”) MLA for Tuxedo, was the first to criticize the bill, calling it “ill-conceived” and “nothing more than a PR exercise and does not provide meaningful relief to cottage owners in Manitoba.”¹⁸ The greatest concern that Mrs. Stefanson pointed to was that the bill does not actually benefit cottage owners because

¹⁴ *Ibid*, s 8.7(1). Additional methods permitted for the recovery of a tax debt include issuing a debt warrant and having it executed, issuing a demand for payment, and issuing a notice of assessment to any other party liable for any portion of the tax debt. See *The Tax Administration and Miscellaneous Taxes Act*, CCSM c T2, s 61.

¹⁵ Manitoba, Legislative Assembly, *Debates and Proceedings (Hansard)*, 39th Leg, 4th Sess, vol LXII No 5 (4 Dec 2009) at 115 (Hon Rosann Wowchuk).

¹⁶ Manitoba, Legislative Assembly, *Debates and Proceedings (Hansard)*, 39th Leg, 4th Sess, vol LXII No 60B (10 June 2010) at 2921 (Hon Rosann Wowchuk) [*Debates* (10 June 2010)].

¹⁷ See below for more discussion.

¹⁸ *Debates* (10 June 2010), *supra* note 16 (Heather Stefanson).

it only defers the tax payment due date along with charging interest.¹⁹ She noted this may on balance hurt property cottage owner by burdening the property with a caveat on the title and a greater tax debt than what would, at first blush, be expected.

Mrs. Stefanson also pointed to the fact that the government did not adequately consult with cottage owners before drafting and introducing Bill 5. None of the major interest groups were consulted, according to Mrs. Stefanson, including the Manitoba Association of Cottage Owners (“MACO”), Manitoba home builders, or Manitoba realtors.²⁰ This was of particular concern as these are the groups which would be directly or indirectly benefitted by Bill 5.

Dr. Jon Gerrard, Liberal MLA for River Heights, also spoke against the bill. Dr. Gerrard stated that the bill proceeds on the assumption that there is nothing wrong with the imposition of tax on non-residents, and in fact, this is bad and unfair policy.²¹ Dr. Gerrard also expressed concerns over how the deferred tax debts would be dealt with where there is a domestic breakup, and where a new owner and his/her spouse both die with the remaining family then becoming burdened by the debt.²²

C. Committee Stage

Bill 5 came before the Standing Committee on Legislative Affairs on 15 June 2010 and was by far the most controversial legislation discussed that day. Six individuals appeared before the committee and the Canadian Taxpayers Federation submitted a written brief.²³ All those who spoke were in opposition to the bill.

Mr. Larry Baker, a retired private citizen with a personal residence and cottage, presented a detailed argument that the education property tax system is flawed and Bill 5 does nothing to alleviate the concerns of cottage owners.²⁴ He explained the anomalous position that Manitoba is in compared to other

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ *Debates* (10 June 2010), *supra* note 16 at 2922 (Hon Jon Gerrard).

²² *Ibid.*

²³ Manitoba, Legislative Assembly, *Standing Committee on Legislative Affairs (Hansard)*, 39th Leg, 4th Sess, vol LXII No 5 (15 June 2010) at 75 [Committee (15 June 2010)].

²⁴ *Ibid.* at 79 (Larry Baker).

provinces with respect to allowing school boards to raise revenue from property taxes. Mr. Baker suggested that the system needs to be completely overhauled, perhaps in a manner similar to Saskatchewan's regime. He also suggested that a special category could be created for recreational properties. Mr. Baker ended by explaining his reason for attending the committee: "quite frankly, I'm here because I'm fighting to keep my cottage, and property taxes are making that very difficult."²⁵

Mr. Gus Wruck, a private citizen from Lac du Bonnet and former cottage owner, spoke next about the inefficacy of Bill 5 in dealing with the actual issue of education property tax and he discussed the situation in his community.²⁶ Mr. Wruck was the first to discuss the problem of a lack of representation for those taxed.²⁷ He pointed out that non-residents land owners can vote in municipal elections where their cottage is situated, but they cannot vote for school board trustees. In Lac du Bonnet, Mr. Wruck presented statistics that show only 48% of houses in the Lac du Bonnet area are actually occupied year-round, the balance being cottagers, and he stated that a high proportion are retired citizens on fixed incomes.²⁸ In his view, the legislation had no real merit.

