



ELECTIONS BC

A non-partisan Office of the Legislature

Discussion Paper:
Disclosure of Political Contributions

May 2016

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ELECTIONS BC
Province of British Columbia

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May 25, 2016

Honourable Suzanne Anton, QC
Attorney General and Minister of Justice
PO Box 9044 Stn Prov Govt
Victoria BC V8W 9E2

Dear Minister:

I have the pleasure to present this discussion paper on the subject of the disclosure of political contributions. This discussion paper is in response to your request to “undertake a process of evaluating the requirements for more frequent contribution reporting”. The paper summarizes the frequency of disclosure of political contributions in Canada and the United States and identifies options for implementing more frequent disclosure of political contributions in B.C.

Sincerely,

A handwritten signature in black ink, appearing to read 'Keith Archer'.

Keith Archer, Ph.D.
Chief Electoral Officer
British Columbia

cc. Honourable Linda Reid
Speaker of the Legislative Assembly

Leonard Krog
Opposition Spokesperson Justice (Attorney General)

Andrew Weaver
Member in the Legislative Assembly for the Green Party

Vicki Huntington
Independent Member in the Legislative Assembly



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Introduction

On April 1, 2016 the Chief Electoral Officer received a written request from the Attorney General to “undertake a process of evaluating the requirements for more frequent contribution reporting” and give consideration to the following questions:

- How much time would be required to develop a proposal and to implement ‘real time disclosure’?
- What cost would be involved?
- What legislative changes would be required?
- Are there precedents in other jurisdictions that could be considered?

On April 5, the Chief Electoral Officer responded to the Attorney General advising that Elections BC would undertake this task and, following established protocol, provide this information to the Attorney General and provide a copy to the Speaker, the Opposition Spokesperson for Justice (Attorney General), the member in the Legislative Assembly for the Green Party and the independent member in the Legislative Assembly. This discussion paper is prepared for this purpose.

Since the Attorney General is the minister responsible for the *Election Act*, this paper addresses “political contributions” under the *Election Act* only. “Campaign contributions” under the *Local Elections Campaign Financing Act* are not addressed.

The Chief Electoral Officer has not consulted with the Election Advisory Committee or any other stakeholders that may be impacted by the options identified in this report.

All implementation costs referenced are preliminary estimates based on assumptions contained within this report and will need to be reassessed if legislation is introduced.

What are political contributions?

In British Columbia, a political contribution is a contribution of money, or the value of goods or services provided without compensation to a candidate, leadership contestant, nomination contestant, political party or constituency association. This includes, but is not limited to:

- Fees paid for conferences or conventions of a political party, including leadership conventions.
- Membership fees for a political party or constituency association.
- Any money (but not property or services) provided by an individual to their own campaign.
- A discounted interest rate on a loan (below the prime rate).
- A forgiven loan or debt.
- Tickets to a fundraising function purchased by an organization.
- Tickets to a fundraising function priced over \$50 (or over \$250 worth of tickets priced at \$50 or less) purchased by an individual.

The following are not political contributions: goods or services provided by an individual to their own campaign; services provided by a volunteer; and property of a volunteer used in relation to their service as a volunteer.

Contributions made to third party election advertising sponsors are not political contributions.

What is real time disclosure?

While the term 'real time disclosure' is sometimes used to describe the work of more frequent reporting of political contributions, it is an inaccurate and inconsistently defined phrase.

For example, financial institutions often provide free stock quotes to the general public with a delay of up to twenty minutes from when the price was last updated. The same institutions also offer paid access to feeds showing live stock quotes without any significant lag time. Although both types of quotes often are referred to as 'real time quotes', the term 'real time quote' is accurate only for this second feed because the price shown reflects the actual price at that moment in time.

In contrast, there is no jurisdiction in Canada or the U.S. (and perhaps globally) that requires the public disclosure of political contributions *immediately* after they are made. The jurisdictions with the timeliest of reporting requirements still provide 24 hours for the recipient of the contribution to report it to the election management body for public disclosure. In other jurisdictions, recipients may have anywhere from 48 hours to ten business days to report the contribution. Once reported, some jurisdictions then provide the election management body with up to ten additional business days to make the disclosure public.

