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Official Report of Debates (Hansard)

Thursday 18 November 2010

Journal des débats (Hansard)

Jeudi 18 novembre 2010

**Standing Committee on
Finance and Economic Affairs**

**Comité permanent des finances
et des affaires économiques**

Enhancement of the Ontario
Energy and Property Tax Credit
for Seniors and Ontario
Families Act, 2010

Loi de 2010 sur l'amélioration
du crédit d'impôt de l'Ontario
pour les coûts d'énergie
et les impôts fonciers
à l'intention des personnes âgées
et des familles de l'Ontario

Chair: Pat Hoy
Clerk: Sylwia Przewdziecki

Président : Pat Hoy
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
FINANCE AND ECONOMIC AFFAIRS

Thursday 18 November 2010

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES FINANCES
ET DES AFFAIRES ÉCONOMIQUES

Jeudi 18 novembre 2010

The committee met at 0902 in room 151.

SUBCOMMITTEE REPORT

The Chair (Mr. Pat Hoy): The Standing Committee on Finance and Economic Affairs will now come to order. We're here today for a clause-by-clause of Bill 109.

However, before we start that, I would ask that we have the report of the subcommittee on committee business regarding our travel be put on the record. Ms. Pendergast, do it.

Ms. Leeanna Pendergast: How exciting; another subcommittee report. Shall I read the whole subcommittee report?

The Chair (Mr. Pat Hoy): Yes, that's correct.

Ms. Leeanna Pendergast: Excellent. Thank you, Chair.

Your subcommittee on committee business met on Thursday, November 4, 2010, to consider the method of proceeding on pre-budget consultations 2011, and recommends the following:

(1) That the Chair should forward, as soon as possible, to the three House leaders the committee's request to meet during the upcoming recess. Specifically, the committee would like to meet the week of January 24, as well as on January 31 and February 1, 2011.

(2) That the committee hold pre-budget consultations in London, Windsor, Thunder Bay, Timmins and Ottawa during the week of January 24, 2011.

(3) That the committee hold pre-budget consultations in Toronto on Monday, January 31 and Tuesday, February 1, 2011.

(4) That the clerk of the committee, with the authorization of the Chair, post information regarding pre-budget consultations on the Ontario parliamentary channel, on the Legislative Assembly website and with Canada NewsWire.

(5) That the clerk of the committee, with the authorization of the Chair, place an advertisement, no later than the week of January 3, 2011, in a major newspaper in each of the cities where the committee intends to hold pre-budget consultations, and that the advertisements be placed in both English and French papers, where possible.

(6) That each political party provide the committee clerk with the name of one expert witness and one alternate no later than December 17, 2010.

(7) That expert witnesses be scheduled to appear before the committee in Toronto on Monday, January 31, 2011.

(8) That expert witnesses be offered 15 minutes for their presentations, followed by five minutes of questioning by each political party.

(9) That interested people who wish to be considered to appear before the committee contact the committee clerk by 5 p.m. on Monday, January 17, 2011.

(10) That on Monday, January 17, 2011 the clerk of the committee provide the subcommittee members with an electronic list of all the potential witnesses who have requested to appear before the committee.

(11) That, if all requests to appear cannot be accommodated in any given location, each of the subcommittee members supply the clerk of the committee with a prioritized list of the witnesses they would like to hear from in that location by 12 noon on Tuesday, January 18, 2011.

(12) That, if all requests to appear can be accommodated in any given location, the clerk of the committee, in consultation with the Chair, may schedule all witnesses and no prioritized list will be required for that location.

(13) That the minimum number of requests to appear to warrant travel to a location be eight.

(14) That groups and individuals be offered 10 minutes for their presentations, followed by up to five minutes for questioning by committee members.

(15) That the deadline for written submissions be 5 p.m. on Tuesday, February 1, 2011.

(16) That, in order to ensure that all scheduled presenters are treated with respect and heard without delay during the committee's pre-budget consultations, the committee adopt the following procedures:

—That the committee postpone debate on any motion that relates to the committee's report on pre-budget consultations until the report-writing stage; and

—That notice of any such motion may be filed prior to the report-writing stage, in writing, with the committee clerk.

(17) That the research officer provide the committee with a summary of witness presentations by 5 p.m. on Thursday, February 10, 2011.