Mr. Dave Crabb, president of MACO, spoke on behalf of that organization. MACO has over 3,000 members and represents the largest organized interest group for cottage owners outside of provincial parks.²⁹ Mr. Crabb presented several comments on behalf of MACO members, as well as a resolution adopted by the organization calling on the Government of Manitoba to address the issue of education taxes on both recreational and non-recreational properties. MACO was opposed to the bill for several reasons, and in essence, he advised that the organization saw the legislation as ineffective tinkering and avoidance of the core issue. Mr. Crabb also noted that MACO had not been consulted on Bill 5, in spite of being the representative group for the cottage owners specifically targeted by the bill.³⁰

²⁵ *Ibid.*

²⁶ *Ibid* at 80 (Gus Wruck).

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ *Ibid* at 82 (Dave Crabb).

³⁰ *Ibid* (Dave Crabb).

Ms. Pat Dunlop, a cottage owner, spoke against the bill for many of the same reasons as had been expressed by the three previous presenters. In particular, she specifically noted that the bill would only possibly provide a small short-term benefit for a minimal number of cottage owners, and that, on the whole it is irresponsible way to encourage citizens to take on more debt with interest and subject their properties to possible liens.³¹ To Ms. Dunlop, Bill 5 showed that while the government recognizes the problem of education property taxes, it had decided on a deferral system only to "...dilute the anger and public outcry, [this being] window dressing at best."³²

Mr. Lorne Weiss next spoke in opposition to Bill 5 on behalf of the Manitoba Real Estate Association and its more than 1900 realtors.³³ He reiterated the concerns with the underlying issue of locally levied school taxes, and noted that Bill 5 is bad legislation created to cover up bad policy.³⁴

Mr. Peter Squire appeared for the Winnipeg Realtors organization and its more than 1600 members in opposition to Bill 5 for the same reasons as the other presenters. Mr. Squire noted that in his personal situation as a Victoria Beach cottage owner, nearly the entire increase in his property tax bill was due to education tax.³⁵ As a result, the name of the bill should have more correctly read "The Cottage Property Education Tax Deferral Act."³⁶

The Canadian Taxpayers Federation ("CTF") submitted a written brief on Bill 5 to the committee. Their concerns with the efficacy of the bill were similar to other speakers, but they also emphasized the inefficiency of the education system its and current funding model.³⁷ The CTF pointed to a decrease in enrolment in Manitoba schools between 1999/00 and 2008/09 of 10%, while education spending increased 51% over the same period.³⁸ This was \$328 million above the rate of inflation.³⁹ Raising revenue for

³¹ *Ibid* at 85-86 (Pat Dunlop).

³² *Ibid.* at 85 (Pat Dunlop).

³³ *Ibid* at 87 (Lorne Weiss).

³⁴ *Ibid.*

³⁵ *Ibid* at 90 (Peter Squire).

³⁶ *Ibid.*

³⁷ Colin Craig, "Bill 5 Presentation", *Canadian Taxpayers Federation*, 14 June 2010, online: <<http://www.taxpayer.com/sites/default/files/Bill5Presentation.pdf>>.

³⁸ *Ibid.*

³⁹ *Ibid.*

education from property taxes was also criticized by the CTF as a tax tied to the value of a property does not take into account the ability of a household or business to pay. The CTF suggested that a better solution than Bill 5 would be to eliminate all education property taxes and control spending.⁴⁰

D. Third Reading

On 16 June 2010, the Honourable Bill Blaikie, Government House Leader, moved, seconded by the Honourable Andrew Swan, Minister of Justice and Attorney General for Manitoba, that Bill 5 be adopted by the House. Mrs. Heather Stefanson noted that at the committee meeting, every presenter spoke against the bill. She stated that Bill 5 “...does absolutely nothing for cottage owners or to provide any tax relief on their property at all. It encourages people to go further into debt.”⁴¹ Dr. Jon Gerrard also spoke against the bill.

A voice vote was called and on division, Bill 5 became law as part of the *Property Tax and Insulation Assistance Act*.

