



Lobbyists Registration

Office of the Ethics Commissioner

Alberta's Lobbyist Act and Registry



October, 2009



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Office of the Ethics Commissioner

Alberta Hansard, 26th Legislature, 3rd Session - March 7, 2007

Introduction of Bills

The Speaker: The hon. the Premier.

Bill 1

Lobbyists Act

Mr. Stelmach: Well, thank you, Mr. Speaker. I request leave to introduce Bill 1, the Lobbyists Act. One of our top five priorities is governing with integrity and transparency, and this act, the Lobbyists Act, is an example of our commitment to this principle. Our commitment to openness in government, openness in business dealings is demonstrated in three ways through the Lobbyists Act: first, by establishing a lobbyist registry; secondly, by requiring lobbyists to declare existing contracts they have to give advice to government; and lastly, by regularly publishing an online, searchable index of who has contracts with the government. One of the key features of the legislation is the prohibition from lobbying and providing advice to government on the same issue at the same time. The lobbyist registry will be administered by the Ethics Commissioner. It will be fully accessible on the Internet and will identify the subject matter of each lobbying activity.

Thank you, Mr. Speaker.



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LOBBYISTS ACT, Chapter L-20.5

Preamble

- WHEREAS free and open access to government is an important matter of public interest; and
- WHEREAS lobbying public office holders is a legitimate activity; and
- WHEREAS it is desirable that the public and public office holders be able to know who is engaged in lobbying activities; and
- WHEREAS a system for the registration of paid lobbyists should not impede free and open access to government; and
- WHEREAS it is desirable that the public and public office holders be able to know who is contracting with the Government of Alberta and Provincial entities



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What is Lobbying?

For both organization and consultant lobbyists, “lobbying” includes communicating with a public office holder in an attempt to influence:

- (A) the development of any legislative proposal by the Government or a prescribed Provincial entity or by an MLA;
- (B) the introduction, amendment, passage or defeat of any bill or resolution in or before the Assembly;
- (C) the development or the enactment of any regulation or any order in council,
- (D) the development, establishment, amendment or termination of any program, policy, directive or guideline of the Government or a prescribed provincial entity;



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What is Lobbying?

For both organization and consultant lobbyists, “lobbying” includes communicating with a public office holder in an attempt to influence:

- (E) the awarding of any grant or financial benefit by or on behalf of the Government or a prescribed Provincial entity,
- (F) a decision by the Executive Council or a member of the Executive Council to transfer from the Crown for consideration all or part of, or any interest in or asset of, any business, enterprise or institution that provides goods or services to the Crown or a prescribed Provincial entity or to the public, or
- (G) A decision by the Executive Council or a member of the Executive Council regarding privatization of any goods or services to the Government.



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What is Lobbying?

For Consultant Lobbyists only, “lobbying” also includes:

- (A) arranging a meeting between a public office holder and any other individual, or
- (B) communicating with a public office holder in an attempt to influence the awarding of any contract by or on behalf of the Government or a prescribed Provincial entity.



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Exemptions

Section 3(2) says that “lobbying” does not apply to a submission made in any manner as follows:

- (a) In proceedings that are a matter of public record to a committee of the Assembly or to any body or person having jurisdiction or powers conferred by or under an *Act*;
- (b) To a public office holder by on behalf of a person or an organization concerning
 - (i) the enforcement, interpretation or application of any *Act* or *Regulation* by the public office holder with respect to the person or organization, or
 - (ii) the implementation or administration of any program, policy, directive or guideline by the public office holder with respect to the person or organization



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Exemptions

- (c) To a public office holder 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)* of the *Act*;
- (d) To an MLA in his or her capacity as an MLA by a constituent of the Member, unless the submission concerns the introduction, passage or amendment in the Assembly of a private bill for the special benefit of that constituent.



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Also exempt are individuals who, while acting in their official capacity are:

- A Senator or a Member of the House of Commons of Canada or an individual on their staff;
- A Member of the Legislative Assembly of another province or territory, or an individual on their staff;
- An employee of the Government of Canada or of the government of another province or territory;
- A member of a Council or other statutory body charged with the administration of the civic or municipal affairs of a municipality, or individuals on the staff of any of those members;
- Officers or employees of municipalities;
- Members of a Métis Settlement Council or the General Council under the Métis Settlements Act or individuals on the staff of any of those members;
- Officers or employees of a Métis Settlement or the General Council under the Métis Settlements Act;
- Members of the council of a band as defined in subsection 2(1) of the Indian Act (Canada) or of the council of an Indian band established by an Act of the Parliament of Canada, individuals on the staff of any of those member, or employees of any of those councils;
- Diplomatic agents, consular officers or official representatives in Canada of a foreign government;



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Also exempt are individuals who, while acting in their official capacity are:

- Directors, officers or employees of an organization referred to in section 1(1)(g)(iv) not constituted to serve management, union or professional interests nor having a majority of members that are profit seeking enterprises or representatives of profit seeking enterprises.
- Officials of a specialized agency of the United Nations in Canada or officials of any other international organization to whom privileges and immunities are granted by or under an Act of the Parliament of Canada;
- Members of the board of trustees under the School Act, individuals on the staff of any of those members, or officers or employees of the boards;
- A person acting as a volunteer who does not receive a payment;
- Any other individuals or categories of individuals prescribed in the regulations.



