

## Standing Committee on Resource Stewardship

### Review of the *Lobbyists Act*

Twenty-Ninth Legislature  
Third Session  
July 2017



Standing Committee on Resource Stewardship  
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**STANDING COMMITTEE ON RESOURCE STEWARDSHIP**

July 2017

**To the Honourable Robert E. Wanner  
Speaker of the Legislative Assembly  
of the Province of Alberta**

I have the honour of submitting, on behalf of the Standing Committee on Resource Stewardship, its final report pursuant to section 21 of the *Lobbyists Act* on the Review of the *Lobbyists Act*.

Sincerely,

(original signed by)

Rod Loyola, MLA  
Chair, Standing Committee  
on Resource Stewardship

c. Robert H. Reynolds, QC  
Clerk of the Legislative Assembly

## TABLE OF CONTENTS

<b>MEMBERS OF THE STANDING COMMITTEE ON RESOURCE STEWARDSHIP .....</b>	<b>3</b>
<b>1.0 EXECUTIVE SUMMARY .....</b>	<b>4</b>
<b>2.0 COMMITTEE MANDATE.....</b>	<b>5</b>
<b>3.0 INTRODUCTION.....</b>	<b>6</b>
<b>4.0 ACKNOWLEDGEMENTS.....</b>	<b>7</b>
<b>5.0 CONSULTATION AND REVIEW PROCESS.....</b>	<b>8</b>
<b>6.0 COMMITTEE RECOMMENDATIONS .....</b>	<b>9</b>
<b>6.1 Organization Lobbyists – Lobbying Thresholds .....</b>	<b>9</b>
<b>6.2 Prohibition on Gifts .....</b>	<b>9</b>
<b>6.3 Consultant Lobbyists – Payment Contingent on Lobbying Success .....</b>	<b>10</b>
<b>6.4 Grassroots Communication .....</b>	<b>10</b>
<b>6.5 Application of the <i>Lobbyists Act</i> – Submission Requests from Public Office Holders .....</b>	<b>11</b>
<b>APPENDICES.....</b>	<b>12</b>
<b>Appendix A: Written Submissions to the Committee .....</b>	<b>12</b>
<b>Appendix B: Oral Presentations to the Committee .....</b>	<b>14</b>

**MEMBERS OF THE STANDING COMMITTEE ON RESOURCE STEWARDSHIP  
29<sup>th</sup> Legislature**

Rod Loyola, MLA  
Chair  
Edmonton-Ellerslie (ND)

Grant R. Hunter, MLA\*  
Deputy Chair  
Cardston-Taber-Warner (W)

Todd Loewen, MLA†  
Deputy Chair  
Grande Prairie-Smoky (W)

Leela Sharon Aheer, MLA‡  
Chestermere-Rocky View (W)

Jamie Kleinsteuber, MLA  
Calgary-Northern Hills (ND)

Erin D. Babcock, MLA  
Stony Plain (ND)

Todd Loewen, MLA  
Grande Prairie-Smoky (W)

Greg Clark, MLA  
Calgary-Elbow (AP)

Donald MacIntyre, MLA  
Innisfail-Sylvan Lake (W)

Thomas Dang, MLA  
Edmonton-South West (ND)

Brian Malkinson, MLA  
Calgary-Currie (ND)

Wayne Drysdale, MLA  
Grande Prairie-Wapiti (PC)

Christian E. Nielsen, MLA  
Edmonton-Decore (ND)

David B. Hanson, MLA  
Lac La Biche-St. Paul-Two Hills (W)

Eric Rosendahl, MLA  
West Yellowhead (ND)

Anam Kazim, MLA  
Calgary-Glenmore (ND)

Denise Woollard, MLA  
Edmonton-Mill Creek (ND)

**Substitutions Pursuant to Standing Order 56(2.1-2.4):**

Rick Strankman, MLA§  
Drumheller-Stettler (W)

Heather Sweet, MLA\*\*  
Edmonton-Manning (ND)