E. Royal Assent and Coming into Force

Upon passing concurrence and third reading, Bill 5 received Royal Assent on 17 June 2010.⁴² The bill came into effect immediately as the bill stated it would come into effect on 1 January 2010, or unless Royal Assent was received after that date.⁴³ On 26 May 2010, the government set aside \$125 000 to fund the program.⁴⁴

F. Regulations

The interest rate payable by cottagers taking part in the deferral program was set on 16 August 2010 by Order in Council.⁴⁵ The regulation set the

⁴⁰ *Ibid.*

⁴¹ Manitoba, Legislative Assembly, *Debates and Proceedings (Hansard)*, 4th Sess, 39th Leg, vol LXII No 63 (16 June 2010) at 3112 (Heather Stefanson).

⁴² Manitoba, Legislative Assembly, *Debates and Proceedings (Hansard)*, 4th Sess, 39th Leg, vol LXII No 63 (17 June 2010) at 3231.

⁴³ Bill 5, “Coming into Force”. Also see *ibid.*

⁴⁴ Manitoba, Legislative Assembly, *Order in Council*, 39th Leg, 4th Sess, No 162 (26 May 2010).

⁴⁵ Manitoba, *Order in Council*, 39th Leg, 4th Sess, No 246 (16 August 2010).

interest rate to the Royal Bank of Canada prime rate, to be compounded monthly from the due date of the taxes until the debt is repaid to the government.⁴⁶ This regulation was made effective retroactively to 30 June 2010 so as to apply to any cottagers taking part in the program from its beginning.⁴⁷ This retroactive power regarding interest was given to the Lieutenant Governor in Council in the bill.⁴⁸

V. AFTERMATH AND MEDIA COVERAGE

The very limited uptake of the tax deferral program suggests that the scheme was not seen as constructive by the public. The media reported that as of 27 August 2010, only three cottage owners had submitted applications to defer.⁴⁹ Since such applications had to be submitted before municipal taxes were paid, this means that the total number of cottage owners taking advantage of the program for the first of its only two years will have been limited to this very small number. For the second year of the program, only seven cottagers applied for the program in 2010 while zero applied in 2011. Of these applications, only four were accepted or did not withdraw their application. Progressive Conservative Finance Critic Heather Stefanson pointed out that the four approved applications represent 0.03% of eligible properties and asked “[w]ith success like that, who needs failure?”⁵⁰ It is interesting to note that the government only budgeted a maximum of \$125 000 to be spent on tax deferrals, so clearly, the government was not expecting there to be much interest in the program.

In recent years, the *Winnipeg Free Press* has published several editorials critical of the NDP government’s handling of education and municipal property taxes, and they expressed their concerns regarding on Bill 5 in particular on 21 May 2010. The editorial reiterated the same problems expressed by all of the presenters at committee and by opposition members in

⁴⁶ *Interest on Deferred Cottage Property Taxes Regulation*, Man Reg 115/2010, s 2.

⁴⁷ *Ibid*, s 3.

⁴⁸ *Act*, *supra* note 1, s 8.8(2).

⁴⁹ Bruce Owen, “Few cottagers signing up for new tax increase deferral program”, *Winnipeg Free Press* (27 August 2010) A6.

⁵⁰ Manitoba, Legislative Assembly, *Debates and Proceedings*, 39th Leg, 5th Sess, vol LXIII No 33 (20 April 2011) at 886.

the Legislative Assembly, including that this program is simply “smoke and mirrors”, was not requested by anyone, provides no benefit to cottage owners, and does not deal with the underlying issue. The *Winnipeg Free Press* also contrasted the government’s readiness to attempt to help cottage owners while ignoring low and fixed income property owners who are struggling to pay property taxes on their primary residences. This article ends with a stern request: “The party that likes to say it rules for all the people needs to develop a backbone. For starters, it should cancel the deferment plan until it comes up with a real solution for tax inequity.”⁵¹

VI. WHAT COULD HAVE BEEN DONE DIFFERENTLY?

Although both school boards and municipalities have taxation power, there is a discrepancy in voting eligibility for municipal elections and voting eligibility for school boards. *The Municipal Councils and School Boards Elections Act*⁵² defines eligible voters in both municipal council and school board elections as someone who is 18 years of age and has their ordinary residence within the respective municipal and school board boundaries for at least six months before election day.⁵³ However, non-residents can vote in elections for municipal councils—but not in elections for school boards—if they have been a registered owner of land in the municipality for at least six months.⁵⁴

The rationale for this difference is not entirely logical. Property owners, even if they are not residents, use roads and rely on snow clearing to access their land, dispose of their waste with municipal trucks, sewers and/or landfills, and depend on adequate drainage of their land, as well as a host of other municipally supplied services. The use of their land is also heavily regulated by municipal by-laws. Therefore, non-resident land owners need to have a say in municipal politics as much as residents do.

