

INFLUENCING BC

A quarterly e-zine on lobbying, lobbyists, and transparency in public influence

O.R.L.
office of the
registrar
of lobbyists
BRITISH COLUMBIA

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THE WAY FORWARD: A MESSAGE FROM THE REGISTRAR

I have a confession to make. I have been lobbied.

As a former “designated public office holder” under the federal system, I learned firsthand that lobbyists come in all shapes and sizes, contrary to inaccurate but enduring perceptions that lobbyists are shady backroom players. The fact is that we live amongst lobbyists.

They are non-profit associations seeking additional funding for out-of-school care. They are local businesses seeking changes in law enforcement policies. They are chambers of commerce seeking tax exemptions for certain businesses; environmental groups seeking to protect indigenous species of plants or animals; companies attempting to secure contracts; corporations seeking public private partnerships; labour organizations seeking to increase the minimum wage, and consultants hired by grieving parents to try and change the laws on drunk driving.

To many people, lobbying is something of a dirty word. There is a common and inaccurate perception

that lobbying is unethical and damaging to healthy government. The truth is that lobbying is a fundamental part of the political decision-making process.

Politicians and public servants cannot be expected to know and understand every angle of an issue. Lobbyists bring valuable information and expertise to the decision-making process. Public agencies often seek outside advice and opinion in the form of public consultations, legislative committees and other public forums. In comparison, lobbyists provide input, for payment, on issues of interest to their client or employer.

The new *Lobbyists Registration Act* recognizes lobbying as a legitimate activity. The Act requires that lobbyists declare their activities and provide information about who they are lobbying, on what subject matter and toward what end, through the public lobbyists registry, which can be found at www.lobbyistsregistrar.bc.ca.

As Registrar, I have a specific mandate to educate lobbyists about their responsibilities to register and the public about their

right to search the registry to see for themselves who is attempting to influence government decisions.

This publication, the inaugural edition of **Influencing BC**, is a tangible demonstration of my commitment to ongoing dialogue about lobbying in British Columbia and a key vehicle for providing new and important information to stakeholders and citizens of British Columbia.

Influencing BC is also a platform for critical discussion about lobbying in British Columbia and contains articles from the lobbying community and the media. I hope you enjoy this newsletter and welcome your feedback as well as ideas for future content.

Happy New Year,

Elizabeth Denham
Registrar of Lobbyists



THE INDUSTRY PERSPECTIVE:

Working with a Consultant Lobbyist

The BC Lobbyists Registration Act defines consultant lobbyists as an “individuals who, for payment, undertakes to lobby on behalf of a client.” This is one of the most uncomplicated definitions in the legislation. But there is much about the work of consultant lobbyists that is mysterious to the public and even government officials.

Consultant lobbyists are sometimes portrayed as government insiders hired for their privileged access to cabinet ministers and senior decision makers. The implication is that consultant lobbyists can have undue influence and this power is a commodity for sale. The reality is much different and misconceptions about consultant lobbyists’ activities can lead to ill informed or even unscrupulous individuals attempting to avoid the mundane hard work that is central to legitimate policymaking.

It’s important to recognize that there is a significant difference between consultant lobbyists in Canada and those in the US. Canadian consultants generally do not advocate directly to government on behalf of their clients. In our parliamentary system the consultants tend to serve more as experts on governmental process. Undoubtedly consultant lobbyists will try to present their clients in a positive light when speaking to government officials but most of the time these officials want to deal directly with the clients since a consultant lobbyist will not have the specific technical knowledge that government officials require when evaluating policy options.

Still there are many good reasons for organizations to work with consultants. This is because an experienced con-

sultant can save an organization time and resources by helping their clients target their advocacy efforts where they can be most effective. Ironically the taxpayer also benefits from this relationship as the consultant lobbyist helps stream organizations into the proper ministries and agencies thereby reducing government time spent on redundant meetings or information requests.

“...lobbyists know how the legislature works...”

The consultant lobbyist’s job is to offer expert knowledge of the systems of government. Consultant lobbyists know how the legislature works, the budgeting process and timetable. They keep on top of policy statements by government and opposition members. They read the Ministry and Crown Agency Service Plans and the official political party positions on key client issues. They keep on top of changing roles within ministries and even the advocacy efforts of allied or competing stakeholders groups. These are all fairly ordinary tasks that most organizational leaders just don’t have the time to do efficiently.

