

The Legislative Assembly of
British Columbia

Statutory Officers: Contingency Funding



Select Standing Committee on
Finance and Government Services

First Report

4th Session, 37th Parliament

June 2003

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June 12, 2003

To the Honourable,
The Legislative Assembly of the
Province of British Columbia
Victoria, British Columbia

Honourable Members:

I have the honour to present herewith the *First Report* of the Select Standing Committee on Finance and Government Services.

The *First Report* covers the work of the Committee during Spring 2003.

Respectfully submitted on behalf of the Committee.

A handwritten signature in black ink, which appears to read 'Brenda Locke'. The signature is fluid and cursive, with the first letter 'B' being particularly large and stylized.

Brenda Locke, MLA
Chair

TABLE OF CONTENTS

Composition of the Committee	1
Terms of Reference	2
Background.....	3
Committee Review.....	3
Conclusions	4
Recommendation.....	4
List of References	5

COMPOSITION OF THE COMMITTEE

MEMBERS

Brenda Locke, MLA	Chair	Surrey-Green Timbers
Brian Kerr, MLA	Deputy Chair	Malahat-Juan de Fuca
Bill Belsey, MLA		North Coast
Jeff Bray, MLA		Victoria-Beacon Hill
Ida Chong, MLA		Oak Bay-Gordon Head
Arnie Hamilton, MLA		Esquimalt-Metchosin
Dave Hayer, MLA		Surrey-Tynehead
Mike Hunter, MLA		Nanaimo
Joy MacPhail, MLA		Vancouver-Hastings
Lorne Mayencourt, MLA		Vancouver-Burrard
Wendy McMahon, MLA		Columbia River-Revelstoke
John Nuraney, MLA		Burnaby-Willingdon
Patty Sahota, MLA		Burnaby-Edmonds

CLERK TO THE COMMITTEE

Craig James, Clerk Assistant and Clerk of Committees

COMMITTEE RESEARCHER

Josie Schofield, Research Analyst

TERMS OF REFERENCE

On April 9, 2003, the Select Standing Committee on Finance and Government Services was appointed and empowered:

1. To examine, inquire into and make recommendations with respect to the pre-budget consultation report prepared by the Minister of Finance in accordance with section 2 of the *Budget Transparency and Accountability Act* and, in particular, to:
 - (a) Conduct public consultations across British Columbia on proposals and recommendations regarding the provincial budget and fiscal policy for the coming fiscal year by any means the committee considers appropriate, including but not limited to public meetings, telephone and electronic means;
 - (b) Prepare a report no later than November 15, 2003 on the results of those consultations; and
2. (a) To consider and make recommendations on the annual reports, rolling three-year service plans and budgets of the following statutory officers:
 - (i) Auditor General;
 - (ii) Chief Electoral Officer;
 - (iii) Conflict of Interest Commissioner;
 - (iv) Information and Privacy Commissioner;
 - (v) Ombudsman;
 - (vi) Police Complaint Commissioner; and,
 - (b) To examine, inquire into and make recommendations with respect to other matters brought to the Committee's attention by any of the Officers listed in 2 (a) above.
3. That the Select Standing Committee on Finance and Government Services be the committee referred to in sections 19, 20, 21 and 23 of the *Auditor General Act* and that the performance report in section 22 of the *Auditor General Act* be referred to the committee.

In addition to the powers previously conferred upon the Select Standing Committee on Finance and Government Services, the committee shall be empowered:

- a) to appoint of their number one or more subcommittees and refer to such subcommittees and of the matters referred to the committee;
- b) to sit during a period in which the House is adjourned and during any sitting of the House;
- c) to adjourn from place to place as may be convenient; and
- d) to retain personnel as required to assist the committee;

and shall report to the House as soon as possible, or following any adjournment or at the next following session, as the case may be, to deposit the original of its reports with the Clerk of the Legislative Assembly during a period of adjournment and upon resumption of the sittings of the House, the Chair shall present all reports to the Legislative Assembly.

BACKGROUND

Until recently, the statutory officers of the Legislature submitted their requests for contingency funding directly to Treasury Board. This practice changed in the fall of 2001, when the all-party Select Standing Committee on Finance and Government Services (Finance Committee) interpreted its new mandate to include not only an annual review of the officers' operating and capital budgets but also any requests for contingency funding to pay for unforeseen expenses.

During the Second and Third Sessions of the current Parliament, the Finance Committee considered requests for contingency funding from the Office of the Police Complaint Commissioner on November 26, 2001 and November 27, 2002. In both cases, its recommendations were approved by the House and communicated to the Minister of Finance, who authorizes the disbursement of appropriations in Vote 42 Contingencies (All Ministries).

Anticipating that other "demand-driven" independent offices of the Legislature might also make similar requests, the Finance Committee attempted to clarify the process for making submissions for contingency funding. Initially, in its December 2001 report to the House, the Committee suggested that where circumstances warranted, a statutory officer who needed to access the money set aside for contingencies could simply notify the Chair of the Finance Committee in writing, indicating the reason(s) for using this funding.

