



Legislative Assembly of Alberta

The 30th Legislature
Second Session

Standing Committee
on
Alberta's Economic Future

Lobbyists Act Review

Thursday, October 21, 2021
9 a.m.

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**Legislative Assembly of Alberta
The 30th Legislature
Second Session**

Standing Committee on Alberta's Economic Future

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Bilous, Deron, Edmonton-Beverly-Clareview (NDP), Acting Deputy Chair

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Standing Committee on Alberta's Economic Future

Participant

Ministry of Justice and Solicitor General

Joan Neatby, Barrister and Solicitor, Legislative Reform

9 a.m.

Thursday, October 21, 2021

[Mr. Neudorf in the chair]

The Chair: I'd like to call the meeting to order. Welcome, everybody. Welcome, members and staff in attendance, to this meeting of the Standing Committee on Alberta's Economic Future.

My name is Nathan Neudorf, and I'm the MLA for Lethbridge-East and the chair of this committee. I'd ask that members and those joining the committee at the table introduce themselves for the record, starting to my right with the deputy chair.

Mr. Bilous: Good morning. Deron Bilous, MLA, Edmonton-Beverly-Clareview.

Mr. Rowswell: Garth Rowswell, MLA, Vermilion-Lloydminster-Wainwright.

Mr. Walker: Good morning. Jordan Walker, MLA, Sherwood Park.

Ms Rosin: Miranda Rosin, MLA for Banff-Kananaskis.

Ms Sweet: Good morning. Heather Sweet, MLA, Edmonton-Manning.

Ms Robert: Good morning. Nancy Robert, clerk of *Journals* and committees.

Mr. Roth: Good morning. Aaron Roth, committee clerk.

The Chair: I will just call those online and ask them to introduce themselves, starting with Mr. Reid.

Mr. Reid: Good morning. Roger Reid, MLA for Livingstone-Macleod.

The Chair: Ms Armstrong-Homeniuk.

Ms Armstrong-Homeniuk: Jackie Armstrong-Homeniuk, MLA, Fort Saskatchewan-Vegreville. Good morning, everyone.

The Chair: Mr. Barnes.

Mr. Barnes: Drew Barnes, MLA, Cypress-Medicine Hat. Good morning.

The Chair: Member Irwin.

Member Irwin: Janis Irwin, Edmonton-Highlands-Norwood.

The Chair: Mr. van Dijken.

Mr. van Dijken: Glenn van Dijken, MLA for Athabasca-Barrhead-Westlock.

The Chair: And Member Loyola.

Member Loyola: Good morning, everyone. Rod Loyola, MLA for Edmonton-Ellerslie.

The Chair: Thank you.

I would like to note for the record the following substitutions: Mr. Bilous substituting as deputy chair and Member Loyola for Ms Goehring.

A few housekeeping items to address before we turn to the business at hand. I would note for members that masks should be worn in the committee room except when you are speaking, and

members are also encouraged to leave an appropriate amount of physical distance around the table.

Please note that the microphones are operated by the *Hansard* staff. Committee proceedings are live streamed on the Internet and broadcast on Alberta Assembly TV. The audio- and videostream and transcripts of meetings can be accessed via the Legislative Assembly website.

Those participating by videoconference are asked to please turn on your camera while speaking and mute your microphone when not speaking. Members participating virtually who wish to be placed on the speakers list are asked to e-mail or send a message in the group chat to the committee clerk, and members in the room are asked to please signal the chair. Please set your cellphones and other devices to silent for the duration of the meeting. Please be advised, too, that all committee room public galleries are closed.

The first item on the agenda is approval of the agenda. Can I receive a motion to approve the agenda? Seeing Ms Sweet move that the agenda for the October 21, 2021, meeting of the Standing Committee on Alberta's Economic Future be adopted as distributed. Any comments on that? Seeing none. In the room all in favour, please say aye. Any opposed, please say no. Online all those in favour, please say aye. Anyone online opposed, please say no. Hearing none, that motion is carried.

Next item, approval of minutes September 13, 2021. We have the minutes from the September 13, 2021, meeting of the committee. Are there any errors or omissions to note? Seeing none, would a member please move that? Mr. Rowswell. Mr. Rowswell moved that the minutes of the September 13, 2021, meeting of the Standing Committee on Alberta's Economic Future be adopted as circulated. Any comments? Seeing none. Those in the room, please say aye. Any opposed, please say no. Online all those approved, please say aye. Any opposed, please say no. That motion is carried.

Item 4, review of the Lobbyists Act, technical briefings. Hon. members, at our September 13, 2021, meeting the committee invited both the Ministry of Justice and Solicitor General and the office of the Ethics Commissioner and the lobbyist registrar to provide a technical briefing to the committee as part of the committee's review of the Lobbyists Act. We have with us today officials from both offices.

At this time I would like to invite Ms Joan Neatby, barrister and solicitor, legislative reform, the Ministry of Justice and Solicitor General, to make a presentation to the committee, which will be followed by a period for questions by the committee members. Ms Neatby, you have 20 minutes to make your presentation.

Ms Neatby: Thank you, Chair. Good morning, everyone. Thank you for the opportunity to provide . . .

The Chair: Excuse me, Ms Neatby.

Can I ask all members to please mute themselves. Thank you. Sorry, Ms Neatby. Please begin again.

Ms Neatby: Okay. Thank you, Chair. Good morning. Thank you for the opportunity to provide a technical briefing on the Lobbyists Act. The Lobbyists Act is a challenging piece of legislation. Gaining a comprehensive understanding of this legislation and how all of its elements work together requires some effort and may take time. I'm here today to help give you a head start. My intent is to provide you with a high-level understanding of Alberta's act and how it fits within the Canadian context.

First, I would like to provide you with some historical background. In 1996 the Conflicts of Interest Act Review Panel, chaired by Dr. Allan Tupper, recommended that Alberta adopt lobbyist registration. There was new movement on lobbyist registration in 2006 when the

governing party came under new leadership. An all-party committee conducted a review of the Conflicts of Interest Act and recommended that government establish a lobbyist registry.

