

Title: Thursday, October 25, 2007 Government Services Committee

Date: 07/10/25

Time: 10:03 a.m.

[Mr. Cenaiko in the chair]

The Chair: Good morning, everyone. I'd like to call the meeting to order and begin by asking everyone at the table, including our guests from the Ethics Commissioner's office and the Department of Justice and, of course, the LAO staff that's here with us as well, to introduce themselves for the record. We'll go around the table. I'm Harvey Cenaiko, MLA for Calgary-Buffalo and chair of the Standing Committee on Government Services.

Ms Rempel: Jody Rempel, committee clerk, Legislative Assembly Office.

Ms DeLong: Alana DeLong, Calgary-Bow.

Mr. Eggen: Dave Eggen, Edmonton-Calder.

Dr. Brown: I'm Neil Brown from Calgary-Nose Hill.

Mr. Pagano: Peter Pagano, Legislative Counsel office.

Ms Neatby: Joan Neatby, Alberta Justice.

Ms Barnsley: Alice Barnsley, Alberta Justice.

Ms South: Karen South, office of the Ethics Commissioner.

Ms Dafoe: Sarah Dafoe, Alberta Justice.

Mrs. Kamuchik: Louise Kamuchik, Clerk Assistant, director of House services.

Ms Close: Heather Close, committee research librarian, Legislative Assembly Office.

Dr. Massolin: Good morning. Philip Massolin, committee research co-ordinator, Legislative Assembly Office.

Mr. Reynolds: Good morning. Rob Reynolds, Senior Parliamentary Counsel.

Mr. Amery: Moe Amery, Calgary-East.

Mr. VanderBurg: George VanderBurg, Whitecourt-Ste. Anne.

Mr. Hayden: Jack Hayden, Drumheller-Stettler.

Ms Pastoor: Bridget Pastoor, Lethbridge-East.

Mr. Elsalhy: Mo Elsalhy, Edmonton-McClung.

The Chair: Okay. Before we proceed, I'd like to mention a few things to the committee members. First of all, Mr. David Eggen has joined us today as a substitute for Mr. Brian Mason under temporary Standing Order 56(2.1) to (2.3). Welcome, Mr. Eggen.

Mr. Eggen: Thanks.

The Chair: Also, members may remember that November 2, next Friday, was set aside as a possible meeting date for the committee, so I hope you've all kept that date available as I anticipate that we'll

need to meet once more in order to ensure that we're ready to report to the Assembly when session resumes on November 5.

Finally, I'd like to remind everyone that the audio recording of the committee proceedings is now streamed live over the Assembly's website. Based on last week's experience, I'm sure we'll have several folks tuned in to our meeting today. They're probably listening right now, so welcome to those at home.

Okay. We'll move on to our agenda. I'd like to have a motion to approve today's agenda.

Ms Pastoor: So moved.

The Chair: Bridget Pastoor moved. Any objections? All in favour? Carried.

Number 3 is Review and Approval of Minutes from the October 18, 2007, Meeting. If there are not any corrections, I would ask a committee member to approve. Moe Amery moves. All those in favour? Carried.

Number 4, Review of Draft Report on Bill 1. Following the past few months of discussion on Bill 1, our committee support staff in conjunction with staff from the Department of Justice have prepared a draft report on Bill 1 for our consideration. At this point I'd like to turn the floor over to Mr. Reynolds for an overview of the draft report.

Mr. Reynolds: Well, thank you very much, Mr. Chair. I'll try to be brief. I'll be brief because I forgot my reading glasses. As you know, justice is blind. That concludes the amusing part of the presentation.

Now, first of all, I think that members should take just a second to take pride in this in the sense that this is the first report that has been prepared by a policy field committee. I mean, you essentially are setting the template for other policy field committees this time. Like everything else, when you do it a first time, it's a little more difficult because you know that you're engaging in somewhat uncharted waters.

You know, Philip and his staff and Peter have worked very hard to try and get the amendments that were discussed last week changed around and to have some explanatory notes written with respect to what the committee meant. Now, with everything that's done in a hurry, of course, there are a few changes that we've identified that would have to be made even on the report that was given to you, which perhaps Philip or myself could go through later. I'm talking about Bill 1 now.

Essentially, you'll see in the structure of the report that it has the terms of reference in 2.0, which is essentially the motion that was made to refer this to the committee. Then in 3.0, which is found on page 5 of the draft report, there are the proposed amendments that the Department of Justice has been working with the committee on. Peter may wish to speak to the changes that were made as a result of last week's meeting.

I should point out that in 3.2, on page 13, are the other recommendations that were made by the committee that don't technically relate to the contents of the bill. Nonetheless, they're motions that relate to the bill and what might flow through it mainly with respect to orders in council or regulations under what would then be the act.

Now, the part where there may be some changes is in appendix A, which is the explanatory notes. This is always a bit difficult because it's always a little subjective, although Philip and his staff have tried to make it as objective as possible in stating the rationale. There are some changes, though, that should be made, which we can go over at some point. The committee members, obviously, may have some changes that they'd like to suggest too.