Annie McKittrick, MLA††  
Sherwood Park (ND)

Graham Sucha, MLA‡‡  
Calgary-Shaw (ND)

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\* Deputy Chair and Member from December 13, 2016

† Deputy Chair to December 13, 2016

‡ Member to December 13, 2016

§ Substitute for Todd Loewen on October 24, 2016

\*\* Substitute for Chris Nielsen on October 24, 2016

†† Substitute for Erin Babcock on January 12, 2017

‡‡ Substitute for Chris Nielsen on January 12, 2017

## 1.0 EXECUTIVE SUMMARY

During its deliberations on February 21 and July 4, 2017, the Standing Committee on Resource Stewardship made the following resolutions pertaining to the *Lobbyists Act*, S.A. 2007, c. L-20.5 (the “Act”).

1. That the Act be amended in the definition of “organization lobbyist” to reduce the threshold to 50 hours of lobbying annually, including any preparation time.
2. That the Act be amended to prohibit organization lobbyists, consultant lobbyists, clients of consultant lobbyists, or employees, directors, or officers of an organization that employs one or more organization lobbyists from offering a fee, gift, or other nonmonetary benefit aside from reasonable hospitality not exceeding \$100 to any of the following persons:
  - (a) a Member of the Legislative Assembly;
  - (b) a Deputy Minister of the Government;
  - (c) a person employed in the office of the Premier or an office of a Minister;
  - (d) a designated office holder as defined in section 25.2 of the *Public Service Act*.
3. That the Act be amended to prohibit the payment of consultant lobbyists through a contingency fee payment arrangement.
4. That the Act be amended to expand the definition of “lobby” to include grassroots communication, similar to the definition found in the *Lobbyists’ Registration Act* of Nova Scotia.
5. That the Act be amended to remove the restriction on the application of the Act with respect to a submission made to a public office holder by an individual on behalf of a person or organization in response to a request initiated by a public office holder for advice or comment.

## 2.0 COMMITTEE MANDATE

On June 2, 2016, the Legislative Assembly passed Government Motion 21, which deemed the Standing Committee on Resource Stewardship the special committee for the purpose of conducting a comprehensive review of the *Lobbyists Act*.

The scope of the Committee's review with respect to the *Lobbyists Act* is mandated by section 21 of that Act:

Within 2 years after this Act comes into force and every 5 years after that, a special committee established by the Legislative Assembly shall begin a comprehensive review of this Act and shall submit to the Legislative Assembly, within one year after beginning the review, a report that includes any amendments recommended by the committee.

The Committee began its review of the Act on August 18, 2016.

### 3.0 INTRODUCTION

The *Lobbyists Act* governs the registration of lobbyists in Alberta. It defines what is and is not lobbying and who and what the Act applies to and sets out restrictions and prohibitions for lobbyists, the process for registering, the operation of the lobbyists registry, offences and penalties, and the appointment, duties, and powers of the Lobbyist Registrar, who, under the authority of the Ethics Commissioner, administers the *Lobbyists Act*.

The *Lobbyists Act* was enacted in 2007 and was proclaimed in force September 28, 2009.

This report is the result of the review of the Act by the Standing Committee on Resource Stewardship, which began in August 2016. It contains recommendations that were agreed to during the Committee's deliberations. For a complete record of the Committee's deliberations please consult the transcripts of the Committee's meetings, which are posted online at [assembly.ab.ca](http://assembly.ab.ca).



## 4.0 ACKNOWLEDGEMENTS

The Committee wishes to acknowledge the useful contributions of the individuals and organizations who provided written submissions and/or appeared before the Committee.

The Committee also wishes to acknowledge the valuable assistance of the technical support staff and Legislative Assembly Office support staff.

