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Does our system need lobbyists?; There is no code of conduct governing them in B.C., and some think there should be

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It's a profession that often dares not speak its name. Or, at least, does so reluctantly. Just ask the embattled Ken Dobell, who told reporters recently that he was reluctant to register as a lobbyist because the job description has a connotation "that none of us particularly like."

While lobbying can be seen as a valuable part of our system of democracy -- helping a wide range of groups connect with government bureaucrats and politicians for the public good -- the profession continues to raise eyebrows.

It's a line of work central to two key political firestorms in B.C. -- the conflict of interest allegations against former deputy minister Dobell, and the Basi-Virk legislature raid trial.

Mike Geoghegan, one of the 260 registered lobbyists in the B.C. Lobbyist Registry, said the word has become a "pejorative" -- exactly the same word that Dobell used as he talked about being a "content consultant" as opposed to a lobbyist.

The word's origin goes back to when wheeler-dealers would haunt the lobbies of government and hotels, trying to snag elected officials and influence policy.

The word became linked with influence-peddling and corruption with lobbyists providing political funds in return for favours. Even today, that connection remains, thanks to high-profile cases such as the conviction of American lobbyist Jack Abramoff, a Republican activist who pleaded guilty to the defrauding of American Indian tribes and corruption of public officials.

It's no surprise that Geoghegan prefers the term "government relations consultant."

"We aren't standing around grabbing MLAs as they go into the legislature," said Geoghegan. "What we're doing is helping people in their dealings with government."

He said that clients hire lobbyists just as people hire accountants to do their taxes.

Geoghegan is more candid than some others in the "government relations" business. Take Jeff Bray who recently opened a Victoria-based government relations and public affairs firm to help clients connect with government.

"I'm not really comfortable talking about it," said Bray this week when asked by a reporter to talk about lobbying and his new business.

"If you want to talk for background I will but I'm not going to talk on the record. And I do public affairs. I don't do lobbying even though everyone lumps it all into the same vein."

On his website, Bray says that he has an "extensive network of contacts with real-time access to government decisions" -- which he probably does considering that he was a B.C. Liberal MLA from 2001 to 2005 and then executive-director of the Liberal caucus until late last year.

Lobbyist Geoghegan said that providing a "network of contacts" -- as Bray put it -- is what lobbying is all about. "All government relations consultants have access to government officials, both elected and unelected, and we have an ability to influence decision-making.

"That's the essence of government relations, or to use the pejorative -- lobbying."

Geoghegan said the Dobell controversy hasn't helped the lobbyist profession gain more credibility. (To ensure he was not in conflict, Dobell has said that before assuming the role as the premier's special adviser he sought advice about potential conflict of interest from Allan McEachern, a former B.C. Supreme Court chief justice. Dobell is also cooperating with a "fact-finding" review by Privacy Commissioner David Loukidelis over his alleged six-month delay in registering as a lobbyist.)

Geoghegan says far more damage has been done by the revelations that have emerged from the bribery and influence-peddling trial stemming from the BC Rail sale.

Pilothouse Public Affairs Group, a Liberal-linked Victoria lobbying firm, represented OmniTRAX, an American company that was bidding on the controversial rail sale that was being handled by the B.C. Ministry of Finance.

Erik Bornmann, a Pilothouse lobbyist, said he offered bribes to political aides Dave Basi and Bob Virk in exchange for confidential information.

"It's cast a black cloud over the entire sector," said Geoghegan. "And both controversies [Dobell and the Basi-Virk trial], coming at the same time, have had a heightened impact on lobbying."

There is no code of conduct governing lobbyists in B.C., and Geoghegan thinks there should be. He said it's outrageous that Pilothouse principals Brian Kieran and Jamie Elmhirst were able to simply fold their firm and set up shop under the new name of K&E Public Affairs Inc.

RULES AT THE FEDERAL LEVEL

While there are no rules governing a lobbyist's behaviour, there are strict rules forbidding politicians and public servants from accepting benefits, personal gifts, donations or services from lobbyists or their clients.

There are rules governing lobbyists at the federal level. These regulations say that lobbyists must be transparent, disclose all information, avoid conflicts of interests and not improperly influence elected officials or senior public servants.

But these ethics rules are not strictly enforced, said Duff Conacher, coordinator of the Democracy Watch, an Ottawa-based group that advocates for tougher rules on lobbying.

He noted a recent instance where the federal registrar of lobbyists declined to take any action against a lobbyist who was lobbying a federal cabinet minister while also fund-raising for him.