Bill 1, the Lobbyists Act, was introduced and subsequently referred to a policy field committee for further review. This committee saw input from stakeholders, and the bill was amended and passed in December 2007. The Lobbyists Act and regulations came into force on September 28, 2010, and the lobbyist registry was fully operational on that date as well.

I understand that Ms Draper, the lobbyist registrar general counsel, will offer you more comprehensive information about the Lobbyists Act and the lobbyist registry. I would like to help impart a high-level understanding of how Alberta's Lobbyists Act fits within the Canadian context.

Alberta's legislation was formed from the same basic principles as lobbying legislation in other Canadian jurisdictions. The first principle of this legislation is that lobbying government is a legitimate activity. The Lobbyists Act and lobbyist registry are not aimed at prohibiting or limiting lobbying. Stakeholders, organizations, and businesses have the right to communicate with decision-makers and to provide decision-makers with information that highlights their views. There is an expectation that people attempt to influence government decisions. This is part of democracy.

The second principle of lobbying legislation is that lobbying activity must be transparent. It is important that people know who is lobbying, who is being lobbied, and the subject matter of the lobbying activity. Ultimately, this form of open communication is aimed at increasing the quality of public policy-making and ensuring that decisions are being made for the greater good. In order to achieve this increased transparency and accountability, lobbying legislation in Canada focuses primarily on the registration of lobbyists. Canadian jurisdictions have established registries to provide public access to information about lobbying activities.

Earlier I mentioned that there are several elements to lobbying legislation. It is necessary to gain an understanding of each of these elements in order to understand how the legislation works. The act outlines who is a lobbyist and what activity is considered to be lobbying. Only those who are paid to lobby are required to register. Lobbyists are those who are paid to communicate with public office holders in an attempt to influence certain types of decisions made by government and prescribed provincial entities.

There are two types of lobbyists, those who are hired by a client to lobby and those who lobby on behalf of their organization. Lobbyists who are paid by a client are called consultant lobbyists. In Alberta those who lobby on behalf of their organization are called organization lobbyists. However, some jurisdictions have different terminology. For example, most jurisdictions use the term "in-house lobbyist" to refer to individuals who lobby on behalf of an organization. An organization can be a business, trade, industry, or professional organization. It could be a union or a chamber of commerce. It could be a nonprofit organization or an interest group. An organization could be incorporated, unincorporated, a partnership, or a sole proprietorship.

Canadian lobbying legislation requires a lobbyist to file returns that include information about their lobbying activity. The rules differ for when consultant lobbyists and organization lobbyists are required to file a return. In Alberta a consultant lobbyist is required to file a return in respect of each undertaking to lobby not later than 10 days after entering into the undertaking.

Also, in Alberta a person who lobbies on behalf of an organization is not considered to be a lobbyist until they, together with other persons in the organization, lobby or have a duty to lobby at least 50 hours annually. The designated filer of an organization that has an organization lobbyist shall file a return within two

months after the day in which the individual in that organization becomes an organization lobbyist and within 30 days after the expiration of each six-month period thereafter.

9:10

Some jurisdictions, including Alberta, require consultant lobbyists to report when they set up meetings with public office holders or when they attempt to influence the awarding of a contract. In addition, Alberta requires consultant lobbyists to report when they communicate with a public office holder in the attempt to influence the awarding of a contract.

Other common features of lobbying legislation. All Canadian lobbying legislation uses the term "public office holders" to identify those who are the targets of lobbying activity, the decision-makers. While there are differences between jurisdictions as to who is a public office holder, the legislation applies only when lobbying activity is directed at a public officer holder. In Alberta a public officer holder includes Members of the Legislative Assembly and their staff; members of cabinet and their staff; individuals appointed to government boards and committees; and employees, officers, and directors of government departments and public agencies.

Furthermore, most Canadian jurisdictions have adopted the concept that lobbying includes an attempt to influence. However, the federal government requires reporting of all communications with public officer holders whether or not there's an attempt to influence. The most common examples of lobbying are attempts to influence decisions about lobbying and the formation or alteration of government policies and programs. Not all communications with public office holders must be reported. For example, an individual making a submission to a public officer holder on behalf of an organization concerning the enforcement of any act or regulation with respect to that organization is not considered to be a lobbyist. This is a common exception to the application of lobbying legislation in Canada.

In contrast, an individual paid to make a submission to a public officer holder on behalf of an organization concerning the development of legislation governing that organization would be considered a lobbyist. This rule is common to all lobbying legislation in Canada.

In addition, not all individuals who are paid to communicate in an attempt to influence are required to register. For example, people from various levels of government can communicate with each other and attempt to influence each other's decisions. They will not be required to register as a lobbyist provided that they are acting in their official capacity. In Canada this is a common exception to the requirement to register as a lobbyist.

As I mentioned before, my understanding is that Ms Draper will address the features of Alberta's Lobbyists Act in more detail in her presentation. However, I would like to highlight two key features of Alberta's legislation. Alberta was one of the first jurisdictions to adopt a prohibition against a dual role. Lobbyists are prohibited from lobbying government and providing paid advice to government on the same subject matter. For example, if a consultant is being paid to give government advice on drug program policies, they cannot also be hired as a lobbyist to influence the Minister of Health to include a particular drug on the drug benefit list.

When it was first adopted, the prohibition meant that an individual could not lobby government and provide paid advice to government on the same subject matter at the same time. This prohibition was expanded so that an individual must choose to either lobby government or provide paid advice to government. An individual is prohibited from performing both roles even in respect of different subject matters. In addition, an individual cannot lobby government if their associate holds a contract to provide paid advice

to government on the same subject matter. Also, an individual cannot enter into a contract to provide advice to government if their associate lobbies government on the same subject matter.

While lobbying legislation across Canada contains offence and penalty provisions to aid enforcement, Alberta has taken it one step further. In Alberta the Ethics Commissioner has authority to impose administrative penalties. This enhances enforcement of the act as there are situations in which administrative penalties may be more effective than the offence and penalty provisions.