### Technical Support Staff

#### Office of the Ethics Commissioner

Hon. Marguerite Trussler, QC, Ethics Commissioner  
Ms Lana Robins, Lobbyist Registrar and General Counsel  
Mr. Kent Ziegler, Chief Administrative Officer

#### Ministry of Justice and Solicitor General

Mr. Philip Bryden, Deputy Minister  
Ms Joan Neatby, Barrister and Solicitor, Legislative Reform

#### Legislative Assembly Office Support Staff

Ms Shannon Dean, Law Clerk and Director of House Services  
Dr. Philip Massolin, Manager of Research and Committee Services  
Mr. Trafton Koenig, Parliamentary Counsel  
Ms Nancy Robert, Research Officer  
Ms Jody Rempel, Committee Clerk  
Mr. Aaron Roth, Committee Clerk  
Mr. Duncan Leung, Committee Services Co-ordinator  
Ms Leah Kirtio, Committee Services Assistant  
Ms Rhonda Sorensen, Manager of Corporate Communications  
Ms Jeanette Dotimas, Communications Consultant  
Ms Shannon Parke, Communications Officer  
*Hansard* staff  
Security staff

## 5.0 CONSULTATION AND REVIEW PROCESS

The Committee's review of the *Lobbyists Act* involved a series of meetings that were open to the public and streamed live on the Legislative Assembly website. These meetings took place on August 18 and October 24, 2016, and January 12, February 21, and July 4, 2017.

As part of the review process the Committee received a technical briefing on the *Lobbyists Act* from the Ethics Commissioner, the Lobbyist Registrar, and the Deputy Minister of Justice and Solicitor General on August 18, 2016.

The Committee invited written submissions from identified stakeholders and advertised for written submissions from the public through newspapers, on its website, and through social media and other web-based initiatives. Stakeholders included registered lobbyists, municipal organizations, advocacy groups, ethics associations, research institutes, academics, volunteer services organizations, and Members of the Legislative Assembly of Alberta.

The Committee received 17 written submissions from identified stakeholders and 52 from members of the public. On January 12, 2017, the Committee heard oral presentations from the Ethics Commissioner and Lobbyist Registrar; from representatives of the Calgary Chamber of Voluntary Organizations, Edmonton Chamber of Voluntary Organizations, and Volunteer Alberta; and from Len Wolstenhome. The Committee then offered all oral presenters the opportunity to provide further written feedback, which was received from the Ethics Commissioner on February 10, 2017, and jointly from Volunteer Alberta, the Calgary Chamber of Voluntary Organizations, and the Edmonton Chamber of Voluntary Organizations on February 15, 2017. Appendices A and B contain a list of the individuals and organizations that provided written submissions and oral presentations to the Committee.

The Committee met on February 21 and July 4, 2017, to deliberate on the issues and proposals arising from the written submissions and oral presentations. Representatives from the Office of the Ethics Commissioner and from the Ministry of Justice and Solicitor General attended the meetings and supported the Committee by providing technical expertise.

This report is the result of the Committee's deliberations and contains its recommendations in relation to the Act.

## 6.0 COMMITTEE RECOMMENDATIONS

### 6.1 Organization Lobbyists – Lobbying Thresholds

The Act defines an organization lobbyist as a person (or persons) who works for or owns an organization who lobbies (or whose duty is to lobby) on behalf of the organization at least 100 hours annually, not including time spent preparing to lobby. If more than one person lobbies or has a duty to lobby on behalf of a particular organization, the amount of time spent lobbying by each of these persons is taken together to calculate the 100-hour threshold. Once the 100-hour threshold is reached, the person or persons lobbying for their organization must register as an organization lobbyist.

The Ethics Commissioner, Devon Canada Corporation, Alberta Roadbuilders and Heavy Construction Association, Janssen Inc., and Lafarge Canada, in their written submissions to the Committee, and the Ethics Commissioner, in her oral presentation, discussed their concerns or support for the 100-hour annual lobbying threshold for organization lobbyists. Some felt that in an effort to improve transparency and because it is very difficult for the Lobbyist Registrar to track the number of hours that an organization lobbyist is lobbying, the threshold should be removed entirely, meaning all organization lobbyists who lobby would be required to register. Another organization suggested that the threshold should be reduced to 20 hours annually.

