



BILL NO. 128

Government Bill

*3rd Session, 61st General Assembly
Nova Scotia
60 Elizabeth II, 2011*

An Act to Prohibit the Use of Consultant Lobbyists by Designated Public Sector Organizations

CHAPTER 43
ACTS OF 2011

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
DECEMBER 15, 2011**

The Honourable John M^{ac}Donell
Minister of Service Nova Scotia and Municipal Relations

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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**An Act to Prohibit
the Use of Consultant Lobbyists
by Designated Public Sector Organizations**

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Public Sector Lobbyists Act*.

2 In this Act,

(a) “consultant lobbyist” means an individual who acts as a consultant lobbyist within the meaning of Section 5 of the *Lobbyists' Registration Act* but does not include an in-house lobbyist within the meaning of Sections 6 and 7 of that Act.

(b) “designated public sector organization” means a member of the Government Reporting Entity as defined in the *Finance Act* but does not include a department as defined in that Act or an organization excluded by the regulations;

(c) “lobbyist services” means services undertaken by a consultant lobbyist that constitute lobbying within the meaning of the *Lobbyists' Registration Act*.

3 Nothing in this Act makes a designated public sector organization an agent of Her Majesty in right of the Province if that organization would not otherwise be such an agent.

4 No designated public sector organization shall engage a consultant lobbyist to provide lobbyist services.

5 No consultant lobbyist shall undertake to lobby on behalf of a designated public sector organization that is prohibited from engaging a consultant lobbyist to provide lobbyist services.

6 (1) No designated public sector organization shall provide funds to any person or entity for the purpose of that person or entity engaging a consultant lobbyist to provide lobbyist services to the organization.

(2) Subsection (1) does not operate in respect of membership fees paid by a designated public sector organization to be a member of an association that is established to represent the interests of a group or class of similar organizations.

7 Every obligation of a designated public sector organization under this Act is deemed to be an obligation it is required to comply with under the terms of every agreement or other funding arrangement between the organization and the Government of the Province or between the organization and an agency of the Government of the Province.

8 (1) Any provision in an agreement that conflicts with a requirement under this Act is not valid or enforceable by any party to the agreement, whether the agreement was entered into before or after the coming into force of this Act.

(2) Nothing in this Section affects the validity of any provision in an agreement that does not conflict with this Act, or with any right of payment for anything done or provided at a time when the provision was not in conflict with this Act.

9 (1) No cause of action arises against Her Majesty in right of the Province or any of Her Majesty's ministers, agents, appointees and employees, or a designated public sector organization subject to this Act, as a direct or indirect result of

- (a) the enactment or repeal of any provision of this Act;
- (b) the making or revocation of any provision of the regulations; or
- (c) anything done or not done in accordance with this Act or the regulations.

(2) Without limiting the generality of subsection (1), that subsection applies to an action or other proceeding claiming any remedy or relief, including specific performance, injunction, declaratory relief, any form of compensation or damages, including loss of revenue and loss of profit, or any other remedy or relief.

(3) No proceeding, including but not limited to any proceeding in contract, restitution, tort, trust, fiduciary obligation or otherwise, that is directly or indirectly based on or related to anything referred to in clause (1) (a), (b) or (c) may be brought or maintained against Her Majesty in right of the Province or any of Her Majesty's ministers, agents, appointees and employees or a designated public sector organization subject to this Act.

(4) Subsections (1) to (3) do not prevent the Minister of Justice from bringing an application or commencing proceedings to require a designated public sector organization subject to this Act to comply with this Act and its regulations.

(5) Subsections (1) to (3) do not prevent the enforcement of an agreement or funding arrangement referred to in Section 7.

10 (1) Notwithstanding any other Act or law, no person is entitled to any compensation for any loss or damages, including loss of revenues or loss of profit, arising from the enactment or application of this Act or anything done in accordance with this Act or the regulations, including

- (a) the termination of an agreement in accordance with Section 7 or 13; or
- (b) the invalidity or unenforceability of an agreement by reason of Section 8.

(2) Subsection (1) does not bar any action against a designated public sector organization for failure to meet a common law duty owed during a procurement process undertaken by the organization.

11 Any person who contravenes Section 4, 5 or 6 is guilty of an offence and liable on summary conviction to a fine of not more than

- (a) for a first offence, twenty-five thousand dollars; or
- (b) for a second or subsequent offence, one hundred thousand dollars.

12 (1) The Governor in Council may make regulations

- (a) excluding from the application of this Act specified members of the Government Reporting Entity;
- (b) defining any word or expression used but not defined in this Act;
- (c) respecting any matter or thing that the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

13 Where, immediately before this Act applied to a designated public sector organization, there was an agreement in place that provided for the payment of money by the organization for lobbyist services, the agreement is deemed to contain the following provisions:

1. The lobbyist services are terminated on the earlier of March 31, 2012, and the date that they would have otherwise been terminated under the agreement, notwithstanding any notice provisions required under the agreement.
 2. The consultant lobbyist may only charge, and shall only be paid for, lobbyist services provided to the organization under the agreement up to the date provided for in paragraph 1.
 3. Unless inconsistent with paragraphs 1 and 2, all other terms and conditions related to the lobbyist services terminated in accordance with paragraph 1 that would otherwise survive the term of the agreement shall continue to apply to those services.
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