Perhaps this would be an appropriate time, unless committee members have any questions on this, for Peter to go through the amendments.

I should also point out that appendix B lists the presenters. If you go to page 17, you will see the list of all those who made written submissions and those organizations and groups that made public presentations at the hearings.

10:10

The Chair: Thank you very much, Rob.

Peter, in drafting this, then, there were some additional house-keeping changes that you had to make?

Mr. Pagano: This is on Bill 1. Yeah, there were. I think what I'd like to do on Bill 1 is just highlight some of the changes that we made last week. We went through our, if you want to call it, housekeeping ones, but as a result of the discussion, there were some decisions made; for one, to confirm that it's going to be 100 hours instead of 12 days, and a few others. They're the ones I want to take you through. Otherwise, there really aren't any further changes that I need to bring to your attention.

The Chair: Do you want to look at a couple of the subsections?

Mr. Pagano: Yes.

The Chair: What page?

Mr. Pagano: It's page 5 of the report, I believe. It's the amendment to section 1(1), the definition of organization lobbyist. That's the one where we put in the 100 hours instead of the 12 days.

The Chair: And took out "volunteer."

Mr. Pagano: And took out "volunteer." That's right.

The Chair: Very good.

Mr. Pagano: Then I want to take you to I think it's page 8. It's the amendments to section 6, the contracting prohibitions. We were asked to provide a mechanism for making the exemption public. What we've done, if you look at (7), the provision that deals with giving reasons for the exemptions, is require that the registry include the information as opposed to a report or publishing it somewhere else. This way it's going to more or less always be there and easily accessible.

The Chair: Right. And it is just to ensure that that would be open to the public.

Mr. Pagano: Yes.

The Chair: Okay.

Mr. Pagano: Then in (8) we went from 90 days to 60 days. I also reworded (8). There was no change in the policy, just that I reworded (8) to try to – the one thing that we really hadn't captured is that an associated person of someone who holds a contract could also create the conflict. That wasn't captured in (8), so it is now. The main change: instead of the 90 days we had for them to comply after the act comes into force, that it be changed to 60 days.

The Chair: Very good.

Mr. Pagano: If you go to the next page, section 11(5), this is where it's required that in the registry that information about the exemption would be placed.

The last change of significance is on, I guess, page 11, section 20(e), the regulation-making powers. Those were the two regulation-making powers that we discussed last week as to what constitutes "to communicate" and determine regulations to deal with what time spent lobbying is.

I think that highlights the changes.

The Chair: Okay. Committee members, any questions regarding the changes to Bill 1 from last week's meeting seen in the draft document in front of us today?

Ms DeLong: I may be out of line right here, but I think that there is something that we haven't looked at, and I don't know that it actually has come up for discussion. That is that when we're looking at the 100 hours, we're sort of following the Quebec legislation. This comes from a constituent, by the way. With the Quebec legislation there is a limiting in terms of the nonprofit organizations that are included in their bill. It essentially restricts the nonprofits that are covered under the bill in a way which maybe, because we're following the hundred hours thing, we should look at. I'm just wondering whether or not we could still at the last minute, next week, bring that up or whether we should look at that today. I'm still, you know, getting a lot of feedback from the nonprofits. Even though we've made all of these changes, I'm still getting a lot of feedback in terms of a lot of discomfort from them.

The Chair: Alana, I'll turn it over to George, but I'll just make this one comment on the fact that in George's motion last week to strike out the term "volunteer," I think that was extremely important in clarifying. But I'll let George speak to it.

Mr. VanderBurg: Well, that's my point. I think we've discussed that; we've covered it. I don't know how your constituents or my constituents or any Albertans would know what we're proposing to fix these issues. Yes, we have *Hansard* out, but it's not widely known how we're addressing the nonprofits and the charities.

Ms DeLong: These are people that are actually reading *Hansard*.

Mr. VanderBurg: Okay. But I'm feeling very confident that the changes made will address that nonprofit sector.

Mr. Pagano: We also just, if you recall, added to section 3.

The Chair: What page are you on, Peter?

Mr. Pagano: This is page 7. We've said that this act is not going to apply to a volunteer who does not receive a payment, so we've made it clear, at least with unpaid volunteers.

The Chair: That's right. If they're unpaid volunteers, this act does not apply to them. I don't think we can be any clearer.

Ms DeLong: When it comes to volunteers, what about stipends? Are they still called an unpaid volunteer?

Mr. Pagano: If they receive some kind of honorarium, they would be caught as being paid. Right now our definition of payment only is: if it's expenses, that's not a problem, but anything beyond expenses would be considered payment. And it's a hundred hours.

The Chair: If they are receiving a stipend, then the hundred hours kicks in, but if they're a true volunteer volunteering their own time, then they can lobby on behalf of their organization as much as they want. I can't see a volunteer organization meeting with a minister or a deputy minister more than a hundred hours a year. Personally, I know that as a minister you wouldn't have time, so I don't think there's a real issue or concern there.

Dave Eggen, then Moe.