(18) That, in order to facilitate the committee's work during report writing, recommendations be filed with the clerk of the committee by 12 noon on Friday, February 18, 2011.

(19) That the research officer provide the committee with a draft report by 5 p.m. on Tuesday, February 22, 2011.

(20) That the committee meet for the purpose of report writing on Thursday, February 24, 2011, during the committee's regular meeting times.

(21) That the committee authorize one staff person from each recognized party to travel with the committee, space permitting, for the purpose of pre-budget consultations and that reasonable expenses incurred for travel, accommodation and meals be paid for by the committee upon receipt of a properly filed expense claim.

0910

And finally—it was a loquacious subcommittee report:

(22) That the committee clerk, in consultation with the Chair, be authorized to commence making any preliminary arrangements necessary to facilitate the committee's proceedings prior to the adoption of this report.

The Chair (Mr. Pat Hoy): Any comment on the report at all? Shall the report be adopted? Carried.

Thank you very much, everyone.

ENHANCEMENT OF THE ONTARIO
ENERGY AND PROPERTY TAX CREDIT
FOR SENIORS AND ONTARIO
FAMILIES ACT, 2010

LOI DE 2010 SUR L'AMÉLIORATION
DU CRÉDIT D'IMPÔT DE L'ONTARIO
POUR LES COÛTS D'ÉNERGIE
ET LES IMPÔTS FONCIERS
À L'INTENTION DES PERSONNES ÂGÉES
ET DES FAMILLES DE L'ONTARIO

Consideration of Bill 109, An Act to amend the Taxation Act, 2007 to implement the Ontario energy and property tax credit and to make consequential amendments / Projet de loi 109, Loi modifiant la Loi de 2007 sur les impôts pour mettre en oeuvre le crédit d'impôt de l'Ontario pour les coûts d'énergie et les impôts fonciers et apporter des modifications corrélatives.

The Chair (Mr. Pat Hoy): So now we'll move to clause-by-clause consideration of Bill 109. My voice is not in the greatest of shape this morning, so please pay attention as I go along. Sometimes it cracks and disappears completely, so I might have to repeat myself or whatever.

We'll start with section 1. There are no amendments to section 1. Shall section 1 carry? Carried.

Section 2 has no amendments. Shall section 2 carry? Carried.

Section 3 has no amendments. Shall section 3 carry? Carried.

Section 4 has no amendments. Shall section 4 carry? Carried.

Now we have an amendment to section 5: Ms. Pendergast.

Ms. Leeanna Pendergast: I move that subclause (b)(ii) of the definition of "A" in subsection 101.1(3) of the Taxation Act, 2007, as set out in subsection 5(3) of the bill, be amended by striking out "paid for the year by the individual" and substituting "paid for the year by or on behalf of the individual".

The Chair (Mr. Pat Hoy): Mr Miller?

Mr. Norm Miller: This is what most of the amendments look like. They're of a technical nature, but a brief explanation of each would be appreciated as to why we're doing this.

Ms. Leeanna Pendergast: Absolutely; thank you, Mr. Miller.

Bill 109, as introduced, refers to costs incurred by an individual. Various amendments are proposed to Bill 109 to allow the credit to be determined not only on the basis of costs that are incurred by an individual, but also costs incurred on behalf of an individual. This would allow, for example, costs incurred by a child of a senior in respect to the senior's principal residence to qualify for the credit.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, shall the motion carry? Carried.

Another government motion to the same section. Ms. Pendergast, it's number 2 in your packet.

Ms. Leeanna Pendergast: I move that subclause (b)(iii) of the definition of "A" in subsection 101.1(3) of the Taxation Act, 2007, as set out in subsection 5(3) of the bill, be amended by striking out "paid by the individual" and substituting "paid by or on behalf of the individual".

The Chair (Mr. Pat Hoy): Any comment?

Ms. Leeanna Pendergast: Did you want me to go through it, Mr. Miller?

Mr. Norm Miller: No, it appears to be the same thing.

Ms. Leeanna Pendergast: Yes, okay. Thank you.

Mr. Norm Miller: Where there are certain ones to be combined, just giving a brief explanation as we go along would be great.

The Chair (Mr. Pat Hoy): No other comment? Shall the motion carry? Carried.