What rules there are in B.C. for lobbying are contained in the Lobbyist Registration Act, which was brought in by the B.C. Liberals in 2001 to force everyone lobbying the government to detail their activities.

Lobbying is defined in the act as communicating with a public office holder "in an attempt to influence" legislation or regulations or the awarding of contracts. Lobbying also includes arranging a meeting between a government official and any other person.

The B.C. act lists three types of lobbyists: consultants paid by a client and in-house lobbyists working for commercial and non-commercial organizations.

There are 103 consultant lobbyists, 77 in-house lobbyists for commercial groups and 80 in-house lobbyists for other organizations and non-profits.

The lobbyist registry has more than its share of political operatives, people who have worked for political parties or worked in government and are on a first-name basis with many people who count in government.

Scroll down the registry list and you see the name of a former NDP premier (Dan Miller), a former Socred deputy minister (Bob Plecas) and many political activists from every mainstream party.

Consultants with Liberal affiliations are more apt to be busy lobbyists when their party is in power and the same holds true for New Democrats. Former NDP Finance Minister Elizabeth Cull, for example, set up shop as a government-relations consultant soon after being defeated in 1996.

Geoghegan is a consultant lobbyist. So are Dobell and the former principals of the Liberal-connected Pilothouse. Geoghegan helped Victoria-area doctors lobby for increased funding for magnetic resonance imaging equipment. He has also worked with many first nations bands on land claims issues.

Geoghegan said that most lobbying or government relations firms charge \$200 to \$300 an hour. He charges \$150 an hour to corporate clients and \$100 an hour to associations, non-profits and first nations. Lobbyist consultants typically work on retainer on short-term projects. Geoghegan usually charges a monthly retainer of \$5,000.

Geoghegan said busy lobbyists make good money. "If you can't make six figures as a government relations consultant, then you shouldn't be a government relations consultant.

"That's why there are a lot of government relations consultants out there. There are consultants out there who have made huge amounts of money."

Doug Alley, human resources vice-president for the Business Council of B.C., is an in-house lobbyist. He meets with government officials regularly to present the position of B.C. employers on various labour and employment issues.

Alley said the B.C. Federation of Labour similarly lobbies government on behalf of its member unions.

"It's all above board and I don't see anything wrong with it."

Don Lidstone, a lawyer who specializes in municipal law, is a registered lobbyist. He helps both municipalities and the province craft legislation and regulations related to municipal issues, including environmental assessment.

Lidstone said it's important to have an effective system in place that protects the interests of the public. He said there should be full disclosure of all lobbying plus restrictions on how soon former senior government officials can become lobbyists.

LOBBYIST CAN BE FINED

Mary Carlson, director of policy and compliance for the Information and Privacy Commission, is in charge of the lobbyist registry.

She said the registry functions on an honour system. Lobbyists are required by the provincial act to register within 10 days of agreement to represent a client. They must provide details about who they lobbied and on what subject.

Carlson said she doesn't have a mandate to monitor lobbying and the only way she would learn if a lobbyist has failed to register properly is if someone files a complaint -- something that rarely happens.

A lobbyist can be fined up to \$25,000 for not registering in a timely fashion or not providing the required information. However, no lobbyist has ever been fined in B.C. under the act, said Carlson.

One major loophole is that in-house lobbyists only have to register if their government relations consulting takes up 20 per cent of their work schedule over a six-month period.

"This means that someone could lobby for one month out of the six months and not have to register," said Conacher.

He said that rules governing lobbying in Canada are too weak to ensure that lobbyists -- as in the Dobell case -- are not working on contract for the same government they are also lobbying. He also faulted B.C.'s lobbying rules for allowing senior public servants like Dobell to perform government relations work shortly after leaving their government positions.

(There is a limitation on senior public servants in B.C. from lobbying government for one-year after they leave the public service. However, this period can be reduced for a variety of reasons.)

Cabinet ministers and senior public servants at the federal level must wait five years before lobbying government.

Democracy Watch's Conacher said that lobbyists are valuable because "they know how things work." But the danger is that lobbyists "are often cashing in on their relationships with decision-makers and then it becomes a system based on who you know as opposed to merit.

"And a who-you-know system can lead to a system that is corrupt, wasteful and abusive of the public interest."

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Lobbyist Mike Geoghegan says he prefers to use the term 'government relations consultant' instead of lobbyist. 'What we're doing is helping people in their dealings with government.' • Colour Photo: Darren Stone, CanWest News Service