The Committee acknowledged that the current threshold of 100 hours of lobbying is too high. However, the Committee heard that all provincial and federal lobbying legislation in Canada contains some kind of minimum threshold for organization lobbyists. The Committee felt that removing the threshold entirely “would create another barrier towards engagement,” noting that the Government relies on the information and input it receives from organizations and does not “want to run the risk of losing [that] input.” The Committee also discussed the importance of transparency and finding a way “to balance [the need for] transparency with the practical day-to-day work of Albertans.” To this end, the Committee discussed finding a compromise with respect to an annual threshold for organization lobbyists that would “increase transparency and effectiveness [but] not place an unreasonable burden on Alberta companies and organizations who do lobby government.”

Therefore, the Committee recommends:

- 1. That the Act be amended in the definition of "organization lobbyist" to reduce the threshold to 50 hours of lobbying annually, including any preparation time.**

### 6.2 Prohibition on Gifts

The Ethics Commissioner raised an issue in both her written submission and oral presentation to the Committee with respect to gifts from lobbyists to certain persons who are considered public office holders under the Act. She indicated that the *Lobbyist Registration Act* in Newfoundland and Labrador is the only lobbying legislation in Canada with a restriction on gifts from lobbyists. The Ethics Commissioner suggested that a restriction be added to the Act stipulating a “limit of \$100 per year” on “gifts from organizations or individuals engaged in lobbying activities.”

The Committee discussed the importance of ensuring that lobbying activity is transparent and that lobbyists, along with public office holders, should be subject to restrictions that improve transparency.

On this basis, the Committee recommends:

- 2. That the Act be amended to prohibit organization lobbyists, consultant lobbyists, clients of consultant lobbyists, or employees, directors, or officers of an organization that employs one or more organization lobbyists from offering a fee, gift, or other nonmonetary**

**benefit aside from reasonable hospitality not exceeding \$100 to any of the following persons:**

- (a) a Member of the Legislative Assembly;**
- (b) a Deputy Minister of the Government;**
- (c) a person employed in the office of the Premier or an office of a Minister;**
- (d) a designated office holder as defined in section 25.2 of the *Public Service Act*.**

### **6.3 Consultant Lobbyists – Payment Contingent on Lobbying Success**

If a consultant lobbyist receives payment that, in whole or in part, is contingent upon the success of the lobbyist's lobbying efforts, then that information is required under the Act to be submitted in a return to the Lobbyist Registrar. However, the Act does not restrict a consultant lobbyist from lobbying on a contingency basis.

The Ethics Commissioner, in her written submission, and the Lobbyist Registrar, in her oral presentation to the Committee, expressed concern regarding the ability of consultant lobbyists to lobby on the basis that their payment is contingent on the success of such lobbying. The Lobbyist Registrar suggested that "contingency fee arrangements are controversial." She and the Ethics Commissioner believe there is a public "perception that contingency fees may provide financial incentives for someone to act on a basis other than the merits of the matter or to exert improper influence to achieve success," which "undermines public confidence in the Government." They also suggested that because only paid lobbyists are required to register as lobbyists, some lobbyists working on a contingency basis use the fact that they may not receive payment as a loophole to having to register. The Lobbyist Registrar informed the Committee that the lobbying statutes federally and in Ontario, Quebec, and Nova Scotia "prohibit contingency fee arrangements for consultant lobbyists" and suggested that a similar prohibition be implemented in Alberta.

The Committee discussed and ultimately agreed with the supposition of the Ethics Commissioner and Lobbyist Registrar that there is a perception that the use of contingency fee payment arrangements by consultant lobbyists may influence a consultant lobbyist to "act in a way that is counter to the interests of perhaps even the organization they're working for."