In order to be effective consultant lobbyists also will seek to gain a strong knowledge of the corporate interests of their clients so they know exactly what to watch for. This is not always clear through the apparent core interests of

the client. Forest companies or health professions for example can be just as interested in tax policy change as they would be in forestry or health policy. Much of a consultant’s time can be spent ascertaining just what it is exactly the client wants government to do. A good consultant will press the organization’s leaders on the need for the desired outcome as these questions will eventually be posed by the politicians and public servants so it is good to get it right from the start.

An experienced government relations consultant will be aware of what is possible and what is not feasible with the government of the day. If the client has a bad idea the consultant probably will tell them at the start hopefully saving futile effort in a failed cause. This doesn’t mean a consultant will back away from a tough file but it may mean the consultant will have to inform the client that the changes sought could require months or even years of sustained effort to achieve.

Of course it is not always necessary for organizations to hire a government relations consultant to successfully get its views into government. Modern governments utilize an array of techniques

to measure the feedback of stakeholder groups and the public regarding proposed policy changes. These methods range from legislative committees, policy intentions papers, task force reports, the annual budget consultation process, and increasingly, web based consultations. Public servants and politicians will readily acknowledge that this exchange of information between government and stakeholders is essential for good public policy development. However, there are at least a dozen major policy consultations occurring at any one time across the federal and provincial governments of Canada. In addition there are numerous ongoing demands on organizations effected by the decisions of government. It is understandable therefore that those organizations will seek the aid of a consultant lobbyist to help them stay informed and effectively negotiate the maze of government process.

- Keith Bell

Keith Bell is the owner of Keith Bell and Associates, a full service public policy and government relations consulting firm and the publisher of the Policy Monitor Canada.

Websites of Interest

BC Lobbyists Registry

www.lobbyistsregistrar.bc.ca

The Lobby Monitor

www.arcpub.com

Office of Commissioner of Lobbying of Canada

www.ocl-cal.gc.ca

Policy Monitor Canada

www.policymonitor.ca

Government Relations Institute of Canada

www.gric-irgc.ca

ASK THE REGISTRAR

Q. On my registration I am supposed to list, in addition to public office holders that I already have lobbied, public office holders I “expect to lobby.” This seems very broad. Should I be listing as many as I can think of, to be on the safe side?

A. “Expect” means to confidently believe in something. Think of this clause as minimizing registration requirements by allowing you to list public office holders that you are scheduled or planning to lobby in the future at the same time you list those you already have lobbied. Do not list every public office holder that you may possibly lobby; list only those that you believe, with confidence, you will target in the future. If you cannot provide details about your planned lobbying it is likely premature for you to add this information to your registration.

Q. Someone I know has signed a contract to lobby on behalf of an environmental organization, but since he has not started to lobby, he does not believe he is required to register. I think he is required to register. Who is right?

A. You are. A person who enters into an undertaking to lobby on behalf of a client must register that fact within ten days of entering into the agreement, not within ten days from the date lobbying actually takes place. Your friend is off-side of the law, and could be subject to an investigation.

Q. The Registry Manager has sent a message to me saying I have not provided sufficient details concerning my lobbying activities. How much detail is required?

A. When you register, you are required to provide details on the objectives of your lobbying. You must select an “intended outcome” of your lobbying, which is provided in a drop down list. If, for example you have chosen “Education” as your subject matter and “development of a legislative proposal” as your intended outcome, you must describe, in a summary format the nature of the legislative proposal. It would not be acceptable to state “new school act”. The correct level of detail would be “Legislation pertaining to the establishment and governance of independent charter schools.” Although the registry is only a snapshot of lobbying activities, filers should provide “pertinent but parsimonious” information in order to shed light on how and who influenced public decisions.



MEET THE DEPUTY REGISTRAR OF LOBBYISTS

Mary Carlson was appointed Deputy Registrar of Lobbyists on January 1, 2010. Prior to her appointment, Mary was the Executive Director of the Office of the Information and Privacy Commissioner for eight years, and brings a wealth of investigative and oversight experience to her new job.

What does the Deputy Registrar do? The Deputy Registrar of Lobbyists oversees, promotes and enforces prov-

ince-wide compliance with the Lobbyists Registration Act (LRA). In addition to referring matters of non-compliance for prosecution, the Deputy Registrar conducts investigations to determine whether an individual has complied with the law and may also impose administrative penalties and other LRA penalties.