On the other hand, non-resident land owners do not send their children to schools controlled by local school boards, so, the argument goes, decisions regarding educational policies should not concern them. Residents who do not have children, or whose children are not currently in K-12 school, are

⁵¹ “Selinger’s cynical tax plan”, Editorial, *Winnipeg Free Press* (21 May 2010) A14.

⁵² *The Municipal Councils and School Boards Elections Act*, CCSM c M257.

⁵³ *Ibid*, s 21(1)–21(2).

⁵⁴ *Ibid*, s 22(1).

allowed a say because historically, local communities in Manitoba have an influence on how children are educated there. This appears to be the primary reason for the existence of school board taxation power.

However, both municipalities and school boards have considerable power to impact property taxation. Due to a lack of funding from the provincial government, education taxes now constitute a considerable burden on property owners, and in many areas of Manitoba, are higher than municipal taxes. Setting the rate of education property tax is now one of the most controversial and important decisions made by local school trustees.

Arguably, by not allowing non-residents a say in school trustee elections, the legislation gives trustees a sort of buffer between their taxation decisions and non-resident property owners so that trustees can focus on their primary task: educating children. However, taxation without representation been a thorn in the side of peoples in many places throughout history. Manitoba and its inhabitants are not likely different from such other peoples.

If the Government of Manitoba wants to cling to the antiquated idea of allowing school boards to tax at will, they should amend *The Municipal Councils and School Boards Elections Act* to allow non-resident property owners to vote in school board elections. This would not in itself necessarily solve the problem of education tax, but it would appease interest groups such as cottage owners, and, if such people exercised their voting rights, the school board politicians would no doubt react accordingly. As noted above, several of the presenters at the committee stage mentioned this lack of voting power as a particular frustration.

Another concern of cottage owners is the inequity between those whose recreational property is located within a provincial park and those whose property is not. MACO represents about 3,000 cottage owners outside of provincial parks⁵⁵ and has consistently criticized this disparity. As the land in provincial parks is not owned by cottagers, a fee is paid by these cottagers to offset the cost of services provided, but owners of cottages outside of provincial parks pay whatever amount is set by the local municipality and school board. MACO suggests the best way to deal with this problem is to completely remove education funding from property tax and fund it through general provincial revenue.⁵⁶

⁵⁵ Committee (15 June 2010), *supra* note 23 at 82 (Dave Crabb).

⁵⁶ Bruce Owen, "Cottagers outside of parks decry disparity of taxation system", *Winnipeg*

The broader problem needs to be dealt with. Manitoba is one of the last provinces to allow school boards to levy taxes directly on property without control from the provincial government. Those boards rely on this taxation power more than in any other province. There may be several solutions to this dilemma.

The most obvious and comprehensive solution is to remove taxation power from school boards completely and fund education through general provincial revenue. Property taxes in and of themselves are a large and complicated issue, but many critics believe that it is an obsolete source of revenue that is relied upon too heavily by municipalities, and in this province, school boards. When relied upon to such a degree, property taxes have the impact of discouraging development, particularly for commercial and industrial purposes.⁵⁷ Admittedly, this can be said for most taxes. Specific critiques of property taxes relate to its fairness and its unequal application to people in different income brackets, particularly as it affects low-income and fixed-income individual property owners.⁵⁸ Consider senior citizens who own a cottage, rely on a pension, and have budgeted their retirement based on reasonable increases in taxation. With the substantial increases in property values, these seniors may have to consider selling their cottages simply because they cannot afford the property taxes.

School board property taxes in Manitoba can be reformed in three ways: 1) using a model similar to the one recently implemented in Saskatchewan; 2) completely removing school board property taxes on recreational property; or 3) offering a special school board property tax rebate for recreational property owners. These will be discussed below.