Mr. Eggen: Thank you, Mr. Chair. I just have two points of clarification, also similar to that point. Forgive my ignorance, but perhaps it's worth bearing out. The hundred hours that you have as provision there: is that only tied to people in the voluntary sector, or is that anybody who is lobbying?

The Chair: I'm going to ask Peter for clarification just to make sure.

Mr. Pagano: Anybody. If you're an employee, a director, or an officer of an organization, that hundred hours takes in you.

Mr. Eggen: Thank you.

My second question, just for clarification. I know that lots of people work in the voluntary sector, let's say in environmental groups, but then will also be called to do committee work and/or develop policy for the government. Have you addressed that?

10:20

Mr. Pagano: Yes. In section 6, which is on page 8, in subsection (2) we've dealt with payment in that case. If you received reasonable payment and there are at least two other members who represent other organizations or interests, then that's okay. If those two are met, then it's an exclusion. Plus, we've also provided in subsection (5) that in other circumstances if it's in the public interest, the Ethics Commissioner can give an exemption under terms and conditions. So if something didn't fall under that, you could apply to the Ethics Commissioner. If he feels that it's in the public interest to do so, he could give an exemption for some other situation.

The Chair: I'm sure we're going to find those issues where an organization or an individual may be asked to provide stakeholder feedback at the same time that he may be lobbying on behalf of that same organization. But, again, I think the Ethics Commissioner's responsibility then as well will be to clarify and to ensure that it's fair and reasonable that the individual is either, one, not lobbying or, two, that he or she is lobbying.

Mr. Eggen: Excellent. Okay. It sounds like you guys have done a pretty good job here.

The Chair: Thank you very much, David.
Moe Amery.

Mr. Amery: Thanks, Mr. Chairman. I'm just wondering if this draft report is going to be available to those organizations and individuals that made presentations to the committee.

The Chair: It will be once it's made public by being submitted to the Legislative Assembly. I don't know what day that is. I'd have to have a meeting with David Gillies to provide me with that information, but I would imagine it'll be either the 5th or 6th to get it on the government's agenda and into the loop for Committee of the Whole. As soon as it's entered into the Leg. and the appropriate number of copies are entered, then it becomes a public document for all people.

Mr. Amery: I'm sure that if it's made available to them, it will eliminate a lot of the questions that Alana has gotten. I'm getting the same letters from small organizations saying: it's going to create an administrative burden on us. They don't know about the hundred hours regulation in it.

The Chair: Yeah. I think that's our goal: to try to have it entered into the Assembly possibly on the Monday or the Tuesday. I'll have to verify that with Mr. Gillies.

Mr. Amery: Okay. Thank you.

Dr. Brown: Mr. Chairman, I think that for anyone following the transcripts of these proceedings or, in fact, anyone reading the proposed amendments, which we are ultimately going to report on, these matters would exceed their capacity to absorb the significance of them in terms of what applies to volunteers and so on. I think that many of the misgivings would be alleviated if we did some sort of a table or a checklist or a flow chart showing who has to register and who doesn't have to register. I think as part of our communications if we said, "If you meet the following criteria, you do not have to register: you are an unpaid volunteer; you are in an organization which does not lobby the government more than a hundred hours, and you got paid" or whatever, the various categories that we have – I just think that we need to go beyond the complexities of what we're doing here, which has really gotten into drafting legislation and not making recommendations. We need to explain to the individuals and stakeholders that have submitted materials to us exactly what the implications are of our recommendations.

The Chair: Our communications person isn't here today, but obviously when we advertised, we had to send a bunch of information out to the public. I'm wondering if there is something that can be drafted by communications.

Ms Rempel: She can join us.

The Chair: Can she? If she can join us, maybe we'll have her come down. It might be something that she can provide, something very brief that may be a one-pager that'll be easy to understand for committee members as well as the public. Maybe the highlights of the bill could be added on top of the report to the Assembly as well.
Bridget.

Ms Pastoor: Yeah. Mr. Chair, I certainly concur with Dr. Brown's suggestion that we get this out to the public, but it does have to go out with a caveat that they understand that this still is to be discussed, that this isn't, you know, a fait accompli.

The Chair: That's right. Exactly. It's just being entered into the Assembly and will be debated in Committee of the Whole and then through third reading.

Mr. VanderBurg: Before we go to third and final reading, why wouldn't we just advertise it after Committee of the Whole and do it at that process?

The Chair: You know what? We could do that too. Again, this is a new committee for government and for all of us.

Ms Pastoor: No. I would disagree with that. I think that as soon as it's public, it should go out with the understanding that we will be discussing it. I agree with what you said in the beginning, that this

will alleviate for a lot of people if they really understand it and it's simply put out into a flow chart. I think it'll allow us to discuss it in Committee of the Whole knowing that people have input into that process.

The Chair: Well, for all 83 MLAs it might be easier for them to understand it as well. It's an extremely important document, but it is as well complex. For committee members, obviously, we've been discussing this for months.