The Committee therefore recommends:

- 3. That the Act be amended to prohibit the payment of consultant lobbyists through a contingency fee payment arrangement.**

### **6.4 Grassroots Communication**

Grassroots communication is defined in the Act as "appeals to members of the public through the mass media or by direct communication that seek to persuade members of the public to communicate directly with a public office holder in an attempt to place pressure on the public office holder to endorse a particular opinion." Grassroots communication is not included in the definition of "lobby" in the Act; however, both consultant and organization lobbyists are required under the Act to disclose in their returns to the Lobbyist Registrar if they have used the technique of grassroots communication to lobby.

In her written submission to the Committee the Ethics Commissioner indicated that, similar to Alberta's legislation, the federal, Saskatchewan, Ontario, Nova Scotia, and Newfoundland and Labrador lobbying statutes each reference grassroots communication as a technique of communication that must be included in a lobbyist's return. However, she noted that Nova Scotia is the only Canadian jurisdiction that includes the term "grassroots communication" in the definition of lobby in its Act, thereby considering it to be a form of lobbying.

The Ethics Commissioner argued that including "grassroots communication as a reportable technique of communication without directly including it within the definition of lobby has created both confusion and

ambiguity for those jurisdictions that have Acts that take this approach.” The Ethics Commissioner informed the Committee that in an effort to “address this ambiguity” she along with the federal Commissioner of Lobbying and the Ontario Integrity Commissioner have all recently issued “interpretation bulletins to clarify that engaging in grassroots communications is considered to be lobbying, and is not just a technique of communication.” The Ethics Commissioner suggested that in order to remove any confusion about whether the use of grassroots communication is lobbying, the definition of lobby in the Act should be amended to add wording similar to the wording in Nova Scotia’s lobbying legislation.

Nova Scotia *Lobbyists’ Registration Act*, S.N.S. 2001, c. 34, s. 2(1)(c)

(c) "lobby" means to communicate with a public-office holder, directly or through grass-roots communication, in an attempt to influence ...

The Committee agreed that with the wide availability of social media the use of grassroots communication “can be a very powerful tool when used by lobbyists.” In an effort to increase the transparency of not only “what is being lobbied but who is doing the actual lobbying,” the Committee felt that “the use of these [types of] tools [by lobbyists] should be reported.” Furthermore, the Committee noted that since the Ethics Commissioner has already interpreted grassroots communication as a form of lobbying, the Act should be aligned with that decision.

Based on this rationale, the Committee recommends:

- 4. That the Act be amended to expand the definition of “lobby” to include grassroots communication, similar to the definition found in the *Lobbyists’ Registration Act* of Nova Scotia.**

## **6.5 Application of the *Lobbyists Act* – Submission Requests from Public Office Holders**

The Act provides for certain exemptions with respect to submissions made to public office holders. Section 3(2)(c) states that the “Act does not apply in respect of a submission made in any manner ... to a public officer holder by an individual on behalf of a person or organization in response to a request initiated by a public office holder for advice or comment on any matter referred to in section 1(1)(f)(i).”

In her written submission to the Committee the Ethics Commissioner argued that the exemption in section 3(2)(c) “is in our view too broadly worded.” She suggested that the exemption be limited “to situations where a public officer holder has initiated a written request for advice or comment on a specific matter or issue that falls within the categories of matters within section 1(1)(f)(i).”

The Committee considered that this exemption may create a loophole for activities that would otherwise be considered lobbying under the Act. The Committee argued that “when a public office holder ... asks for input from citizens and/or stakeholders, that process should not be abused by a few individuals or an organization [who use this exemption under the Act as an opportunity] to lobby the Government” without having to register the activity as lobbying.

The Committee agreed that it should “close the loophole so that we prevent this from happening” and that doing so would ensure “that the consultation process is a level playing field for all Albertans that want to participate.”