A. Saskatchewan Model

In 2009, Saskatchewan scrapped a property tax system very similar to the Manitoba scheme under which local school boards set their own property tax rates. In its place, the Government of Saskatchewan created a new province-wide education property tax which specified three property classes:

Free Press (10 June 2010) A7.

⁵⁷ Jack M Mintz & Arthur Andersen, "Property Taxation: Reform or Abolish?" (Paper delivered at the Canadian Tax Association 35th Annual National Workshop, Kelowna, British Columbia, 1 October 2001) at 2, online: C.D. Howe Institute <<http://www.cdhowe.org/pdf/mintz-8.pdf>>.

⁵⁸ *Ibid* at 6-7.

residential, commercial, and agricultural. Education tax proceeds are collected by the municipalities, but are then pooled and distributed back to school boards to fund education, while municipal councils continue to set their own tax rates.⁵⁹ Importantly, local school boards retained their relevancy by the legislature ensuring that boards continued to have considerable discretion in how to allocate the funds.⁶⁰ This change resulted in what the government called the “largest education property tax cut in history”.⁶¹

If the Government of Manitoba decided to do what Saskatchewan has done, Manitoba would have to make up education funding shortfalls from its general revenue.

This approach could also be customized for the particular circumstances of Manitoba. Additional classes of property could be created for cottages and properties owned by fixed-income pensioners. This would directly deal with some of the problems that Bill 5 unsuccessfully sought to solve. This could be done without tax refunds or credit, and hence be much more efficient and inexpensive to implement.

B. Complete Removal

Completely removing the funding of education from property would be the most radical change possible, and it would result in a drastic change in the funding formula. In 2008–2009, K–12 education in Manitoba cost a total of \$2.099 billion,⁶² the projected cost for 2009–2010 was \$2.145 billion,⁶³ and the projected cost for 2010–2011 is \$2.226 billion.⁶⁴ In 2008–2009, the

⁵⁹ Government of Saskatchewan, Ministry of Education, News Release, “Financing Pre-Kindergarten to Grade 12 Education” (18 March 2009), online: Government of Saskatchewan <<http://www.gov.sk.ca/adx/aspx/adxGetMedia.aspx?mediaId=747&PN=Shared>>.

⁶⁰ *Ibid.*

⁶¹ Government of Saskatchewan News Release, *supra* note 9.

⁶² Manitoba Education, Citizenship and Youth, Financial Reporting and Accounting in Manitoba Education: 2008-2009 Report (Winnipeg: Government of Manitoba, 2009) at 3 online: Manitoba Education <http://www.edu.gov.mb.ca/k12/finance/frame_report/index.html> [FRAME Report 2008-2009].

⁶³ Manitoba Education, Citizenship and Youth, Financial Reporting and Accounting in Manitoba Education: 2009-2010 Budget (Winnipeg: Government of Manitoba, 2010) at 4 online: Manitoba Education <http://www.edu.gov.mb.ca/k12/finance/frame_report/2009-10_frame_budget.pdf> [2009-2010 Budget].

⁶⁴ Manitoba Education, Citizenship and Youth, Financial Reporting and Accounting in

province contributed \$1.561 billion, or 74.4%,⁶⁵ leaving school boards to raise \$537.6 million from property taxes. These funds would need to be found in Manitoba's general revenue. This would mean an increase in other taxes or many cuts to spending—neither of which are easy to accomplish politically. However, the advantage of this approach is that it is arguably the most fair because the cost of education would fall on those most able to pay. On the other hand, it would be almost politically impossible to accomplish. The projected provincial contribution for 2009–2010 was \$1.611 billion or about 75.1%⁶⁶ and for 2010–2011 is \$1.685 billion or about 75.7%,⁶⁷ which shows slight increases in the percentage of provincial contribution but may not cover the increase in costs faced by the school boards.

C. Special Rebate for Cottage Properties

The province has thus far preferred to deal with increases in locally levied education property tax as indirectly as possible, so another such program may be brought forward. Currently, several schemes are in place.