Of course, as you proceed with your review, you will gain an understanding of the different elements of the act and how they are interrelated. As you consider what recommendations to make for amendments to the act, it will be critical to consider the impact that each change may have on the other elements of the act. In addition, when considering legislation from other jurisdictions, it is important to understand that all the elements of their legislation also work together. As I am sure that you are aware, it will require time and effort to understand just what everything means and how it all operates. As an official with Alberta Justice and Solicitor General I am happy to assist this committee by providing technical support as requested.

In closing, I would like to mention that maintaining an appropriate balance is a key consideration when considering potential amendments to the Lobbyists Act. As I mentioned at the beginning of my remarks, lobbying is a legitimate activity, and it can be very valuable to government during the decision-making process. In other words, the legislation is not meant to constrain anyone's communication with public officials. On the contrary, communication with government is necessary in a democracy. At the same time, it's important that lobbying activity is transparent. Ultimately, the aim of the Lobbyists Act and the lobbyist registry is to strike a balance between facilitating this kind of openness and transparency without unduly deterring or preventing lobbying.

Thank you.

The Chair: Thank you very much, Ms Neatby.

I would now like to open the floor for members of the committee to ask questions in relation to Ms Neatby's presentation for up to the next 30 minutes. Do we have any questions? I see MLA Loyola. Please proceed.

Member Loyola: Thank you very much, Mr. Chair. I appreciate you recognizing me. I remember that when we were reviewing this last, there were some issues around what is considered, quote, unquote, a meeting. So I was hoping that you could go into a little bit more detail about what actually constitutes a meeting. As we know, sometimes there are public events that are being held around the city or in different parts of the province, and lobbyists take these opportunities to actually meet with government officials, with ministers, and whatnot. Would something in that vein be considered meeting with a public office holder?

Ms Neatby: Thank you for that question. One thing I would like to mention is that as an official with Justice, I do have knowledge about the act and how it is drafted, but I am not in a position to provide you advice with how it's interpreted. The Ethics Commissioner and the lobbyist registrar are responsible for interpretation and administration, so I'm wondering whether Ms Trussler or Ms Draper would like to respond to your question, Mr. Loyola.

The Chair: Member Loyola, do you have a supplemental?

Member Loyola: Well, if we could have either Commissioner Trussler or someone else respond to that, that would be great.

The Chair: The Ethics Commissioner will be presenting next, and there should be the opportunity to ask that question again, so I would anticipate that will be addressed.

Member Loyola: Okay.

The Chair: Thank you.
Ms Sweet.

Ms Sweet: Thank you, Mr. Chair, and thank you for the presentation. I'm curious about some of the comments that you've made around, as we review the Lobbyists Act, ensuring that we're looking at how it impacts the other pieces of legislation that it also interacts with. I'm just wondering if maybe you could highlight some of those other pieces of legislation that we should be also ensuring that we're aware of, but then also specifically around the Conflicts of Interest Act and how you see the Lobbyists Act interfacing with the Conflicts of Interest Act.

Ms Neatby: Thank you for that question, Ms Sweet. My intention was to refer to elements of this act, the Lobbyists Act, and how they interrelate. This act talks about who it applies to and who it doesn't apply to, communications it applies to and communications it doesn't apply to. My point was that developing a full understanding of the Lobbyists Act and how it interrelates is important when considering which recommendations you would like to make for amendment. But it's a very good point; there is definitely an interrelationship between the Lobbyists Act and the Conflicts of Interest Act, more so now than there used to be, in part because which entities are public agencies refers you back to the Conflicts of Interest Act, part 4.3. So, yes, it is important to understand that part of the Conflicts of Interest Act.

Also, it's interesting to note that Alberta's prohibition against a dual role is, in essence, a rule against conflict of interest.

9:20

The Chair: Ms Sweet, do you have a supplemental?

Ms Sweet: Yeah. Thank you for that. Do you have any thoughts, then, of key areas that we should be reviewing to make sure that, you know, if changes were to be made, there were key things that we're looking at that could have impacts? I'm not sure if I'm asking this question correctly. Do you have any ...

Ms Neatby: Well, I think ...

Ms Sweet: Sorry. Go ahead.

Ms Neatby: Okay. Well, it's within the committee's purview and not mine to consider what areas you would like to review for potential recommendations to amendment for the act. If I were involved as a committee member, I would look at things like the scope of application of the act. So does the act apply to the people that you want it to apply to? Does it apply to the types of communications you want it to apply to? Are the exemptions outlined in the act appropriate? Do they need further review? Are there any adjustments? Those are the sorts of things that I would look at if I were a member of the committee.

The Chair: Thank you very much.
Mr. Rowswell.

Mr. Rowswell: Yeah. Usually when you're reviewing something, you're trying to fix a problem that is there or not. Are there areas within the act that you think create problems for elected members or problems for lobbyists that we should be focusing on, that you can make us aware of, and we can zero in on them?

Ms Neatby: Thank you for that question. I think that that is a question more for the Ethics Commissioner and the lobbyist registrar and general counsel as they are responsible for administration and interpretation of the legislation. From my perspective as an official with Justice, there may be a need to sort of take a step back and look at some more of the technical drafting things. You know, it's always a good idea to look at a piece of legislation and see if it needs to be refreshed a little bit to make it easier for people who need to understand it. For example, there are many lobbyists in Alberta, and my question would be: is this legislation easily understandable? Are there ways that we could make it easier for them to understand their obligations? Having said that, it's also important that the legislation be clear, and sometimes those two goals can be in a bit of a conflict.

The Chair: Thank you.

Mr. Rowswell, do you have a supplemental?

Mr. Rowswell: No. That's good. Thanks.

The Chair: Thank you.

Ms Armstrong-Homeniuk.

Ms Armstrong-Homeniuk: Yes. Good morning, everybody. I was wondering if there's a designation for an unpaid lobbyist, and are they subject to the same regulations as everyone else?