The Deputy Registrar is responsible for ensuring the lobbying community is aware of its registration responsibili-

ties, provides information to the public about its ability to search the public registry and provides strategic advice on matters affecting the registration of lobbyists and public transparency of lobbying in the province.



- Mary Carlson, Deputy Registrar of Lobbyists

CALENDAR OF EVENTS

January 28, 2011

Data Privacy Day

February 7, 2011

Semi-annual meeting of the Canadian Registrars of Lobbyists, Ottawa, Ontario

February 18, 2011

Lobbyist Advisory Committee Meeting, Vancouver, British Columbia

April 1, 2011

One year anniversary of the Lobbyists Registration Act

LOBBYISTS ADVISORY COMMITTEE PROVIDES VITAL FEEDBACK

A blue-ribbon advisory committee of lobbyists has been set up to assist the ORL in securing compliance with the new lobbyist rules. The committee represents key sectors, including consultant lobbyists and in-house lobbyists from the business sector, industry associations, non-profits and organized labour. The committee is an offshoot of a smaller committee originally set up by then-Attorney General Mike DeJong to assist in

the development of regulations necessary to bring the amended Lobbyists Registration Act into force back in April 2010.

The mandate of the Advisory Committee is to provide feedback to the ORL regarding its policies, procedures and practices; recommend outreach opportunities and educational materials, bring forward specific and general concerns from the lobbying community

and comment on the accessibility and efficiency of the ORL website and online registry system.

The committee members are Kim Logan, Director of Government Relations, TELUS, Summer McFayden, Director, Political Action, BC Federation of Labour, Geoff Morrison, government relations expert; Keith Bell, Keith Bell & Associates Ltd., Serge Corbeil, Government Relations Man-

ager, BC, Saskatchewan and Manitoba, Insurance Bureau of Canada, Kathryn Seely, Manger, Public Issues, and Canadian Cancer Society, British Columbia and Yukon.

The committee meets every three months, and has met three times. The minutes of the meetings can be found on the ORL website, under the "Outreach" tab.

ORL LAUNCHES INTEGRATED COMPLIANCE STRATEGY

The ORL has launched its province-wide compliance strategy.

While sanctions for non-compliance are important, they are a small part of the overall compliance strategy. The ORL intends to seek compliance through an interrelated spectrum of compliance strategies including, incentives, education and outreach, verification of registration information, environmental scanning, reporting, investigation and administrative penalties, evaluation and adjustment. Each element of the strategy reinforces the others to achieve the objective of the Act: enhancing transparency, accountability and integrity in lobbying. This strategy is consistent with the model framework set out by the OECD in its report "Lobbyists, Governments and Public Trust: Building a Legislative Framework for Enhancing Transparency and Accountability in Lobbying", published in the summer of 2008.

The compliance strategy is founded upon the following seven ORL guiding principles:

- The purpose of the LRA is to enhance transparency in lobbying;
- Lobbying in British Columbia must comply with legislation and regulations;
- Cost-effective and non-punitive forms of resolving minor matters of non-compliance should be used whenever possible, including education, mediation and warnings;
- Enforcement activities will be carried out in a fair, objective, respectful and consistent manner;
- Educating the public about the existence of and uses of the public lobbyist registry is critical to achieving the policy objective of transparency;
- Ongoing dialogue with the stakeholder community—lobbyists, organizations, public office holders, fellow oversight agencies and the public—is essential to ensuring compliance strategies remain timely, cost-efficient and effective;
- Effective compliance and enforcement is a mix of interrelated and coordinated strategies.

The compliance strategy consists of seven elements.

First, the ORL recognizes that achieving province-wide compliance with the LRA depends mainly on ensuring designated filers clearly understand what types of communications trigger the legal requirement to register, the registration process and know where to receive further information about the Act.

Second, designated filers must be encouraged to register. Providing incentives to register, including making the registration process free, easy to understand and supportive is key.

Third, as part of the registration process, the ORL will review all registrations for completeness and accuracy before they are accepted. The ORL will also undertake random verification audits of the information contained in a registration.

Fourth, the ORL will engage in environmental scanning--proactive monitoring of government and organizations' priorities and news reports to identify possible unregistered lobbying and assess whether

any follow-up is required.