Government motion: Ms. Pendergast, number 3.

Ms. Leeanna Pendergast: I move that section 101.1 of the Taxation Act, 2007, be amended by adding the following subsection after subsection (3), as re-enacted by subsection 5(3) of the bill:

"Receipt of a transitional northern Ontario energy credit under part V.7

"(4) If an individual has a qualified relation on December 31, 2010, and receives a credit under part V.7 for the taxation year, the individual and not the individual's qualified relation may claim an amount under this section for the taxation year."

The Chair (Mr. Pat Hoy): Are you okay with that, Mr. Miller?

Interjection.

The Chair (Mr. Pat Hoy): Okay, then. Shall the motion carry? Carried.

Shall section 5, as amended, carry? Carried.

Government motion number 4.

Ms. Leeanna Pendergast: I move that subclause (b)(ii) of the definition of “A” in subsection 101.2(5) of the Taxation Act, 2007, as set out in subsection 6(3) of the bill, be amended by striking out “paid for the year by the individual” and substituting “paid for the year by or on behalf of the individual”.

The Chair (Mr. Pat Hoy): Any comment? Hearing none, shall the motion carry? Carried.

Number 5 in your packet: Ms. Pendergast.

Ms. Leeanna Pendergast: I move that subclause (b)(iii) of the definition of “A” in subsection 101.2(5) of the Taxation Act, 2007, as set out in subsection 6(3) of the bill, be amended by striking out “paid by the individual” and substituting “paid by or on behalf of the individual.”

The Chair (Mr. Pat Hoy): Any comment? Hearing none, shall the motion carry? Carried.

Number 6.

Ms. Leeanna Pendergast: I move that section 6 of the bill be amended by adding the following subsection:

“(4) Section 101.2 of the act is amended by adding the following subsection:

“Receipt of a transitional northern Ontario energy credit under part V.7

“(8) If an individual has a qualified relation on December 31, 2010 and receives a credit under part V.7 for the taxation year, the individual and not the individual’s qualified relation may claim an amount under this section for the taxation year.”

The Chair (Mr. Pat Hoy): Any comment? Hearing none, shall the motion carry? Carried.

Shall section 6, as amended, carry? Carried.

Section 7 has no amendments. Shall section 7 carry? Carried.

Section 8 has no amendments. Shall section 8 carry? Carried.

Section 9, page 7: There is an amendment. Ms. Pendergast.

Ms. Leeanna Pendergast: I move that the definition of “adjusted income” in subsection 104.35(1) of the Taxation Act, 2007, as set out in section 9 of the bill, be amended by striking out “subdivision a of division E of part I of the federal act” at the end and substituting “section 122.5 of the federal act”.

The Chair (Mr. Pat Hoy): Mr. Miller.

Mr. Norm Miller: Yes, an explanation, please.

Ms. Leeanna Pendergast: Sure. It’s an amendment to correct a definition. It would correct a drafting error. The definition referring to subdivision a of division E of part I of the federal act is proposed to be amended so that it refers to section 122.5 of the federal act.

Pretty technical stuff. Sorry, Norm. I was reading that answer; you may not have noticed. You can tell, when I speed up.

The Chair (Mr. Pat Hoy): No further comment? Shall the motion carry? Carried.

There’s another amendment to that section on page 8. Ms. Pendergast.

Ms. Leeanna Pendergast: Mr. Delaney is going to read this one, Chair.

The Chair (Mr. Pat Hoy): Okay.

Mr. Bob Delaney: I move that subclause (b)(ii) of the definition of “A” in subsection 104.37(1) of the Taxation Act, 2007, as set out in section 9 of the bill, be amended by striking out “paid for the base taxation year by the individual” and substituting “paid for the base taxation year by or on behalf of the individual”.

The Chair (Mr. Pat Hoy): Any comment? Hearing none, all in favour? Carried.

Page 9: Mr. Delaney.

Mr. Bob Delaney: I move that subclause (b)(iii) of the definition of “A” in subsection 104.37(1) of the Taxation Act, 2007, as set out in section 9 of the bill, be amended by striking out “paid by the individual” and substituting “paid by or on behalf of the individual”.

The Chair (Mr. Pat Hoy): Any comment? Hearing none, all in favour? Carried.