Ms Neatby: Under this legislation only lobbyists who are paid to lobby are required to register. In fact, talking about somebody else who's trying to influence a government decision: it's sort of a misnomer to call them a lobbyist. Basically, they would be people with an interest who are trying to influence government decision-makers or decision-makers within prescribed provincial entities, and the act lists a number of different decisions that an Albertan can attempt to influence without requiring registration.

The Chair: Thank you.

Ms Armstrong-Homeniuk, do you have a further supplemental?

Ms Armstrong-Homeniuk: No. That's fine.

The Chair: Thank you very much.

Mr. Walker.

Mr. Walker: Thank you so much, Chair, and thank you for this wonderful, very informative presentation. I'm a comparativist by nature. I'm always thinking in those sorts of terms, comparing dichotomies, all of that. You had touched on it briefly, talking about how Alberta's Lobbyists Act stacks up with other Canadian jurisdictions. Could you expand on that a little bit? I would just like to know maybe where Alberta is a bit unique, if possible, in regard to this legislation and where we're similar. I mean, are there any other provinces, as we review this very important act, that we could look to that might have some best practices we may want to consider? I believe in Albertan exceptionalism. We're the best province in Canada, but I'm sure we can learn from some of our provincial peers.

Thanks so much.

Ms Neatby: Okay. Now, I understand that one of the tasks that will be undertaken, as staff is supporting this committee in its review, will be a jurisdictional comparison. Some of my knowledge on this may be a bit out of date, and we'd be well served by refreshing our jurisdictional comparison. Some of the things that jump to my mind, though, in terms of comparison are that the obligations for registration under the federal act are more strenuous than those in Alberta. That doesn't mean that they're necessarily better. I think

that's something for the committee to consider and to hear from stakeholders on.

Alberta is a bit unique in the two aspects that I've spoken about, which are the Ethics Commissioner and lobbyist registrar's ability to impose administrative penalties. Alberta does have other legislation where there's ability to impose administrative penalties. In some instances other jurisdictions have followed that, and they also have it in general. My knowledge about whether other lobbying legislation in Canada has adopted that is not up to date, I'm afraid. That's something that we'll look into.

The other somewhat unique aspect is the prohibition against a dual role although I believe that Quebec has something similar, and jurisdictions that have adopted codes of conduct may also have similar provisions. Again, that is something that we should refresh our knowledge of when we look at legislation from other jurisdictions.

The Chair: Mr. Walker, do you have a supplemental?

Mr. Walker: No. Thanks a lot, Chair. That was excellent.

The Chair: Any other members wishing to ask any questions at this time?

Seeing none, I would like to thank you, Ms Neatby, for your presentation and for answering questions from the committee members today. I would ask that – sorry. I apologize; my notes include additional remarks that aren't required. We appreciate your time. You are welcome to stay and observe or leave the meeting at this time. Thank you for your co-operation.

I would now like to call upon the hon. Marguerite Trussler, Ethics Commissioner, and Ms Lara Draper, lobbyist registrar and general counsel, to make a presentation to the committee. Ms Trussler and Ms Draper, you have 20 minutes for your presentation.

Ms Trussler: I'll start, and then I'm going to turn the matter over to Ms Draper. Thank you for inviting us to take part in this technical briefing. I want to provide some very brief political background to lobbying legislation in Canada. For the most part, this type of legislation has been enacted in reaction to scandal or crisis of some sort. The result is that the legislation has tended, with some exceptions, to be the bare minimum.

The situation was different in Alberta. Former Premier Stelmach, when he was running to be leader of the Progressive Conservative Party, had lobbying legislation as part of his platform, and when he was elected, he wanted to implement it. He did face some resistance from within his cabinet and elsewhere, and many compromises were made to get a consensus. Compromises do not often work well in legislation, so as a result, there are areas within the Alberta legislation that could work better. The main thing I would ask you to bear in mind as you review this piece of legislation is that public transparency needs to be paramount.

I'm now going to ask the lobbyist registrar, Ms Draper, to give you an overview of the Lobbyists Act.

Ms Draper: Good morning. Thank you to the committee for inviting us today. As has been mentioned, my name is Lara Draper. I am the Alberta lobbyist registrar as well as the general counsel at the Ethics Commissioner office. I've been in those roles for over four years. I'm not sure if you can see there. I can't see at all if you have the PowerPoint before you.

The Chair: We are just having a technical issue, unfortunately. It's thinking. The computer is thinking. We'll hopefully get it up shortly.

Ms Draper: Okay.

9:30

The Chair: Yeah. Sorry. One more thing, Ms Draper. It is posted on the committee's internal website. If anybody has their technology able to bring that up, that would be helpful, and that way, Ms Draper, you can proceed.

Ms Draper: Okay. I'll just proceed as if it's not visible, but if you have it, great.

As lobbyist registrar I am responsible for administering the Alberta lobbyist registry, enforcing compliance with the Lobbyists Act and educating lobbyists and the public about the Lobbyists Act. Today I'm going to give a very brief introductory overview of the regulatory regime that's set out in the Lobbyists Act and its corresponding regulation and ministerial order for those who are paid to lobby Alberta public office holders.

Because of the limited time we have, this presentation, of course, cannot cover everything there is to know about the subject matter, so I also have prepared a handout for the committee that sets out more detailed information for members to review at their convenience, after the presentation today. I will send that to Aaron Roth after the meeting for distribution to members. Keep in mind that even the handout is an introductory overview of the subject and can't cover everything either.

If you have our PowerPoint, next slide, please. Now, in general, the Alberta Lobbyists Act regime recognizes that lobbying is a legitimate and an important activity in a democratic society, but it aims to protect the public interest by balancing that free and open access to government with public transparency and accountability as to who is being paid to try to influence government as well as with a few restrictions on what those people can do in order to prevent conflicts of interest.