A fifth and key strategy is to create internal and external reports so the ORL and the public can examine lobbying activities. This includes running internal reports to identify registrations that may have been filed late as well as maintaining the registry so members of the public can check the data.

Sixth, the avenue of last resort is formal investigation and the levying of visible and proportionate administrative penalties in instances of non-compliance. This strategy is critical for securing province-wide compliance.

Seventh and lastly, the ORL will establish benchmarks to assess the success of its compliance strategy and to remain sufficiently flexible in its approach to adjusting the strategy if needed. This requires ongoing dialogue with the lobbyist community and the public about barriers to compliance as well as suggestions for improvement, including system improvements, educational improvements and legislative improvements.

SEE FOR YOURSELF WHO IS LOBBYING IN BC

Do you know who is lobbying who in BC? The Lobbyist Registry is available for public inspection, 24 hours a day, 7 days a week. Those wanting to see for themselves who is actively lobbying may search the registry. The Registry can be searched by the name of the organization that employs lobbyists, by the lobbying subject matter, or by the targeted public office holder. The registry has recently undergone enhancements that allow for more detailed searches within specific date ranges.

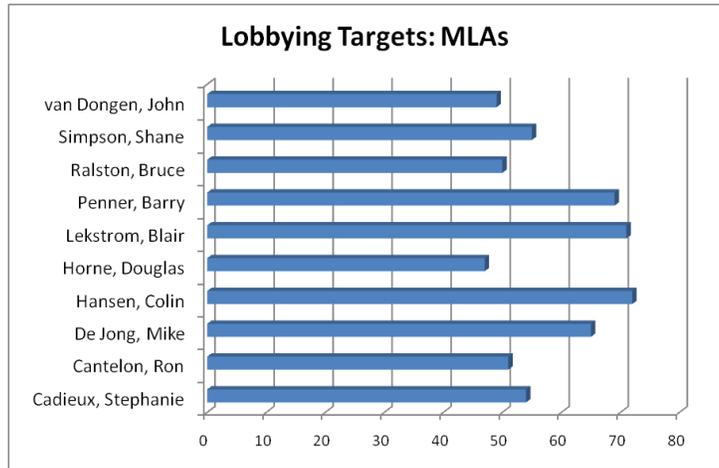
In addition to the Registry, the ORL publishes a monthly summary showing all new registrations within the previous thirty days. The report outlines who is lobbying, on whose behalf, on what subject matter, which public office holders are the target of the lobbying and the outcome the lobbyist is trying to achieve. The report is published on the first of every month, and can be found on the ORL website under the tab "Who is Lobbying Who in BC."

THE FRONT END

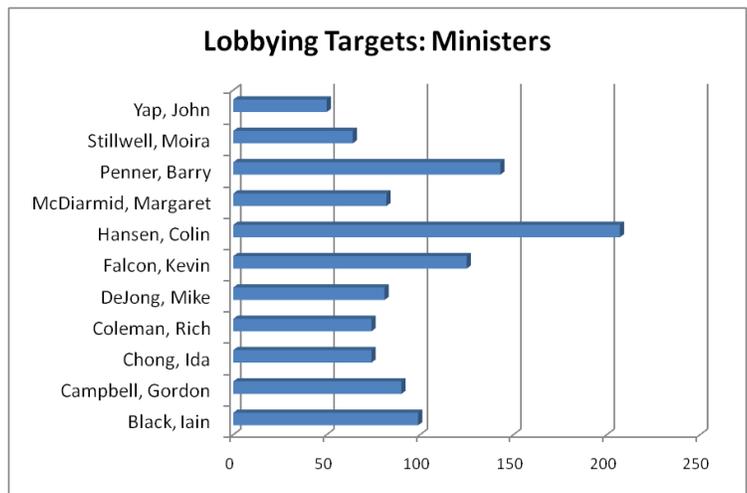
Maria Dupuis is the ORL Registry Manager. She is the friendly voice at the end of the phone and the person who is happy to assist you through the registration process. Maria reviews all registrations, and will contact you via email if she has any questions about your registration.

Maria is responsible for managing the online registration system and database. If you have any helpful suggestions about how we can make the registration process easier, please send your suggestions to her at mdupuis@lobbyistsregistrar.bc.ca.

