

Twenty-Seventh Legislature Fourth Session



Report of the Standing Committee on
Legislative Offices

Review of the *Lobbyists Act*

November 2011



COMMITTEES
OF THE LEGISLATIVE ASSEMBLY

**Standing Committee on
Legislative Offices**

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November 2011

To the Honourable Ken Kowalski
Speaker of the Legislative Assembly of Alberta

The Standing Committee on Legislative Offices has the honour to submit its Report on the Review of the *Lobbyists Act* to the Legislative Assembly of Alberta.

Sincerely,

[original signed by the Chair]

Len Mitzel, MLA
Chair, Standing Committee on Legislative Offices

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Members of the Standing Committee on Legislative Offices

Review of the *Lobbyists Act* 27th Legislature, Fourth Session

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Dave Quest, MLA
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Substitutions Pursuant to Standing Order 56 (2.1 – 2.4):

Broyce Jacobs, MLA^{‡‡}
Cardston-Taber-Warner (PC)

^{*} Committee Member to October 25, 2011.

[†] Committee Member from October 25, 2011.

[‡] Committee Member from October 25, 2011.

[§] Committee Member to October 25, 2011.

^{**} Committee Member from October 25, 2011.

^{††} Committee Member to October 25, 2011.

^{‡‡} Substitution for Robin Campbell, MLA, on May 26, 2011.

1.0 COMMITTEE MANDATE

On April 20, 2011, the Legislative Assembly of Alberta passed Government Motion 14, which deemed the Standing Committee on Legislative Offices to be the special committee of the Assembly for the purpose of conducting a comprehensive review of the *Lobbyists Act*, S.A. 2007, c. L-20.5, as provided for in section 21 of the Act. Pursuant to section 21 the Committee was required to commence its review no later than September 28, 2011, and to submit its report, including any amendments recommended by the Committee, to the Assembly within one year of commencing the review. The Committee commenced its review on May 26, 2011.

2.0 INTRODUCTION

The *Lobbyists Act* was granted Royal Assent on December 7, 2007, and was proclaimed in force on September 28, 2009.

The basic principles that underlie the *Lobbyists Act*, as set out in its Preamble, are to recognize that free and open access to government is an important matter of public interest; lobbying public office holders is a legitimate activity; it is desirable that the public and public office holders are able to know who is engaged in lobbying activities and who is contracting with the Government of Alberta and its provincial entities; and a system of registration for lobbyists not impede free and open access to government.

Following these general principles, the *Lobbyists Act* provides for a lobbyists registry, administered by the Lobbyist Registrar, in which paid lobbyists must register and detail their lobbying activities. Failure to file a return may result in penalties, as set out in the legislation. The Registrar has a duty to make information on lobbyists and their activities available to the public. As well, lobbyists are prohibited from engaging in a dual role, which is to say providing paid advice or commentary to public office holders while also lobbying public office holders on the same subject-matter, at the same time. The Act requires, as provided in the regulations, among other things, the publication of information with respect to payments made by government ministries and provincial entities.

This final report presents the recommendation of the Committee that was agreed upon during the deliberation phase of the Committee's review.

The *Lobbyists Act* can be accessed free of charge on the Queen's Printer website (www.qp.alberta.ca).

3.0 ACKNOWLEDGEMENTS

The Committee wishes to acknowledge the valuable contribution of the many Albertans and others who submitted written briefs or letters and/or who 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

Ms Joan Neatby, Alberta Justice
Mr. Matthew Robertson, Alberta Justice

Mr. Neil Wilkinson, Ethics Commissioner
Mr. Bradley V. Odsen, QC, *Lobbyists Act* Registrar

Legislative Assembly Office Support Staff

Ms Melanie Friesacher, Legislative Assembly Office
Ms Stephanie LeBlanc, Legislative Assembly Office
Mr. Duncan Leung, Legislative Assembly Office
Dr. Philip Massolin, Legislative Assembly Office
Mr. Robert Reynolds, QC, Legislative Assembly Office
Ms Tracey Sales, Legislative Assembly Office
Mrs. Karen Sawchuk, Legislative Assembly Office
Ms Rachel Stein, Legislative Assembly Office
Hansard staff, Legislative Assembly Office

4.0 THE PUBLIC CONSULTATION PROCESS

As part of the review of the *Lobbyists Act* undertaken by the Standing Committee on Legislative Offices, Committee meetings, which the public could attend and which were streamed live on the Legislative Assembly website, were held on May 26, 2011, September 6, 2011, October 13, 2011, October 18, 2011, and October 26, 2011.

In addition to advertisements that ran in nine daily and over 100 weekly newspapers across Alberta, online and social media advertising was used to invite the public to provide written submissions to the Committee with suggested changes to the *Lobbyists Act*. Letters were also sent to stakeholders inviting written submissions for the Committee's consideration. The Committee received a total of 18 written submissions. A complete list of those who made submissions is provided in Appendix A of this report.

On September 6, 2011, the Office of the Ethics Commissioner provided the Committee with a technical briefing on the operation of the *Lobbyists Act*. On October 13, 2010, the Committee held public hearings for individuals and organizations that requested to make presentations before the Committee. A total of three presentations on the *Lobbyists Act* were made to the Committee. A list of the presenters is provided in Appendix B of this report.

A number of issues were raised in the written and oral submissions to the Committee with respect to the *Lobbyists Act*, including continuing the exemption from the application of the Act to charitable organizations and implementing proactive disclosure provisions in the Act to place reporting requirements on the public office holder.