We'll wait for the communications person to come down. It might be an opportunity. They might be able to draft something for next Friday's meeting that will add to, maybe, the highlights of the bill and/or just make the document easier to understand from a layperson's point of view. Even MLAs have difficulty reading and understanding legal jargon that comes with every act or bill, but from a layperson's point of view it might be easier for members of the public as well, though, once it is made public, to understand.

Any concerns from the lawyers in the room?

Mr. Reynolds: Well, Mr. Chair, thank you. Really, obviously, it's a fine idea to communicate in an effective manner. What stage the committee is caught in right now is recommending amendments back to the House for consideration of Committee of the Whole. I realize that we have a hybrid committee here in the sense that if this was in the House of Commons or if this was Ontario, all the committee would be considering would be amendments, and this would be the committee stage of the bill. When you were done your work, the bill would be amended subject to being approved by the House. There wouldn't be any opportunity to have anything but amendments.

To take up Ms Pastoor's point, the committee is of course recommending changes to the Committee of the Whole and to the Assembly, which will have them considered by Committee of the Whole, so at this stage there are no changes that have been made. You can't really comment, I would say, on what the bill will look like at the end, when it becomes an act, because you don't know, in that sense.

The other thing is that at the end of the day in our system, of course, the Assembly makes the laws together with the Lieutenant Governor in Council, and it's the government that administers them. Obviously, suggestions or whatever on how the system works, that's certainly up to the committee. But at the end of the day, when this legislation is passed, it will be the Department of Justice or the Ethics Commissioner's office or the soon to be established registrar that would be sending out notices and information about how the Lobbyists Act will in fact operate. I imagine that's what the department will be working on in between the time of passage and the time it comes into force.

The Chair: Okay. So are you saying, then, Rob, that appendix A on page 14 provides us with that?

10:30

Mr. Reynolds: Well, that was certainly the intent of appendix A, to give people some background, but once again it's difficult to be too subjective about what the committee is saying or doing because, you know, it's always difficult to tell the intent of the Legislature, like it's difficult to tell the intent of the committee.

The Chair: I think the issue is, though, that we want to ensure that once this becomes a public document and the public gets to view the amendments brought forward by this committee, the public will be able to understand it. LAO staff I don't think are getting a lot of

phone calls to their offices, but I can tell you that all of us as MLAs are getting tons of phone calls still today regarding the clarification of the bill, and of course we're trying to do our job in making them understand that a volunteer now does not have to register.

There are lots of questions there. I think it might be appropriate to have something simple that can be shortened, that can be provided with the report in layman's terms, that's easy to understand, which, again, are recommendations to the Assembly. I'm not saying that this will be the law, because that has to be debated, but in simple terms what the recommendations to amendments that we're submitting to Assembly will be. That's all I'm suggesting, I think.

Mr. Hayden: Mr. Chairman, I think this is a good suggestion, but I think that as a courtesy to the people that have made presentations, it can be as simple as a communiqué back to them saying that we thank them for their time and that we've heard their concerns and that amendments and recommendations will be going forward to address those concerns. I think that that would probably set their minds at ease and let the process unfold as it's supposed to. I think those that continue to be concerned will make the phone call to members of the committee and ask the questions, and I think that at that point you can talk about the volunteers and the 100 hours and things like that, but I don't think that it's probably wise to create expectations.

The Chair: No. Okay.

Ms DeLong: I'd like to make a motion that

part of our report be a simplified diagram that shows essentially the recommendations and the process that we see, especially in terms of the nonprofits and the 100 hours, and that there's this exemption and there's that exemption and that that is outlined in a meaningful way as a response specifically to the nonprofits.

The Chair: Okay. So that would be in the form of, one, it could be used as a communication but, two, as well as a letter that could be sent out to all the submitters or to all the individuals that made submissions and/or to the committee. There's a motion on the floor. David.

Mr. Coutts: I just want to speak to the motion. Thank you, Mr. Chairman. My apologies for being late. I had another meeting, and I apologize for that. It went on a little longer than we had anticipated.

I'm liking what I'm hearing here in terms of: how do we communicate? I'm liking the recommendations that have just been outlined. But I think it's really, really important to get back to what Mr. Reynolds was saying, that the committee's work is being done – and you can communicate that, but I think that there should be a qualifier right at the very bottom of this that says: this now is a recommendation to the Legislature of Alberta. The Legislature will then debate this. We cannot give people the impression that because we discussed it here and because it was in *Hansard* here at this committee, it is law.

The Chair: That's right.

Mr. Coutts: I think we have to give them a very clear message what the process has been and what the process will be to make this law so that if there's something that they don't agree with in our recommendations, they can then take their concerns, their phone calls, their letter writing campaigns to the people in the Legislature.

The Chair: Any other questions on the motion?

Hon. Members: Question.

The Chair: Okay. We'll call the question. All those in favour of the motion? Opposed, if any? Unanimous.

Our communications have Rhonda. Do you need clarification, Rhonda, on what we're seeking?