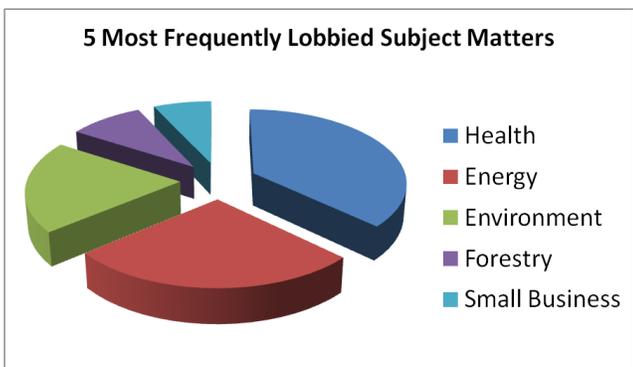
The most frequently lobbied MLAs during the period April 1, 2010 to November 30, 2010



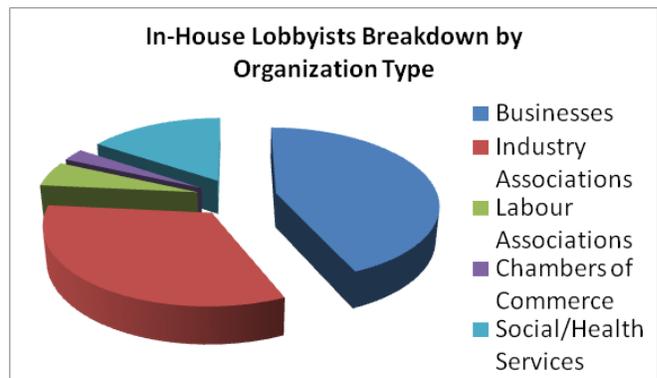
The most frequently lobbied ministers during the period April 1, 2010 to November 30, 2010



The 5 most frequently lobbied subject matters during the period April 1, 2010 to November 30, 2010



In-House Lobbyist Breakdown by Organization Type



THE MEDIA PERSPECTIVE:

“We’re going to call it the Sean Holman Amendment Act”

That’s what then-Attorney General Wally Oppal jokingly told me in February 2009 after asking him when and whether the provincial government would be fixing its long-broken Lobbyists Registration Act.

It wasn’t the first time I asked him that question and it wouldn’t be the last, hence his rejoinder. But Oppal’s promised amendment was finally introduced eight months later – following eight years of criticism of its controversial predecessor.

But even though the new legislation laudably broadens the definition of lobbying, as well as empowering the registrar to investigate alleged offences of the act, it is still little more than a gentlemen’s agreement.

There’s no proactive mechanism for ensuring your compliance with the law – other than journalists like myself and, occasionally, opposition caucus researchers. Moreover, the principle penalty for

not following the law isn’t a fine – although one does exist. Rather, to my mind, it’s the accusation you’ve violated the Act.

As such, it may be prudent for you to register even if you’re convinced you only meet the commonly understood rather than the legal definition of lobbying. After all, what’s the worst that could happen from such a disclosure?

It might lend credence to friends-and-insider stories. For example, in 2009, reporter Jeff Nagel used the registry to report on how some of “B.C.’s best-connected lobbyists” were engaged in a “pitched battle for control of Metro Vancouver’s garbage, which offers a lucrative revenue stream for the two warring firms they represent.”

But such stories are often shrugged off, at least in some quarters, as simply covering what is an inconvenient but wholly acceptable part of the business of government. And,

besides, what’s worse for you and your clients – an article reporting on the lobbying you’ve been legally doing or an article accusing you of breaking the law?

“...the legislation is still little more than a gentleman’s agreement...”

fixed the Lobbyists Registration Act.

So perhaps the best thing that can be said about that fix – and the controversy preceding it – is that they made the government relations community aware of that act and the public relations penalty that follows accusations of not being in compliance with it.

- Sean Holman

After all, such an accusation could lead to questions about why you might not have registered, encouraging further investigation and giving the story “legs.” That’s when things could get really uncomfortable for you and your clients.

Of course, all of this advice would have been just as applicable before the government

Award-winning journalist Sean Holman has served as the legislative bureau chief for 24 hours, Vancouver’s best-read commuter newspaper, and currently hosts “Public Eye Radio” on CFAX 1070. Before becoming a journalist, he served as a communications advisor under both the New Democrat and Liberal governments. Holman’s writings can be found on the muckraking website, Public Eye Online.