Page 10.

Ms. Leeanna Pendergast: I move that section 104.37 of the Taxation Act, 2007, as set out in section 9 of the bill, be amended by adding the following subsection:

“Receipt of a northern Ontario energy credit under part V.6

“(3) If an individual has a qualified relation on December 31 of a base taxation year and receives a credit under part V.6 for a specified month in respect of that base taxation year, the individual and not the individual’s qualified relation may receive an amount payable under this part for a specified month in respect of the base taxation year.”

Same explanation.

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The Chair (Mr. Pat Hoy): Any comment? Hearing none, all in favour? Carried.

Page 11.

Ms. Leeanna Pendergast: I move that subclause (b)(ii) of the definition of “A” in subsection 104.38(1) of the Taxation Act, 2007, as set out in section 9 of the bill, be amended by striking out “paid for the base taxation year by the individual” and substituting “paid for the base taxation year by or on behalf of the individual”.

The Chair (Mr. Pat Hoy): Any comment? Hearing none, all in favour? Carried.

Number 12.

Ms. Leeanna Pendergast: I move that subclause (b)(iii) of the definition of “A” in subsection 104.38(1) of the Taxation Act, 2007, as set out in section 9 of the bill, be amended by striking out “paid by the individual” and substituting “paid by or on behalf of the individual”.

The Chair (Mr. Pat Hoy): Any comment? Hearing none, all in favour? Carried.

Number 13.

Mr. Bob Delaney: I move that section 104.38 of the Taxation Act, 2007, as set out in section 9 of the bill, be amended by adding the following subsection:

“Receipt of a northern Ontario energy credit under part V.6

“(5) If an individual has a qualified relation on December 31 of a base taxation year and receives a credit under part V.6 for a specified month in respect of that base taxation year, the individual and not the individual’s qualified relation may receive an amount payable under this part for a specified month in respect of the base taxation year.”

The Chair (Mr. Pat Hoy): Any comment? All in favour? Carried.

Number 14.

Mr. Bob Delaney: I move that subparagraph 3ii of subsection 104.39(1) of the Taxation Act, 2007, as set out in section 9 of the bill, be amended by striking out “that each of them paid” and substituting “that was paid by or on behalf of each of them”.

The Chair (Mr. Pat Hoy): Any comment? All in favour? Carried.

Number 15.

Mr. Bob Delaney: I move that subparagraph 3iii of subsection 104.39(1) of the Taxation Act, 2007, as set out in section 9 of the bill, be struck out and the following substituted:

“iii. In the case of a principal residence that is a non-seasonal mobile home owned and occupied by one or both of them, the amount paid for the year by or on behalf of each of them to the owner of the land on which the mobile home is located that can reasonably be considered to have been paid to compensate the owner for municipal tax assessed against the land for the year and the amount of municipal tax that was paid by or on behalf of each of them for the year in respect of the mobile home.”

The Chair (Mr. Pat Hoy): Any comment? Hearing none, all in favour? Carried.

Number 16.

Ms. Leeanna Pendergast: I move that section 104.39 of the Taxation Act, 2007, as set out in section 9 of the bill, be amended by adding the following subsections:

“Amount not to be charged

“(8) A credit under this part or an entitlement to the payment of a credit under this part, as the case may be,

“(a) shall not be assigned, charged, attached or given as security; and

“(b) shall not be garnished.

“Exception, family orders

“(9) Subsection (8) does not affect or restrict the garnishment or attachment of payments under this part pursuant to the Family Orders and Agreements Enforcement Assistance Act (Canada).”

I’d like to give an explanation, please.

The Chair (Mr. Pat Hoy): Any comment?

Mr. Norm Miller: An explanation.

Ms. Leeanna Pendergast: Yes. This amendment ensures that payments of the Ontario energy and property tax credit would be treated the same in bankruptcy as payments of the Ontario senior homeowners’ property tax grant, the Ontario sales tax credit, the Ontario sales tax transition benefit and the northern Ontario energy credit.

The amendment would exempt the payment from the property of a bankrupt divisible among creditors, but the proposed amendment would specifically allow credit payments to be garnished under the Family Orders and Agreements Enforcement Assistance Act (Canada).

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, all in favour? Carried.

Number 17, Ms. Pendergast.