The Committee therefore recommends:

- 5. That the Act be amended to remove the restriction on the application of the Act with respect to a submission made to a public office holder by an individual on behalf of a person or organization in response to a request initiated by a public office holder for advice or comment.**

## APPENDICES

### Appendix A: Written Submissions to the Committee

Name	Organization
Leon Puerzer	Private Citizen
Gene Syvenky	Alberta Roadbuilders and Heavy Construction Association
Paul Whittaker	Alberta Forest Products Association
Jennifer Kirby	Private Citizen
Derek Thompson	Private Citizen
Suzanne Prata	Private Citizen
William Brule	Private Citizen
Corey Hogan	Private Citizen
Joseph Hankins	Private Citizen
Patrick McKenna	Private Citizen
Clare Harvey	Private Citizen
Sandy Pon	Alberta Residential Landlord Association
Morgan Burchell	Private Citizen
Kara Flynn	Syncrude Canada Ltd.
Cliff Higuchi	Edmonton Chamber of Voluntary Organizations
Philip Stasiewich	Private Citizen
Ray Howarth	Private Citizen
Greg Heebner	Private Citizen
Marie Rajic	Hill+Knowlton Strategies
Elan MacDonald	Impact Consulting
Katherine van Kooy	Calgary Chamber of Voluntary Organizations
Jim Campbell	Cenovus Energy
Ian Patton	Private Citizen
Vernita Carlson	Private Citizen
Mike Simpson	Devon Canada Corporation
Stephen Witteveen	Private Citizen
Keith Gilchrist on behalf of Chris Halyk	Janssen Inc.
Jann Beeston	Volunteer Alberta
Crystal Savard	Private Citizen
David Smith	Private Citizen
Rob MacDougall	Private Citizen
Chandra Devam	Private Citizen
Cheryl Marshman	Private Citizen
Valerie Pachal	Private Citizen

Deborah Ferguson	Private Citizen
Len Wolstenholme	Private Citizen
David Lee	Private Citizen
Robyn Crawford	Private Citizen
Stella Zielke	Private Citizen
Neville Bruce	Private Citizen
Jodie St. Jean	Private Citizen
William Cook	Private Citizen
Alison Beil	Private Citizen
Jim Davis	Private Citizen
Linda Perler	Private Citizen
Carol Craig	Private Citizen
Kyle Nikl	Private Citizen
Margaret Adzich	Private Citizen
Ena Spalding	Private Citizen
Norma Butz	Private Citizen
Thomas Fjellstrom	Private Citizen
Grant Hepworth	Private Citizen
Gordon McDowell	Private Citizen
Dwayne Williams	Private Citizen
Heather MacKenzie	Alberta Counsel
Tim Mattson	Private Citizen
Todd Strzepek	Private Citizen
Grant Dorosh	Private Citizen
Vera-Lynn Smella	Private Citizen
Rebecca Taylor	Private Citizen
Juanita Buck	Private Citizen
Les Aberle	Private Citizen
Ian Murray	Ian Murray and Company
David Turpin, Elizabeth Cannon, Mike Mahon	Comprehensive Academic Research Institutions (Joint submission from the University of Alberta, University of Calgary, and University of Lethbridge)
Jonathan Moser	Lafarge Canada Inc.
Tracey Nyholt	Private Citizen
Kristin Anderson	Global Public Affairs
James Siebert	Private Citizen
Jamie Czerwinski	Alberta Graduate Provincial Advocacy Council
Hon. Marguerite Trussler, QC, Ethics Commissioner	Office of the Ethics Commissioner (Main and follow-up submissions)
Katherine Van Kooy, Jann Beeston, Russ Dahms	Volunteer Alberta, Calgary Chamber of Voluntary Organizations, and Edmonton Chamber of Voluntary Organizations (Joint follow-up submission)

## Appendix B: Oral Presentations to the Committee

Name	Organization
Hon. Marguerite Trussler, QC, Ethics Commissioner Lana Robins, Lobbyist Registrar	Office of the Ethics Commissioner
Jann Beeston, Executive Director	Volunteer Alberta
Russ Dahms, Executive Director	Edmonton Chamber of Voluntary Organizations
Katherine van Kooy, President and Chief Executive Officer Geoff Braun, Director, Policy and Research	Calgary Chamber of Voluntary Organizations
Len Wolstenholme	Private Citizen