Subsequently, in its December 2002 report, the Finance Committee offered to meet with any statutory officer who was faced with the situation of no longer being able to meet the statutory requirements of his independent office, due to budgetary constraints. When tabling this report in the House on February 12, 2003, the then Chair clarified the process for requesting additional monies, by stating that the statutory officers could re-approach the Committee, should additional requirements for funding be necessary.

COMMITTEE REVIEW

On May 14, 2003 the Finance Committee met to review submissions regarding contingency funding from Harry Neufeld, the Chief Electoral Officer, and Dirk Ryneveld, the Police Complaint Commissioner. Two follow-up meetings were held on May 28th and June 12th to deliberate on the contents of the report to be presented to the House.

ELECTIONS BC

The Chief Electoral Officer informed the Committee that his office had followed "the protocol" for requesting contingency funding for unpredictable electoral events, by submitting written estimates of the administrative costs incurred under the *Recall and Initiative Act* to the Chair and the Clerk to the Committee. The relevant correspondence, covering the period between January 23 and May 5, 2003, is listed in the References section at the end of this report.

According to the financial summary information presented to the Committee, Elections BC requires contingency funding of \$440,000 in 2003/04 to cover the expenses incurred in administering eight recall petitions in the following ridings — Nanaimo, Nanaimo-Parksville, Alberni-Qualicum, Nelson-Creston, Columbia River-Revelstoke, Victoria-Beacon Hill, Vancouver-Point Grey, and Vancouver-Burrard.

The Chief Electoral Officer also gave the Committee advance notice of potential contingency funding requirements, arising during the remainder of the current fiscal year. These other expenses include a special voter registration sign-up process for the new Citizens' Assembly on Electoral Reform, and the requirement for a formal liaison between Elections BC and the Citizens' Assembly.

OFFICE OF THE POLICE COMPLAINT COMMISSIONER

The Police Complaint Commissioner also made a presentation concerning the budget issues facing his independent office. He explained that the main purpose of his submission was to seek assurance from the committee members that existing budgetary constraints would not compromise his independence — in particular, his discretionary power to call a public hearing, as and when required in the public interest, under Part 9 of the *Police Act*. He asked the Committee to confirm that the unpredictable and unknown costs related to the conduct of public hearings, or the costs involved in legal challenges to the legislation, would be treated as contingency expenses separate from his office's current operating budget.

CONCLUSIONS

The Finance Committee affirms its commitment to maintain an open and transparent process for hearing statutory officers' requests for contingency funding to meet unforeseen expenses. We also intend to continue the practice of considering such requests separately from the annual review of the officers' operating and capital budgets. From our perspective, as legislators, this process essentially involves two stages: hearing a statutory officer's case for contingency funding at a public meeting and then reporting our recommendation(s) to the House.

The Committee recognizes the Chief Electoral Officer's case for seeking reimbursement for costs related to recall petitions, which are unpredictable events he is required to administer, by statute. In our view, though, the estimated sum of \$130,000 for the internal staff costs associated with recall activities does not qualify as a new administrative cost and so we accept that this amount has to be absorbed within Elections BC's current operating budget.

The Committee understands how critical it is to maintain the independence and integrity of the Office of the Police Complaint Commissioner and, in particular, the Commissioner's autonomy to call and conduct a public hearing, unfettered by budgetary concerns. We recognize this as an unforeseen expense incurred to fulfill a statutory duty and are receptive to hearing from the Police Complaint Commissioner, should the need arise. We also request that the Commissioner explore cost recovery as a budget-enhancing option in the current climate of fiscal restraint.

RECOMMENDATION

The Committee recommends:

That \$310,000 be paid out of the consolidated revenue fund to defray the costs incurred by the Chief Electoral Officer, under the *Recall and Initiative Act*, of administering eight recall petitions during the first quarter of 2003/04; and that the appropriation be authorized under section 173 of this Act.

LIST OF REFERENCES

REPORTS

Legislative Assembly of British Columbia. Select Standing Committee on Finance and Government Services. *Financial Review of Statutory Officers of British Columbia*. December 2001.

Legislative Assembly of British Columbia. Select Standing Committee on Finance and Government Services. *Financial Review of the Independent Offices of the Legislative Assembly*. December 2002.

ELECTIONS BC

Correspondence from Harry Neufeld, Chief Electoral Officer, to Blair Lekstrom, Chair, Select Standing Committee on Finance and Government Services, January 23, 2003.

Correspondence from Harry Neufeld, Chief Electoral Officer, to Craig James, Clerk of Committees, February 26, 2003.

Correspondence from Harry Neufeld, Chief Electoral Officer, to Craig James, Clerk of Committees, March 11, 2003.

Correspondence from Harry Neufeld, Chief Electoral Officer, to Craig James, May 5, 2003.

Presentation by Harry Neufeld, Chief Electoral Officer, to the Select Standing Committee on Finance and Government Services, May 14, 2003.

OFFICE OF THE POLICE COMPLAINT COMMISSIONER

Presentation by Dirk Ryneveld, Police Complaint Commissioner, to the Select Standing Committee on Finance and Government Services, May 14, 2003