5.0 COMMITTEE RECOMMENDATION

Section 1(1)(h) of the *Lobbyists Act* defines an organization lobbyist as “an employee, officer or director of an organization who receives a payment for the performance of his or her functions, or a sole proprietor, or a partner in a partnership” who “lobbies or whose duty is to lobby on behalf of the organization at least 100 hours annually, or whose lobbying or duty to lobby on behalf of the organization together with the lobbying or the duty to lobby of other persons in the organization amounts to at least 100 hours annually.”

The *Lobbyists Act General Regulation*, Alta Reg. 247/2009, provides in section 2 that “[f]or the purposes of determining whether lobbying amounts to at least 100 hours annually under section 1(1)(h) of the Act, time spent lobbying is indicated by the time spent communicating with a public office holder but does not include time spent preparing for the communication.”

The Committee heard submissions that the 100-hour threshold ought to be reduced in order that it apply to organization lobbyists who engage in lobbying activities but who are not required to register on the lobbyists registry because they do not meet the threshold.

During Committee deliberations the Committee discussed the issue of the adequacy of the 100-hour threshold and indicated that it could be reduced in one of two ways: by reducing the number of hours included in the definition of organization lobbyist contained in section 1(1)(h) or by counting the time organization lobbyists use in preparing to lobby as part of the 100-hour threshold. The Committee also indicated in its deliberations that it is not unreasonable to expect lobbyists to register in relation to time spent in preparation for lobbying of public office holders.

After considerable discussion and deliberation on the issue the Committee made the following recommendation:

That the Standing Committee on Legislative Offices recommend that the *Lobbyists Act* be amended to specify that all time spent in preparation of lobbying activity be included within the calculation of the 100-hour exemption threshold for organization lobbyists.

APPENDICES

Appendix A: Written Submissions to the Committee

NAME	ORGANIZATION
Aldous, Darren	Alberta Urban Municipalities Association
Chipeur, QC, Gerald D.	Private Citizen
Crouse, Nolan	City of St. Albert
Dahms, Russ	Edmonton Chamber of Voluntary Organizations
Evans, Leslie	Federation of Calgary Communities
Gill, Moira	TD Insurance
Hullick-Reyes, Leanne	Alberta Association of Immigrant Serving Agencies
Jobs, Timothy	Alberta Students' Executive Council
Keeping, Janet and Heather MacIntosh	Sheldon Chumir Foundation for Ethics in Leadership
Lynch, Karen	Volunteer Alberta
McGowan, Gil	Alberta Federation of Labour
Nielsen, Amanda	Athabasca University Graduate Students' Association
Olson, Christyann	Alberta Wilderness Association
Schaffter, Jacqueline	Legal Aid Alberta
Shepherd, Karen E.	Commissioner of Lobbying of Canada
van Kooy, Katherine	Calgary Chamber of Voluntary Organizations
Wyatt, Bob	Muttart Foundation
N/A	Alberta Union of Provincial Employees

Appendix B: Oral Presentations to the Committee

NAME	ORGANIZATION
Chipeur, QC, Gerald D.	Private Citizen
MacIntosh, Heather	Sheldon Chumir Foundation for Ethics in Leadership
van Kooy, Katherine, Russ Dahms and Andrew Fisher	Calgary Chamber of Voluntary Organizations, Edmonton Chamber of Voluntary Organizations, Muttart Foundation, and Volunteer Alberta

Appendix C: Minority Report on the Review of the *Lobbyists Act*

Laurie Blakeman, MLA, Edmonton-Centre
Rachel Notley, MLA, Edmonton-Strathcona

Standing Committee on Legislative Offices
October 2011

Given the time and attention put to the review of the *Lobbyists Act* from May 2011 through October 2011, we wish to note the participation of all committee Members and the contribution of the public, agencies and companies to this important piece of the democratic process.

We are very mindful of the premise of the Act, namely that it is in the public interest to ensure open and free access to government and that lobbying public office holders is a legitimate activity. The balance is the ability of the public, media and other interested parties to be able to access a registry for lobbyists in which details of lobbying activities are readily available.

The Act has been in force since September 2009 and requires a review after two years. We believe that several issues have arisen in these initial two years that illuminates a need for legislative change. These include:

- Adopting rules similar to those set out in federal legislation wherein a public office holder may be subjected to a request by the Registrar to review and confirm the reporting of a lobbyist and that the Registrar may make public comment where the public office holder fails to respond;
- Reducing the 100 hour exemption threshold for organizational lobbyists to 50 hours;
- Removing the ability of a lobbyist to lobby a department at the same time as they or their company are contracted to provide advice or a service to that same department;
- Expanding reporting obligations to require a designated filer to file monthly reports on communications with members of Executive Council;
- Expanding the reporting obligations to include communications with members of Executive Council when initiated at the invitation of a member of Executive Council;
- Allowing the Registrar the discretion to publicly respond to a complainant who has gone public with a request for an investigation;
- Empowering the Registrar to conduct an administrative inquiry to determine if there are grounds for an investigation.

We believe there is a need to close loopholes that appear to have been used during the initial years of implementation of the *Lobbyists Act*, and the above suggestions would have been helpful in addressing these concerns.

Waiting until seven years have passed since the implementation of the *Lobbyists Act* creates unnecessary opportunities to impair the balance between access for those lobbying and the availability of information about those attempting to influence government.

We appreciate the opportunity to outline our concerns and offer solutions.

Respectfully submitted,

Laurie Blakeman, MLA Edmonton-Centre
Rachel Notley, MLA Edmonton-Strathcona