Keep in mind that individuals who engage in a particular profession or activity often are subject to regulatory requirements in order to protect the public interest, and that is normal across a broad range of legitimate professions and activities. Lobbying is no different. If an individual makes the choice to be paid to lobby or an organization makes the choice to pay someone to lobby on its behalf, then there is absolutely nothing wrong with that, but they need to understand that they're going to have to respect and comply with the Lobbyists Act requirements, that aim to protect the public interest.

Next slide, if anyone has it. What is lobbying? The full definition of lobbying is in the handout that committee members will be receiving, but in a nutshell it's communicating with a public office holder to try to influence their decisions and, in particular, their decisions about the content or existence of legislation, policies, programs, guidelines, and directives; the awarding of funding; and the privatization or sale of the provision of goods and services to government.

Now, there are three key points to briefly highlight here about the definition of lobby, and more details about these points are in the handout. First, the definition of lobby requires there to be a communication with one or more public office holders, whether that be by direct communication, by grassroots communication, or, for consultant lobbyists only, by arranging a meeting. The second point to highlight is that except for in the case of a consultant lobbyist arranging a meeting, the definition requires that the communication involve an attempt to influence public office holders' decisions about certain matters. The last point to highlight here is that the definition of lobbying is broader for consultant lobbyists, and we will talk about those two types of lobbyists in a moment.

Next slide, please. As I've just mentioned, the definition of lobby requires there to be a communication with one or more public office holders. Now, who is a public office holder? The full definition is on the slide, and more details, of course, are in the handout. But put briefly, public office holders include Alberta MLAs and their staff, Alberta cabinet members and their staff, and employees and members of the Alberta government and of many Alberta agencies, boards, and commissions.

Next slide, if you're following. Now, not everyone who does the action of lobbying necessarily is going to meet the definition of a lobbyist under the act. There are two types of lobbyists under the act, consultant lobbyists and organization lobbyists, and the requirements and restrictions in the act differ in some respects depending on which type of lobbyist someone is. A consultant lobbyist is a person who, for payment, undertakes to lobby on behalf of another individual or organization other than their own organization or the organization that employs them. In other words, it's a person who has been engaged to lobby on behalf of a client in exchange for payment.

An organization lobbyist is a paid employee, paid officer, paid director, partner, or sole proprietor of an organization who lobbies or has a duty to lobby on behalf of that organization and who, collectively with everyone else in the organization, meets the 50-hour annual organization lobbyist threshold. These are the paid in-house personnel who lobby or have a duty to lobby on behalf of their own organization or the organization that employs them. But, as you can see, simply because an individual lobbies on behalf of their own organization or their employer does not necessarily mean that they meet the definition of organization lobbyist. The 50-hour annual threshold for organization lobbyist also has to be met to fall within that definition.

Next slide. The slide and the handout explain this threshold in more detail, but, in short, the 50-hour annual organization lobbyist threshold will be met by an organization if the cumulative or collective amount of time that any one or more of the paid in-house personnel of the organization have spent lobbying and preparing to lobby or have a duty to spend lobbying and preparing to lobby on behalf of the organization is 50 hours or more in a year. Now, some key practical issues to note here are that organizations can outsource preparation time in order to avoid meeting the threshold. It is difficult for this office to independently determine how much time an organization spent preparing to lobby, and the amount of time spent on lobbying does not necessarily correlate to the level of access or influence achieved by the organization.

Next slide, please. Communications in certain specific circumstances are expressly exempt from the application of the Lobbyists Act, and certain types of individuals are expressly exempt from the application of the act for things that they do when they're acting in their official capacity. It's not possible to address all the exemptions in a brief, introductory overview, so instead this presentation and the handout highlight two of them that are most notable. The first is the exemption for unpaid volunteers. Volunteers who do not receive any payment for their services are exempt from the application of the act and are not considered to be lobbyists even if they lobby.

The second is the exemption for in-house personnel of many nonprofit organizations. There is an exemption in the act for the directors, officers, and employees of nonprofit organizations; one, that are not established to serve management, union, or professional interests and, two, that do not have a majority of members that are profit-seeking enterprises or representatives of profit-seeking enterprises. Those individuals are not subject to the act when they're acting in their official capacity as a director, officer, or employee of that type of nonprofit organization, so they don't need

to register as lobbyists for any lobbying that they do on behalf of their nonprofit organization in that official capacity.

An issue to highlight here is that although this exemption does not capture organizations like unions or professional associations or business or industry associations, it does capture a broad scope of organizations that are nonprofit, which can include organizations that lobby about special-interest issues, and those organizations currently can avoid publicly registering that lobbying because of this exemption.

Next slide, please. The way in which the act seeks to have public transparency and accountability about lobbying by lobbyists in Alberta is by establishing a public registry in which lobbyists must disclose their lobbying through registration. In practice, the Alberta lobbyist registry is the online registration system that lobbyists must use to publicly register their lobbying in compliance with the registration requirements in the act. It is free to register in the registry. It's also free to search the registry. All registrations are searchable and viewable by any member of the public with an Internet connection, free of charge at any time, and without the need to create an account or a password.

Next slide, please. What are the registration requirements for lobbyists? Again, more details are in the handout, but, put briefly, the registration requirements in the Lobbyists Act are as follows. Consultant lobbyists must file one registration per client within 10 days of the date that they entered into the client engagement. Then they must keep their filed registrations up to date by filing updates within 30 days of any changes, and they must terminate a filed registration within 30 days of the end of the relevant client engagement.

9:40

Organization lobbyists must file one registration that covers all the in-house lobbyists in the organization within two months of the date that the organization met the 50-hour threshold. Then the organization must keep its registration up to date by filing updates within 30 days of any changes and by filing renewals twice a year. Also, if the organization ever were to stop being required to register, then it would need to terminate its registration within 30 days.

Something to note about the filing requirements for both consultant lobbyists and organization lobbyists is that unlike in some other Canadian jurisdictions, like at the Canadian federal level, there currently is no requirement in the Alberta Lobbyists Act to file a report that specifically sets out meetings held with senior public office holders such as members, ministers, ministerial staff, deputy ministers, assistant deputy ministers, and chief executives of public agencies. In Alberta as long as a lobbyist's registration for the relevant client or organization is active, up to date, and generally covers the subject matter stressed, communication techniques used, and public office holders lobbied, the lobbies can rely on that one registration to broadly cover all of its lobbying meetings and communications for the client or the organization during the entire time period covered by the registration. However, this does mean that there is less public transparency and accountability about who is being paid to meet with and influence senior public office holders in Alberta than in some other jurisdictions.