Ms Sorensen: No. I think I understood what you were seeking. I just also wanted to bring up – and it was part of the initial communications plan – that we do issue a news release once the report is tabled in the House, which does outline some of the main recommendations that have been made to the House.

The Chair: For next Friday, then, can we see a draft?

Ms Sorensen: Absolutely.

The Chair: A draft of the news release but as well, maybe, a draft of the letter that you're going to draft for us.

Ms Sorensen: Okay.

The Chair: Thank you.

Any other questions on Bill 1?

Okay. We'll move to agenda item 5, Review of Draft Amendments to Bill 2.

Mr. Reynolds: Mr. Chair, with respect, there were a few points in the report on the explanatory notes, some changes that we had wanted to make.

The Chair: On Bill 1?

Mr. Reynolds: Yes, on Bill 1. You know, in the interest of time, Mr. Chair, would it be useful just simply to perhaps prepare a revised version? We could redline it, as it were, to indicate what was changed and provide it to members at the next meeting.

The Chair: I think that would be beneficial. Again, these are housekeeping. Is that right, Peter?

Mr. Pagano: This is in the explanation.

Mr. Reynolds: Not to the bill. This is to the explanatory notes.

The Chair: Oh. Just to the explanatory notes? Okay. I think that would be very good.

Mr. Reynolds: And, Mr. Chair, might I suggest that if members have anything that they come across, they could perhaps indicate to us what it is so that the appropriate change could be made in the explanatory notes. We could do that next week on the record, et cetera, just to show what changes have been made.

The Chair: Okay. Excellent. LAO staff never cease to amaze me, I'm telling you. Thank you very much. That would be very beneficial and, obviously, a time saving for ourselves. Again, they can pick off what the changes may be.

We'll move on to agenda item 5, the Review of Draft Amendments to Bill 2. Now, for committee members, there's been some discussion with myself as chair since the last meeting regarding the fact that because we were rushed for time, we didn't receive

feedback from department staff regarding Bill 2 and the one section, section 30, which was amended by striking out six months, substituting 12 months. A number of committee members have sought my attention to see if we can bring this back to the committee and entertain the department officials in providing us with insight on why six months was the recommended time frame versus 12 months. Could we have the department staff provide us with that information now?

Ms Dafoe: Certainly. When determining the duration of the cooling-off period, it isn't an exact science to determine what's the most appropriate duration. As you know, the all-party committee that reviewed the conflicts of interest legislation back in 2005-2006 recommended that the duration for former ministers be extended from six months to 12 months – that's reflected in Bill 2 – the idea behind that being that it's more in line with what other jurisdictions are doing. I think – Dr. Brown can correct me if I'm wrong on this point – that it was just a good idea with respect to former ministers.

With respect to the new cooling-off periods that were introduced for former political staff members, for deputy ministers, and for other individuals that will be designated in regulation, the all-party committee that reviewed the Conflicts of Interest Act made a general recommendation that the government consider imposing cooling-off periods, but the all-party committee did not make a recommendation as to the duration at that point. They left it for the government to determine on reflection. As you can imagine, the government spent a fair amount of time looking at this. This is a brand new thing for former political staff members. It's a brand new thing for deputy ministers. It will be a new, basically, term of employment or a new rule that they have to abide by.

10:40

Generally, when you're looking at imposing cooling-off periods, what you're trying to do is strike a balance between the need to protect the public interest by making sure that people don't use their influence improperly or use confidential government information in their new roles outside of the government, but that needs to be balanced against the need to attract highly qualified people into the positions that we're talking about. You want to ensure that you can foster good relationships between industry and government by making sure that there's a flexibility to bring people in that have expertise, and too many restrictions may deter a highly qualified person from applying to work in the public service in some of these roles.

Just to remind the committee, former political staff members means the chief of staff, the deputy chief of staff, the director of the Calgary office of the Premier, and all executive assistants to former ministers. As well, deputy ministers are affected under the Public Service Act.

So the government, when determining the duration of the cooling-off period, looked at those factors, and they determined, at least as a starting point, as a new position, that six months was the way to go.

Mr. VanderBurg: Well, I appreciate the explanation. You know, we really didn't get into it that well last week. I know that the former committee did a good job on the report and covered the points very well. I've had a chance to read the report a couple of times.

I'm really concerned about when we start restricting the gene pool, I'll call it, for our political staff. I'm worried for two points: that we may not end up with the best and, two, that we may end up

paying more because of the added restrictions. Quite frankly, in my constituency I know that the folks that work for SRD and know where the gravel deposits are and know where the great stands of spruce and pine that may be available to a contractor are probably more valuable than a lot of the information that political staff may have. All of us could bring examples of that.

So I'm really concerned that we go down this route, and I'm not prepared to support that recommendation.

Ms DeLong: George, I think you said most of it. From my experience I do know that in a lot of areas we are trying to get, you know, really experienced people into the government, into these positions. Right now we're having a lot of trouble competing with the private sector, especially someone with experience that we're trying to get a hold of. By telling them that they've got to be out of the loop in their speciality for a whole year after they get out, it means essentially that we've got to come up with more money or we've got to hire people that are not quite as experienced.