Ms. Leeanna Pendergast: I move that section 9 of the bill be amended by adding the following subsection:

“(2) Subsection 104.35(1) of the act, as enacted by subsection (1), is amended by adding the following definition:

““shared-custody parent”, in respect of a qualified dependant at a particular time, means, where the presumption referred to in paragraph (f) of the definition of “eligible individual” in section 122.6 of the federal act does not apply in respect of the qualified dependant, an individual who is one of the two parents of the qualified dependant who,

“(a) are not at that time cohabiting spouses or common-law partners of each other,

“(b) reside with the qualified dependant on an equal or near equal basis, and

“(c) primarily fulfil the responsibility for the care and upbringing of the qualified dependant when residing with the qualified dependant, as determined in consideration of prescribed factors;”

The Chair (Mr. Pat Hoy): Any comment? Hearing none, all in favour? Carried.

Number 18.

Ms. Leeanna Pendergast: I move that section 9 of the bill be amended by adding the following subsection:

“(3) Section 104.37 of the act, as enacted by subsection (1), is amended by adding the following subsection:

“Exception, shared-custody parent

“(4) Despite subsection (1), if an eligible individual, other than a senior, is a shared-custody parent in respect of a qualified dependant and does not have any other qualified dependants or a qualified relation at the end of a base taxation year, the amount of an Ontario energy and property tax credit payable to the individual for a specified month in respect of the base taxation year is the amount that would be determined under subsection (1) if the definitions of “C” and “D” in that subsection read as follows:

““C” is the amount determined by the formula,

$$\frac{E + F}{2}$$

“in which,

““E” is the greater of \$20,000 and the individual’s adjusted income for the base taxation year, and

““F” is the greater of \$25,000 and the individual’s adjusted income for the base taxation year, and

““D” is \$22,500.”

The Chair (Mr. Pat Hoy): Any comment? Hearing none, all in favour? Carried.

Number 19, Mr. Delaney.

Mr. Bob Delaney: I move that section 9 of the bill be amended by adding the following subsection:

“(4) Section 104.38 of the act, as enacted by subsection (1), is amended by adding the following subsection:

“Exception, shared-custody parent

“(2.1) Despite subsection (1), if an eligible individual who is a senior is a shared-custody parent in respect of a qualified dependant and does not have any other qualified dependants or a qualified relation at the end of a base taxation year, the amount of an Ontario energy and property tax credit payable to the individual for a specified month in respect of the base taxation year is the amount that would be determined under subsection (1) if the definitions of “C” and “D” in that subsection read as follows:

““C” is the amount determined by the formula,

$$\frac{E + F}{2}$$

“in which,

““E” is the greater of \$25,000 and the individual’s adjusted income for the base taxation year, and

““F” is the greater of \$30,000 and the individual’s adjusted income for the base taxation year, and

““D” is \$27,500.”

The Chair (Mr. Pat Hoy): Any comment? Hearing none, all in favour? Carried.

Shall section 9, as amended, carry? Carried.

Section 10 has no amendments. Shall section 10 carry? Carried.

Section 11 has no amendments. Shall section 11 carry? Carried.

Section 12: We have a government motion on page 20 in your packet. Ms. Pendergast.

Ms. Leeanna Pendergast: I move that section 12 of the bill be struck out and the following substituted:

“Commencement

“12.(1) Subject to subsection (2), this act comes into force on the day it receives royal assent.

“Same

“(2) Subsections 9(2) to (4) come into force on a day to be named by proclamation of the Lieutenant Governor.”

The Chair (Mr. Pat Hoy): Any comments?

Ms. Leeanna Pendergast: I’d like to make a comment to clarify. Bill 109 would come into force on the day it receives royal assent. The amendment would provide for the proposed shared-custody amendment to take effect on the day proclaimed by the Lieutenant Governor, as mentioned.

The proposed shared-custody amendments are intended to parallel similar amendments that have been proposed to the Income Tax Act (Canada). The federal bill that includes these proposals has not yet been passed.

The Chair (Mr. Pat Hoy): Thank you. Shall the motion carry? Carried.

Shall section 12, as amended, carry? Carried.

There are no amendments to 13. Shall section 13 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 109, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

We are adjourned.

The committee adjourned at 0928.

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