Next slide, please. What information needs to be included in a lobbyist registration? The information that consultant lobbyists and organization lobbyists must disclose in their registrations is set out in schedules 1 and 2 of the Lobbyists Act. Because of time constraints today, I can't discuss all of the requirements in any detail, but I have provided more information about them in the handout. Put very briefly, the required information includes information about the client in the case of consultant lobbyists or the organization in the case of organization lobbyists, and it also includes information about the

individual lobbyists such as their first and last names and whether they have breached any prohibitions in the act and also about the lobbying activities.

An important item to highlight here is that there is no requirement to disclose the names of any individual public office holders lobbied. Rather, lobbyists currently only need to identify the government departments and provincial entities lobbied and then check off a box to generally indicate whether or not they lobby any MLAs, any members of the Executive Council, or any of their staff. Hence, the current lack of a requirement for lobbyists to specifically register meetings with senior public office holders is particularly notable when we are thinking about public transparency.

Next slide, please. In addition to the registration filing obligations, the Lobbyists Act also includes a few restrictions on what lobbyists can do, and that's in order to prevent conflicts of interest. In the interest of time I'm going to note these restrictions only very briefly, but again more information about them is in the handout. Section 6.1 of the act prohibits consultant lobbyists from receiving "any payment that is, in whole or in part, contingent on [their] degree of success in lobbying."

Section 6.2 of the act prohibits both consultant lobbyists and organization lobbyists from giving or promising a "gift, favour or . . . benefit to the public office holder being or intended to be lobbied [one] that the public office holder is not allowed to accept or [two] that, if given, would place the public office holder in a conflict of interest." Overall, section 6.2 is difficult for lobbyists to comply with, which makes it more challenging to administer and enforce as well. It is highly contextual, and what's acceptable can differ significantly depending on the particular public office holder and the particular situation as different public office holders will be subject to different gift restrictions and circumstances. For example, each public agency, board, and commission has its own code of conduct that sets out the gift restrictions that apply to its own board members and employees, and those restrictions can differ considerably across agencies.

Then, finally, there are the contracting prohibitions in section 6 of the act, which Ms Neatby talked about more. They basically aim to prevent conflicts of interest from arising because the same or related persons are being paid to influence public office holders at the same time that they are being paid to advise public office holders.

Next slide, please. Although I take a proactive approach as registrar to compliance in order to try to reduce the amount of enforcement action required, the lobbyist registrar and the Ethics Commissioner do have enforcement powers available to promote compliance with the act. These enforcement powers are noted briefly on the slide and are set out in more detail in the handout. We don't have time to go through them now, but I do want to highlight one issue before we wrap up, and that is that an investigation under section 15 in the act results in an investigative report that's tabled by the Speaker in the Legislative Assembly.

However, most actual or potential breaches of the act in practice are too minor to warrant a full investigation that ends with a report tabled in the Assembly. You know, typically if it looks like there might be a breach, then I would make preliminary inquiries and requests for information or documents, and that usually is sufficient to determine that there was in fact no breach, or if there was a breach, a written warning and/or an administrative penalty along with the direction to do the appropriate corrective action such as file the outstanding registration or retract the prohibited gift offer usually together is sufficient to address it and promote compliance.

It would be helpful in those cases for the registrar to have the power to compel information or documents where necessary to determine if there was a breach and also what enforcement action

is appropriate to promote compliance in the circumstances without having to commence a full section 15 investigation resulting in a report tabled in the Assembly. Currently the act does not provide for that.

Next slide, please. That's it for the formal presentation. As I mentioned, I have a handout for committee members that provides a more detailed introductory overview than we had time for today. I'll be sending that to Aaron Roth for distribution to members following this meeting. Otherwise, I am happy to answer any questions now as well.

The Chair: Thank you, Ms Draper and Ms Trussler, for your comments. Very much appreciated.

I would now like to open the floor for members of the committee to ask questions in relation to this presentation. The committee has up to 30 minutes for these questions. I do have a list. I will start again with Member Loyola.

Member Loyola: Thank you very much, Mr. Chair. I want to thank Ms Draper. Although it's a very summarized presentation, you managed to hit on a lot of issues, specifically around enforcement. This question goes to Commissioner Trussler. You already mentioned about the interpretation of the act and issues related around that. Now, previously I asked a question about meetings and what constitutes a meeting. However, I believe that Ms Draper managed to shed some light on that. To you, Commissioner Trussler: when you're actually looking at implementing and enforcement, what are some of the things that you would like to see changed in the act?

Ms Trussler: I think Ms Draper, because she does the enforcement, would be in a better position to answer that question.

Member Loyola: Oh. Perfect. Okay. Thank you.
To Ms Draper, then.

Ms Draper: Thank you. I think my last point in the enforcement powers section would be my number one issue that I think is kind of lacking in the current legislation. As I mentioned, in practice a lot of the noncompliance is relatively minor, you know, missing a filing deadline by a few months by accident because they genuinely didn't know they had to register or something like that. It would be good in those situations in order to request documents or information to not have to commence a full investigation that's going to go to a report in the Assembly for just something as minor as that. That would be an issue that I think is lacking currently.

Member Loyola: If you don't mind, Mr. Chair, a follow-up supplemental. At the very beginning of your presentation you mentioned that our act doesn't lend itself to as much transparency compared to other jurisdictions. Can you speak specifically to that once again in terms of how you think we – now, I imagine that that would have to do with the fact that senior public officials, lobbyists, don't have to register the hours that, well, they don't have to identify a time meeting with them. Can you further elaborate on that to give us a better understanding of what you meant by not as transparent as some other jurisdictions?