So, yeah, I'm also concerned about, you know, extending that further.

Ms Pastoor: Well, not surprisingly, I support extending it further. I'm sure the question that hasn't been answered is: if we look back over the last, let's say, 10 years, what exactly happens to our people that move on? I'm sure none of them are homeless, and I'm sure none of them are jobless. I also think that it's good to get fresh people in. I think it's good to get fresh perspectives. You're recycling old ideas when you're protecting people. I do agree with Alana that certainly our staff, we know, is being headhunted. I mean, there's no question that if you're bright and you shine at what you're doing, you're going to be headhunted. I think that's just part of the reality of today.

I really feel that 12 months is a legitimate time. Yes, they're taking lots of information. Particularly when you come in as a political entity, you know what politics is all about. You know that you're going to go in and out with your minister or whomever you're working with. I'm not sure that that's necessarily a bad thing. So I think that it should be 12 months. I think we should start moving people around a little bit more. There are lots and lots of jobs out there. Yes, we may get somebody in our offices or in our ministries that perhaps don't have the same kind of experience, but there are a lot of young people out there that are just looking for that chance, and they will shine if they're given that opportunity.

The Chair: Dr. Brown and then Jack.

Dr. Brown: Well, thank you, Mr. Chairman. I would like to speak to the issue of the senior policy officials, or former political staff members, however you wish to characterize them. I want to start by explaining to committee members a little bit of the background. Certainly, there is no magic formula saying that 12 months or six months or 18 months or 24 months would be the appropriate number because there's nothing ironclad that you could say that would define a proper period. For the federal government it is 24 months. I don't think 12 months is excessive, and certainly six months may be reasonable.

Let me just say this. What we're talking about here is not putting somebody's career on hold for a period of six months or 12 months. It's imposing some restrictions, which I believe are reasonable in the circumstances, because we're talking about putting some prohibitions on a former political staff member for a period of time when they could not deal with their former department or a department

with which they've had significant dealings. It doesn't mean that somebody who was an executive assistant in the Department of Sustainable Resource Development could not become a government lobbyist immediately following their departure. It only means that they couldn't be a lobbyist to their old department. Conversely, it talks about a contract with their former department or a department with which they've had significant dealings. I quite frankly think that's a reasonable restriction on their subsequent employment.

If you look at private industry, you will always see in executive employment contracts some restriction on their postemployment ability to take jobs or contracts. If you work for Shell Oil and you're a senior executive, there will be a provision in that contract which will stipulate that you cannot go to work for a competitor for a period of six months or 12 months or whatever the appropriate period is. So this is nothing that private industry doesn't do. It also would stipulate that you couldn't use confidential information which you've acquired during your employment. I think that that's what we're dealing with here.

The perception among the public would be that if someone was in a position of influence – and we're talking about senior political staff members here, not junior ones – if you were in a position where you would acquire information, confidential information about government policy, you could use that for your own personal advantage in a certain period after the departure from the employment.

Why six months or 12 months? Well, as I said, there's no magic to it, but if you look at the budgetary cycle in government, it's 12 months. So I would argue that after 12 months the knowledge which you acquired during your previous employment in that department or a department with which you've had significant dealings is somewhat diminished.

There is some rationale for a 12-month period as opposed to a six-month period. As I said, I don't think there's any magic to it. I don't think that the restrictions are unduly harsh. They are simply restrictions that you can't deal with your former department or a department with which you had significant dealings.

10:50

Ms Dafoe: Just one clarification point, I think, that needs to be made. There is in the cooling-off rules – and I can point you to a particular section if it would help, but I'm not sure that you guys have the bill in front of you – that former political staff members would be prohibited from making representations with respect to a contract or a benefit from a department of the public service. So, basically, that is a restriction on lobbying, and it is not tied to departments that they had significant official dealings with. For example, if the executive assistant of Sustainable Resource Development wanted to go into business as a lobbyist to the provincial government, he would have to wait until after the cooling-off period was over. That's with respect to any department, not just Sustainable Resource Development.

Mr. Hayden: Mr. Chairman, yes, the budget process is 12 months, but depending on when a person leaves, there are always overlaps in budgets and things that get moved to the next budget year, so I'm not really that concerned about the 12 months with respect to the budget.

I think that the compete clauses in private industry are different from what we're talking about at the table here. These people work for government, but at the same time they serve Albertans. I have a concern that we'll put in place something that becomes a liability for people looking to work for the province and have their skills put on hold for longer than they absolutely have to. Because of that, I

think that the six-month period would probably be more appropriate, to my way of thinking, because we don't have an overabundance of people with specialties in many areas in this province, and I would certainly hate to see good resources go by the wayside, you know, for any longer than they absolutely had to.

Thanks.

Ms DeLong: I just wanted to address one of Bridget's concerns, and that's in terms of getting new blood into the organization. By having the 12 months in place, I think we'll actually end up with more people just staying because, essentially, if they're looking at 12 months when they're not fully employed – okay? – to the very best of their abilities, then I think we would actually end up with more people, you know, staying on who should probably be moving on. In terms of getting new blood in, I would say that, most likely, by staying with the six months, we'd probably be much better off.