The Manitoba Education Property Tax Credit applies to all households who pay more than \$250 in property tax in a year, including tenants who pay the tax indirectly. A credit of \$650 is either applied to one's property tax bill or is claimed on the Manitoba portion of one's income tax return. This amount can be increased for low income earners (below \$25,000 of annual income) and for seniors who collect a pension.⁶⁸ The Farmland School Tax Rebate covers up to 75% of school taxes levied on farmland.⁶⁹

The provincial government has also tried to induce school boards to freeze their education property tax rates. Beginning in 2008,⁷⁰ and expanded

Manitoba Education: 2010-2011 Budget (Winnipeg: Government of Manitoba, 2010) at 4 online: Manitoba Education <http://www.edu.gov.mb.ca/k12/finance/frame_report/2010-11_frame_budget.pdf> [2010-2011 Budget].

⁶⁵ *FRAME Report 2008-2009*, *supra* note 62 at 3.

⁶⁶ 2009-2010 Budget, *supra* note 63 at i.

⁶⁷ 2010-2011 Budget, *supra* note 64 at i.

⁶⁸ "Education Property Tax Credit", online: Manitoba Finance <<http://www.gov.mb.ca/finance/tao/eptc.html>>.

⁶⁹ "Farmland School Tax Rebate", online: Manitoba Agricultural Services Corporation <http://www.masc.mb.ca/masc.nsf/program_farmland_school_tax_rebate.html>.

⁷⁰ Nick Martin, "School boards taking pass on grant: Minister's tax-freeze strategy running into a lot of resistance", *Winnipeg Free Press* (3 February 2008) A4.

since then,⁷¹ the provincial government have offered additional grants for school boards provided that boards freeze their property tax rates for that year. These tax incentive grants have achieved only limited success as it was reported this year that it was actually possible for some school boards to raise taxes while still accepting money under the program.⁷²

To alleviate the financial stress on cottage owners, the provincial government should have considered a new rebate system instead of a deferral system. A new program could have been created that would rebate a portion of municipal and education tax levied on second properties. It could have even targeted the problem more directly by limiting eligibility to cottages outside of provincial parks. This would provide meaningful relief to cottage owners' issues as compared to the deferral system which fails to provide any material benefit. Admittedly, this would expose the government to criticism for pandering to cottage owners and ignoring other groups struggling to pay their property taxes, such as pensioners and low-income families. However, by giving an actual benefit to the cottage owners, it would give the government political credit with at least one group instead of offending everyone.

Another way to provide relief would be to rebate education taxes for cottages but leave a set amount still payable as a fee. This should remove the inequity between cottagers within and those outside of provincial parks.⁷³

However, it could be argued that this is just another complicated stop-gap measure which will result in confusion and frustration each year when school boards set their budgets. The *Winnipeg Free Press* has called the current system an "inane shell game".⁷⁴ Legislators should take this criticism to heart.

VII. CONCLUSION

Bill 5, *The Cottage Property Tax Increase Deferral Act*, was meant to provide some relief to cottage owners after the property reassessment which became effective in 2010. While the provincial government acknowledged and

⁷¹ Nick Martin, "Province quietly hikes boards' tax-freeze incentives", *Winnipeg Free Press* (7 May 2010) A12.

⁷² Nick Martin, "School tax freeze a numbers game: Complex formula means many will pay more", *Winnipeg Free Press* (24 March 2010) B3.

⁷³ Committee (15 June 2010), *supra* note 23 at 80 (Wruck), 81 (Hon Rosann Wowchuk).

⁷⁴ "School tax shell game", Editorial, *Winnipeg Free Press* (2 August 2008) A16.

identified a substantial concern for many Manitobans, it chose to deal with public pressure in a way that does not effectively deal with the problems. School boards' heavy reliance on property taxes is an issue which needs to be dealt with in Manitoba. This can be done so in several ways, but it will take leadership on the part of the government. The tax deferral system created by Bill 5 does not provide a long-term benefit to cottage owners. There is a benefit but only if the interest rate charged on deferred taxes is ignored. The ineffectiveness of this program is evident in the minimal acceptance by cottage owners.

The provincial government should have consulted stakeholders and other interested groups before passing this legislation to determine the thoughts of those most affected by the legislation. Sooner or later, the government will have to deal with the education property tax system and by reforming it—not by tinkering with it.