9:50

Ms Draper: Yeah. Our office will at the appropriate time be providing a full written brief with recommendations for areas of improvement in the act, but that specific comment was about the lack of a meeting registry. Currently the Alberta legislation does not have any requirement to specifically file reports that disclose meetings held with senior public office holders in Alberta versus some jurisdictions like at the Canadian federal level. Also, I believe B.C. recently

implemented a similar requirement in their amendments to their legislation last year. So that comment was specifically about that.

As I mentioned in the presentation, currently in the lobbyists registration lobbyists just need to identify the government department lobbied as well as any prescribed provincial entities lobbied and then just check a box to generally indicate: do they lobby any MLAs, any members of Executive Council, or any of their staff? Specifically about that lack of requirement that I was mentioning in my presentation.

Member Loyola: Okay. Thank you, Ms Draper.

The Chair: Thank you.
Mr. Bilous.

Mr. Bilous: Thanks, Mr. Chair. Thanks, Ms Draper. I think you answered – I had a similar question. When you just talked about how lobbyists only have to indicate which department, my next question was a comparative analysis. So, you know, which jurisdictions across the country do they have to indicate which senior officials by title or by name? I think you said B.C. and the federal government. Are there any other jurisdictions that have to indicate when they have specific meetings, not just the department but which senior officials?

Ms Draper: I'm most intimately familiar with Alberta legislation as that's the one I actually administer day to day. I think that, as Ms Neatby said, there will be an opportunity at some point for a more in-depth comparative analysis across other jurisdictions, and that might be a better time to get into the nitty-gritty there. I do believe that even if it's not specifically in the meeting registry, there are other jurisdictions, kind of just off the cuff, in Canada that do require names, or position titles rather, of the individual public office holders they are lobbying, but I don't have all the information for that kind of in-depth analysis at this point.

Mr. Bilous: Okay.
Thank you.

The Chair: Any supplemental, Mr. Bilous? Thank you.

Mr. Rowswell: You had mentioned that organizations can outsource their preparation time. Is that a common practice, and what challenges does that present for you?

Ms Draper: You know, I'm not sure how common it is, but it is something I have seen from time to time. Basically, the issue there is that there is a loophole in the current Lobbyists Act whereby an organization could engage an outside consultant to do all of the preparation for the organization's in-house lobbying, or at least a lot of the preparation, and then the outside consultant's preparation time is not counted towards the organization, their threshold, and the organization itself might not meet the threshold through the actual lobbying time of its in-house personnel alone. So the organization might not have to register because it's taking a lot of that time out and outsourcing it to someone whose time isn't counted towards the lobbying threshold for that organization, and then meanwhile the outside consultant itself also doesn't need to register as a lobbyist either because it only has been engaged to do the preparations and not to actually lobby.

The Chair: Thank you very much.
Mr. Rowswell, do you have a supplemental?

Mr. Rowswell: Yeah. So I imagine that everyone is getting paid in the interim, like even the outside person for doing the prep work,

and that gets billed to someone eventually. Like, is that a problem? The total dollar amount may not be known. Well, I guess the biggest thing is the time. The time is not counted towards making them having to register is the biggest issue as opposed to the dollar amount, I guess, is what you're saying.

Ms Draper: Yeah, exactly. The Lobbyists Act actually doesn't take into account how much someone is being paid to lobby; the issue is if someone is being paid at all to lobby, then that's what could bring them under the scope of the legislation. So how much someone is being paid currently is not relevant under the current legislation but the issue there, as you pointed out, yes, is that the threshold counts both time spent lobbying and time spent preparing to lobby, and if an organization kind of outsources a chunk of that work, all the prep time, then it's going to either help them or make it a lot less likely for them to meet the threshold that will trigger them to have to register.

The Chair: Thank you very much for that.

Any other members wishing to ask questions at this time? One more call online just to make sure.

Seeing none, I would like to thank Ms Trussler and Ms Draper for their presentations today and for answering the questions from the committee members. I believe that was fairly comprehensive and helpful for our further deliberations. Please feel free to observe the rest of the meeting or sign off as your schedule dictates.

We will now move ahead with the committee with decision items. The first item on that list is the stakeholders list. Hon. members, at our September 13, 2021, meeting the committee directed the Legislative Assembly Office research services to prepare a draft stakeholders list for the committee's consideration at today's meeting. The draft stakeholders list was provided to committee members at the beginning of October, and it was posted to the committee's internal website. At this time I would like to ask Dr. Sarah Amato with the LAO research services to provide an overview of the document.

Dr. Amato: Good morning.

The Chair: Good morning.

Dr. Amato: I hope you can hear me. Thank you, Chair.

The Chair: Yes, we can.

Dr. Amato: I'm just going to provide an overview of the draft stakeholders list, and I'm happy to answer any questions about it. On the draft stakeholders list you'll notice that there are roughly seven headings. Those include the lobbyists that are currently registered on the lobbyist registry – that's approximately 500 lobbyists – municipal organizations; advocacy groups, ethics associations, and research institutions; academics; volunteer service organizations; Members of the Legislative Assembly as public office holders; and the office of the Ethics Commissioner and lobbyist registrar.

I'll also note, generally speaking, just some comments on how we came up with this list of suggestions. These are individuals and organizations who have participated mainly in previous reviews of this act and/or were discussed in previous reviews of this act. As was noted, this is a draft list of suggestions. I'm happy to answer questions about it, and of course we're also very, very happy to take suggestions for modifications at the will of the committee.

Thank you very much.

The Chair: Thank you, Dr. Amato.

Are there any questions or comments from committee members? Ms Sweet.

Ms Sweet: Thank you, Mr. Chair, and thank you for the update on the stakeholders list. I have a motion if no one has any questions, so I can put it on the floor now unless anybody wants to actually ask anything about the list. Okay.

The Chair: Seeing none, I would ask that you proceed with presenting that motion.