CONFUSED OVER THE NEW LOBBYING RULES?

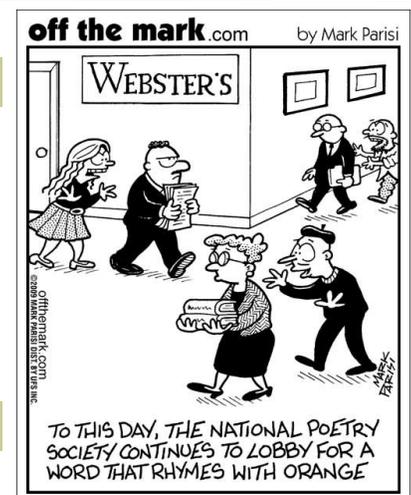
If you have questions about the new lobbying rules, the advisory bulletins on our website will likely have the answer. If not, the ORL staff is happy to speak with you and help you find the answer to your questions.

The Deputy Registrar of Lobbyists is available to speak to,

amongst others, industry associations, chambers of commerce, labour unions, non-profit associations and coalitions, and will tailor her remarks to your specific audience. Please send your request or question to the ORL at

info@lobbyistsregistrar.bc.ca.

**Lobbying
for
Laughs!**



ONTARIO GOVERNMENT HOPES TO REIN IN PUBLIC SPENDING ON LOBBYISTS

The government of Ontario hopes to rein in public spending on lobbyists. The government recently tabled Bill 119, the *Lobbyists Registration Amendment Act* which will restrict the ability of publicly funded institutions to hire someone to lobby on their behalf. Those institutions include children's aids societies, school boards, hospitals, universities and Crown entities.

The change was introduced after it was discovered that, last year, fourteen provincially funded hospitals had contracted individuals to lobby the provincial government for, amongst other things, increases to operating and capital budgets.

The bill made it through first reading before the house was adjourned. The Ontario Legislative Assembly will reconvene on February 22, 2011.

HARPER GOVERNMENT EXPANDS SCOPE OF FEDERAL LOBBYING ACT

With the goal of increasing transparency in lobbying, the federal government has, by regulation, expanded the definition of "designated public office holder." Designated public office holders are officials responsible for high-level decision-making in the federal government.

Members of the House of Commons, the Senate and staff of the leader of the Opposition and the Senate Leader are now designated public office holders. Previ-

ously, a designated public office holder only referred to a minister, any member of the minister's exempt staff, a deputy minister, associate deputy minister, assistant deputy minister or the equivalent were included in the definition.

Communications between designated public office holders and lobbyists are subject to special reporting requirements. Under the federal *Lobbying Act*, individuals who participate in an "oral and

arranged" communication with a designated public office holder must report that communication to the Commissioner of Lobbyists within 15 days after the end of the month in which the communication occurred.

Since the law went into effect on September 28, members of the senate and house of commons were targeted by lobbyists 1689 times.

ASK THE READER

On his first day of office, President Barack Obama issued an executive order prohibiting his administration from hiring anyone who was a registered lobbyist in the previous two years. This means that those who have lobbied on behalf of bank bail-outs cannot work for his administration on the economic restructuring file. It also means that the head of a national human rights agency, a registered lobbyist, cannot work for the Obama administration on the issue of advancing human rights.

Prime Minister Steven Harper has amended the federal *Lobbying Act* to prohibit anyone who worked as a high ranking federal public office holder, including Members of the Legislative Assembly and the Senate, from lobbying the government for a minimum of five years. This means that a former Deputy Minister responsible for airline security cannot retire and work for an airline security company, if that job entails lobbying the federal government. It also means that a former MP from a northern community cannot lobby

the federal government on behalf of his or her community.

Is this good public policy? Do these rules improve the quality of public decision-making, or do they dilute the process? Do these rules stopped the revolving door or prevent subject matter experts from participating in the public processes? Email your thoughts to info@lobbyistsregistrar.bc.ca.

We're Online!

www.lobbyistsregistrar.bc.ca

Thanks for reading the first issue of Influencing BC!

To find out more about the Office of the Registrar of Lobbyists British Columbia, or to comment on any of the information contained in this e-zine, please visit our website at www.lobbyistsregistrar.bc.ca, or contact our office.

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