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Consultant Lobbyists

A “consultant lobbyist” is a person who, for payment, undertakes to lobby on behalf of a client, and includes an individual engaged by a consultant lobbyist to lobby in respect of an undertaking.

Ask Yourself

- Have I been hired by a client to engage in lobbying activities as described in the Act?
- Have I been engaged by a consultant lobbyist to carry out lobbying activities under the Act?
- Have I been engaged by a prescribed Provincial entity to carry out lobbying activities?

If you answered yes to any of the questions in “Ask Yourself”

You are a consultant lobbyist and the designated filer is required to register each undertaking entered into.



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Organizational Lobbyists

“Organization lobbyist” means 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,

(1) who lobbies or whose duty is to lobby on behalf of the organization at least 100 hours annually, or

(2) 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

Ask Yourself

- With respect to my organization, sole proprietorship or partnership, is it one of my duties to lobby, or do I lobby?
- Am I paid for those duties?
- Do my lobbying activities amount to 100 hours per year?
- Are there other employees, officers or directors in my organization, sole proprietorship or partnership who also have a duty to lobby or who lobby?
- Is the amount of time of all lobbying activities by employees, officers or directors of the organization equal to at least 100 hours annually?



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Organizational Lobbyists

If you answered yes to any of the questions in “Ask Yourself”, check to determine if you are acting in your official capacity and are not a lobbyist.

You are an organization lobbyist if you answered yes to all of the first three questions listed above — AND you are not acting in your official capacity in one of the roles noted below. The designated filer for your organization must register when the 100 hour threshold is met as a result of your activities or your activities in combination with the lobbying activities of other employees, officers or directors of your organization, sole proprietorship or partnership.



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Public Office Holders

1(1) In this Act,

. . .

(k) “public office holder” means

- (i) a Member of the Legislative Assembly and any individual on a Member’s staff,
- (ii) an employee of a department,
- (ii.1) an individual appointed to a board, committee or council established under section 7 of the *Government Organization Act*, and
- (iii) an employee, officer, director or member, as the case may be, of a Prescribed Provincial Entity;



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Prescribed Provincial Entities [PPE]

1(1) In this Act,

...

(j) “Provincial entity” means a Provincial agency as defined in section 1 of the *Financial Administration Act* and includes any body or entity referred to in the List of Government Entities set out in the most recent Government Estimates and any body or entity set out in the most recent Government of Alberta Annual Report;

Note: Schedule 1 of the General Regulation lists PPEs by Ministry; Schedule 2 lists other entities that, while being a part of “government” are not considered to be PPEs (eg: Alberta Treasury Branches); and Schedule 3 lists entities the membership of which the *Act* does not apply to when they are acting in their official capacity *qua* these entities.



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Former Public Office Holders

Former public office holder

Section 1(k) of the Act defines a public office holder as:

- (i) a Member of the Legislative Assembly and any individual on a Member's staff,
- (ii) an employee of a department,
- (ii.1) an individual appointed to a board, committee or council established under section 7 of the *Government Organization Act*, and
- (iii) an employee, officer, director or member, as the case may be, of a prescribed Provincial entity



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Former Public Office Holders

But in the *Act*, *section 1(3) of Schedule 1* and *section 1(2) of Schedule 2* refer to "former public office holder". Both provisions state that for the purposes of the schedules "former public office holders" means:

- former members of Executive Council (and former members of that members' office) [which would include Executive Assistants];
- former Deputy Ministers and Chief Executive Officers (or similar positions); and
- former Assistant Deputy Ministers (or similar positions).



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Former Public Office Holders

[As contained in the General Regulation]

Former public office holder

3. For the purposes of Schedule 1, section 1(3)(c) of the Act and Schedule 2, section 1(2)(c) of the Act, the following positions are considered to be prescribed positions:

- (a) the highest-ranking executive of a prescribed Provincial entity;
- (b) the next second highest ranking executive to the highest-ranking executive of a prescribed Provincial entity.



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Contracting prohibitions are found in the Act at section 6

- 6(1) In this section, “contract for providing paid advice” means an agreement or other arrangement under which a person directly or indirectly receives or is to receive payment for providing advice to the Government or a prescribed Provincial entity.
- (2) For the purpose of this section, payment does not include reasonable remuneration received for serving on a board, commission, council or other similar body established by or under the authority of an enactment on which there are at least 2 other members who represent other organizations or interests.
- (3) No person shall lobby on a subject-matter if that person is holding a contract for providing paid advice on the same subject-matter.
- (4) No person shall enter into a contract for providing paid advice on a subject-matter if that person lobbies on the same subject-matter as that of the contract.
- (5) The Ethics Commissioner may exempt a person from the application of subsection (3) or (4) but only if the Ethics Commissioner is of the opinion that it would be in the public interest to do so.
- (6) The Ethics Commissioner may impose terms and conditions on any exemption given.
- (7) The Ethics Commissioner must provide reasons for giving an exemption and must ensure that information relating to the exemption, including any terms and conditions imposed, and the reasons for giving the exemption are entered into the registry.
- (8) If on the coming into force of this section a person, or a person associated with that person, holds a contract for providing paid advice on a subject-matter and either the person or the associated person lobbies on the same subject-matter,
 - (a) the person holding the contract must cease to hold the contract, or
 - (b) the person lobbying must cease to lobby on that subject-matter,within 60 days of the coming into force of this section.



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Please direct any further queries to

registrar@lobbyistsact.ab.ca