Mr. Eggen: Well, I think we need to bring this conversation back to what might actually happen to, let's say, an individual who would be under this new legislation: senior policy staff, chief of staff, deputy minister, and assistants to ministers. To my understanding this legislation does not preclude an individual from taking a position in their field of expertise, period. It only restricts them from taking a job that has a direct relation to the government and/or contract and/or lobbying and such. So let's not presume that this person that might fall under this legislation, if we can use our imaginations into the future, would be put on ice for 12 months, absolutely, and not allowed to work for 12 months. I mean, that's just simply not true.

You know, the benefit of this I think far outweighs whether six months or 12 months is the correct number. I think that if you are in fact making a decision to have a cooling-off period, then categorically you are agreeing with the cooling-off period – right? – and another six months I think is sending out a very clear message that we are making a separation between what is public service and then what you can do with your life afterwards.

You know, redefining or perhaps reframing public service is an important responsibility we have here in the Legislature, and I certainly support a 12-month cooling-off period.

The Chair: David Coutts, then Dr. Brown.

Mr. Coutts: Well, thank you very much, Mr. Chairman. I'm pleased to see that we're going into a little bit more detail on this at this particular meeting as opposed to the way we handled it last time because I'm finding that the information is a bit clearer and helps with probably, I'm hoping, a better decision.

I have a question, and it deals with an executive assistant who would have to use a tremendous amount of discretion in terms of being out of government and working for someone else and how they would apply the information that they seek or go after and how they deal with the specific department that they dealt with previously. I want to put it into the context of a chief of staff in the Premier's office. I want to put it into the context of a senior staff member in a public office in the Premier's Calgary office.

They deal with a number of departments. They deal not specifically with just, say, the example that has been used here of Sustainable Resource Development. They deal with every single solitary department. Is what we're saying that the 12 months would then restrict them from any kind of activity with the entire 18 or 19 or 20 departments that we would have in government? I really need to have this part of it understood. I'm not sure I understood this before. I need to have this clearly, clearly understood on my behalf. This is not the way I understood this last time.

Mr. Amery: That was my concern too. When Dr. Brown was talking, he said for any staff who has had a significant dealing with a department. I can appreciate that applying to a minister or to the chief of staff or maybe a deputy minister, but I can't understand that applying to an EA. An EA would deal with one minister, one department. He would not have to deal with all other departments. Why should they be included and the same rules applied to them as if they were the chief of staff in the Premier's office or a deputy minister? That's my concern.

I think that the 12-month period is a long time, and I think it should be reduced to six.

Mr. Coutts: Mr. Chairman, if I could finish. My third point here is that we have a number of executive assistants that sit in committees of cross-ministries as well. There are a number of committees out there where ministers have got to be part of a cross-ministry initiative, where an issue or a number of issues may have different ministers administering parts of that. If this restricts that as well, I need to re-examine my vote on this.

The Chair: Sarah, can you give us a brief response?

Ms Dafoe: I'll do what I can. First of all, what is a significant official dealing I think is where I'll start. The legislation says that a significant official dealing means that you've had a direct and substantive involvement in an important matter. Okay? So that's a kind of definition within the act. But the Ethics Commissioner's office has also issued an interpretation bulletin that sets out some more specifics in plain language about what that might actually mean. It talks about dealings on contracts. Perhaps Karen can sort of fill in the specific details on that.

11:00

With respect to the rules that are in place for former political staff members – that means the chief of staff, the deputy chief of staff, the director of the Calgary office of the Premier, and executive assistants – the rules are that they can't solicit or accept a contract or benefit from the government if they've had significant official dealings with that department or agency of the government in their last year of service. It means they can't accept employment with an entity if, when they were working for the government, they had significant official dealings with that entity. It means that they can't make representations to the government at all. It doesn't have to be with respect to areas that they've had significant official dealings. It means period. You can't lobby for a year. So if the chief of staff, say, goes to work for a private oil company, he would have to not lobby the government during that period; he'd have to find other things to do during that year.

Now, your question, Mr. Coutts, I believe, was: would this prohibit an executive assistant from working on a cross-ministry committee? He's still employed with the government to that point, so it's not a postemployment restriction. Postemployment restrictions don't come into force until they actually leave the employment of the government.

Mr. Coutts: Right. But my question is that if an executive assistant was on three or four of those cross-ministry committees, that would definitely restrict him from any kind of contact with any of those ministries that were affected or any of the issues that were discussed in those committees for 12 months, the way we've structured this.

Ms Dafoe: That depends on the interpretation of what the executive assistant was actually doing. Does that amount to significant official

dealings? Again, it has to be a direct and substantive involvement in an important matter: how involved was the EA in the matters?

Mr. Coutts: Thank you very much for that clarification.

The Chair: Thank you very much. We're going to move on.

Mr. Coutts: Mr. Chairman, are we going to get a chance to revisit this particular point of this?