Ms Sweet: Okay. I did submit a motion that reads that the Standing Committee on Alberta's Economic Future approve the proposed stakeholders list prepared by research services as part of the committee review of the Lobbyists Act and invite the listed stakeholders and the public to provide written submissions on or before December 2, 2021, notifying those who make submissions that their name and submission may be made public.

The Chair: Thank you very much, Ms Sweet.

At this point I would ask if there are any comments or discussion based on the motion before the committee. Anyone online wishing to comment on this motion?

Seeing none, I am willing to call the question. In the room, all those in favour of the motion as presented, please say aye. Anyone opposed, please say no. Online, all those in favour of this motion, please say aye. Anyone online opposed, please say no. Hearing none,

this motion is carried.

Thank you very much, Ms Sweet.

Next on the agenda is next steps in the review. Hon. members, the committee should now undertake a discussion as to the next steps in our review of the Lobbyists Act. At this stage in other reviews committees have discussed how they would like to engage stakeholders and receive other feedback such as public written submissions. At this time I would like to open the floor to a discussion about how the committee would like to proceed with consultations.

10:00

Ms Sweet: Should I talk again?

The Chair: No. I will correct it. We've already done that. I apologize. We just agreed to the motion from Ms Sweet. That was a redundant statement that I read, and I apologize for that.

We'll skip down a little bit further to where the committee has chosen to proceed with seeking public consultations. Hon. members, the committee has decided to seek written submissions from the public as part of the review of the Lobbyists Act. I would like to invite the Legislative Assembly Office corporate communications to provide the committee with an overview of options available for advertising and engaging the public to make submissions. Ms Janet Laurie, on the screen, please provide your presentation.

Ms Laurie: Thank you, Mr. Chair. As you said, I'm Janet Laurie. I'm representing communications services for the LAO. What we can do from communications is pull together a document that provides the options available to the committee in terms of different strategies, be they paid advertising, low cost, no cost, and that way the committee can review all of those options and determine how they'd like to proceed if they're proceeding with written submissions in terms of public engagement.

The Chair: Thank you very much, Ms Laurie.

Ms Laurie: Thank you.

The Chair: Are there any questions for Ms Laurie at this time?

Seeing none, I think there is a proposed motion – Mr. Rowswell, sorry. I apologize.

Mr. Rowswell: I'd like to move that

the Standing Committee on Alberta's Economic Future direct Legislative Assembly Office corporate communications to develop a low- to no-cost communications plan to engage the public in making written submissions to the committee in relation to the review of the Lobbyists Act for the approval by the chair and deputy chair after the committee members have had an opportunity to review it.

The Chair: I believe this motion will be posted shortly. At this time are there any comments or questions from any of the committee members on the proposed motion? Online? Oh, sorry. Mr. Bilous.

Mr. Bilous: Yeah. My only question. I appreciate that we want to keep costs low, but at the same time I think we want to ensure that, you know, members of the public are aware that we are reviewing this legislation and that they're invited to make submissions. I appreciate that those that are already registered lobbyists will be well aware that this legislation has come up, but I think that for private members it may be important that the LAO develop a robust communications strategy. But I do think – I'm not speaking opposed to this motion – especially nowadays with social media and the low cost to advertise through social media, that the LAO could come up with a robust low-cost communications strategy.

The Chair: Thank you, Mr. Bilous. I think that's reasonable and, given the language, is subjective to some degree unless you're wanting to propose an amendment. Are you still – thank you very much for that.

Again, anyone online wishing to comment on the proposed motion?

Seeing and hearing none, I am prepared to call the question. Thank you again to Mr. Bilous for that consideration. I think that is wise, and I would ask the LAO to hear those words within this motion. In the room all those in favour, please say aye. Any opposed, please say no. Online all those in favour, please say aye. Thank you. Any opposed, please say no. Hearing none,

this motion is carried and so ordered.

Now I believe we will be moving to agenda item 5, a request to present to the committee by the Tourism Industry Association of Alberta. Hon. members, at our September 13, 2021, meeting the committee agreed to take up a discussion at today's meeting as to whether it wishes to hear a presentation from the Tourism Industry Association of Alberta in relation to its recently released report,

Alberta's Crown Land Outdoor Recreation Economy. At this time I would like to open the floor to a discussion on the matter. Are there any wishing to speak? Mr. Bilous.

Mr. Bilous: Sure. I believe this committee has heard from this group in the past. I think it's important to hear from the tourism association of Alberta. I think they play a critical role. I think we all understand, some better than others, how the tourism industry has been impacted over the last two years due to COVID.

But I appreciate the fact that the tourism association of Alberta has recently put out a report, so I think I will put forward a motion that we invite them to come present to us to give us the opportunity to ask questions. I know I'm very, very interested to hear how they are managing, you know, the pandemic and their plans moving forward, looking at how we can support tourism as an economic diversification tool and a critical element to Alberta's economy. So I'll move that

the Standing Committee on Alberta's Economic Future invite the Tourism Industry Association of Alberta to present to the committee at a future meeting on the Alberta's Crown Land Outdoor Recreation Economy report as per their request to the chair.

The Chair: That motion is now up on the screen. Any others wishing to speak to this motion? Anyone online?

Seeing and hearing none, I am willing to call the question. To the motion put forward by Member Bilous, in the room all those in favour, please say aye. Anyone opposed, please say no. Online all those in favour of the motion, please say aye. Anyone opposed, please say no. Hearing none,

that motion is carried and so ordered.

Thank you, Mr. Bilous.

Now back to the agenda items. Do any members of the committee have any other business that they wish to bring forward at this time? Online, last call for any other business.

Seeing and hearing none, the date of the next meeting will be at the call of the chair.

At this time I will adjourn the meeting if there's nothing else for the consideration of the committee. I will call for a motion to adjourn. Mr. Walker. Moved by Mr. Walker that the October 21, 2021, meeting of the Standing Committee on Alberta's Economic Future be adjourned. In the room all in favour, please say aye. Any opposed, please say no. Online all those in favour, please say aye. Anyone opposed, please say no. That motion is carried.

Thank you, everyone.

[The committee adjourned at 10:08 a.m.]