The Chair: Well, we have a speaking list here. There was a motion at the last meeting, so if we're going to revisit it, there would have to be a motion to rescind Mr. Elsally's motion, which was to change it from six months to 12 months. If we're going to revisit it, you'd have to have a motion to rescind the motion from last week.

Mr. Coutts: Got you. Thank you, Mr. Chairman.

Ms DeLong: I would like to make the motion that we rescind the motion of the Standing Committee on Government Services that the committee recommend that Bill 2, Conflicts of Interest Amendment Act, 2007, be amended by increasing the cooling-off period for deputy ministers, selected officials, and political staff members from six months to 12 months, passed at the October 18 meeting.

The Chair: Okay. Question on that?

Mr. Hayden: Just to the motion. It sounds to me like there needs to be some more information just for clarification on some implications of what type of involvement actually would stop a person from going forward. To the motion: if it was a motion to reconsider pending further information, that would give us an opportunity to look at information next Friday, to get actual definitions of what people would fit into what categories and what types of involvement would mean conflict. Then I think that we could more intelligently vote on it.

The Chair: The problem is that we have to have our report ready for next Friday.

Mr. Hayden: Okay.

The Chair: That's part of the problem.

Dr. Brown: Well, I would just refer all members of the committee to section 32.1 of the proposed act, which talks about the dealings with government by former political staff members. As I mentioned, Mr. Hayden, if you want the definition of what's included, I think it's fairly well spelled out in section 32.1.

Perhaps we could take a brief break, Mr. Chairman, and just circulate this so that people understand, you know, the nature of the restriction here. As I said, it's not saying that one cannot accept employment, and it certainly isn't even restricting one's dealing with government; it's only whether you had significant dealings with that particular department. I think it's important that everybody understand what this is.

In addition, there's another point that I want to make, and that is that under section 32.1 there would be two exceptions allowed. The former political staff member can accept employment with a provincial agency. That was put in by the committee in order to allow that person to take employment with the public service in accordance with the Public Service Act.

Secondly, there is a further exemption that would be allowed, which would say that

any activity, contract or benefit

- (a) if, in the opinion of the Ethics Commissioner,
 - (i) the conditions on which and the manner in which the activity, contract or benefit is awarded, approved or given are the same for all persons . . . or
 - (ii) if the award, approval or grant results from an impartially administered process open to a significant class of persons,

or

- (b) if in the opinion of the Ethics Commissioner the activity, contract or benefit will not create a conflict between a private interest of the former political staff member

then you're exempted again.

We've got lots of different ways to get around this, providing that there's no conflict of interest created. Again, I think the concerns about the onerous conditions are not entirely justified.

The Chair: Mo Elsally, and then I'm going to call the question.

Mr. Elsally: Thank you, Mr. Chair. I have maybe three or four points. The first one is that some members on this committee sometimes forget that this was actually studied to death when we had the previous Conflicts of Interest Act Review Committee, which actually deliberated for about a good six months last year. Some members of this committee were actually members of that one. Dr. Brown was the chair of that committee, and it was an all-party committee as well. There was discussion back and forth. There were presentations from the Ethics Commissioner and his people. We heard these concerns, we discussed them, and we arrived at conclusions that were made part of that report in the end.

The goal with that committee as well as with this one is basically to rebuild or regain public trust in politicians and in political staff. We all know we have somewhat of a bad reputation, and we are trying to alleviate some of these concerns, one of which was that revolving door, where people leave their employment with government and then come back in a month and say: "You know what? I'm now lobbying."

They have gained confidential and sensitive information during their term, and we are saying: "You know what? Twenty-four hours after you leave government, you can work with whoever. You can seek employment with whoever." We're not stopping them from seeking gainful employment half a day after they leave government. That is fine. What we're saying is: "You cannot use the information you gained. You cannot lobby that department or any other department you've had significant dealings with for 12 months."

I don't think we're unduly restricting them. They can work. They can probably make more money outside of government, which is great. What we're saying is: "When you applied, when that advertisement or that announcement was put in *The Bulletin*, you know, announcing that this particular minister is looking for an EA, you applied for that job. You were not applying and negotiating for that job and the one that comes after it and the one that comes after it. You were not negotiating for your life term. You were negotiating for that one job, and we're telling you that after you're done this one job, we expect you to not come back and lobby for 12 months." I don't think that's an unreasonable thing.

I'm going to vote against Ms DeLong's motion, which is on the floor. I'm going to stand by my motion from last week. Thank you.

The Chair: Okay. There's a motion on the floor. Ms DeLong's motion is to rescind Mr. Elsally's motion from last week, which would then take us back to six months versus 12 months. I'll call the

question. All those in favour of Ms DeLong's motion? Those opposed? That's carried.

That'll be adjusted, then, in the review and the report that comes back to us next Friday from LAO staff and Peter.

Mr. VanderBurg: Motion to adjourn.

The Chair: A motion to adjourn is on the floor. All those in favour? Opposed? Carried.

[The committee adjourned at 11:10 a.m.]