Therefore this discussion paper uses the phrase 'more frequent reporting of political contributions' to refer to the disclosure of political contributions on any basis more frequent than the *Election Act* currently provides.

The term 'disclosure notification' is used in this discussion paper to refer to the mechanism by which political contribution information will be provided to Elections BC for public disclosure to distinguish them from reports currently required to be filed under the *Election Act*.

Disclosure of political contributions in Canada and the U.S.

Current requirements for the disclosure of political contributions in B.C.

Political parties and registered constituency associations

All registered political parties and registered constituency associations are required to file with Elections BC annual financial reports respecting the previous calendar year by March 31. These reports must include, among other things, a summary of all political contributions accepted during the year and information respecting contributors who made political contributions during the year that, in total, have a value of more than \$250.¹ Political parties are also required to report the political contributions that were made to the party, its registered constituency associations and candidates that, combined, have a value of more than \$250.

Within 90 days after General Voting Day for an election, political parties and registered constituency associations that were represented by a candidate must file an election financing report that includes, among other things, a summary of all political contributions accepted since January 1 until the end of the campaign period, and information respecting contributors who made political contributions during the same period that, in total, have a value of more than \$250.

Candidates

Within 90 days after General Voting Day for an election, candidates must file an election financing report that includes, among other things, a summary of all political contributions accepted and information respecting contributors who made political contributions to their nomination contest or election campaign that, in total, have a value of more than \$250.

Leadership contestants

Within 90 days after a leader of a political party is selected, leadership contestants must file a financing report that includes, among other things, a summary of all contributions accepted and information respecting contributors who made contributions that, in total, have a value of more than \$250.²

1 Information respecting the contributor means: full name of the contributor (and if the contributor is a numbered corporation or unincorporated organization, the full names of two directors or principal officers); the class of contributor (individual, corporation, unincorporated business/commercial organization, trade union, non-profit organization, or other); dates and amounts of individual contributions; total contributions by the contributor.

2 Leadership contestants that are acclaimed and do not incur any financial transactions in relation to the contest are not required to file a financing report.

Requirements for the disclosure of political contributions elsewhere in Canada

No jurisdiction in Canada other than the federal government and Ontario require the reporting of political contributions on a more frequent basis than annually and after electoral events.

Federal

In addition to the disclosure of political contributions in annual reports and election reports, political parties must also disclose political contributions on a quarterly basis if their candidates meet the threshold for votes received in the election.³

These political parties must file a report within 30 days of the end of the quarter that must include, among other things, a summary of all contributions accepted during the quarter, and information respecting contributors who made contributions during the same period that, in total, have a value of more than \$200.

Ontario

In addition to the disclosure of political contributions in annual and election reports, political parties and leadership contestants also must disclose political contributions on an ongoing basis.

Political parties and leadership contestants must report political contributions of money over \$100 (in aggregate over the calendar year) to Elections Ontario within 10 business days of depositing the contribution in the party or contestant's bank account. There is no legislated deadline by which the contribution must be deposited in the bank account. Party reports are generated from the certified political party database in a pre-approved format and emailed to Elections Ontario.⁴ Elections Ontario has a further 10 business days after receipt of the report to publish the information in its publicly accessible electronic disclosure database.

3 Political parties must file quarterly returns if the candidates endorsed by the party received at least 2% of the valid votes cast or 5% of the valid votes cast in the electoral districts where the party endorsed a candidate at the most recent general election.

4 In May 2010 Ontario's *Election Finances Act* was amended to require political parties maintain an electronic database for recording political contributions and issuing income tax receipts. The Act required Elections Ontario develop guidelines for the databases by January 1, 2011 and to certify each party's database prior to June 1, 2012. Parties that did not field candidates in at least 50% of the electoral districts in the previous general election were exempt from this requirement, but could opt in. Once an exempt party fields candidates in at least 50% of the electoral districts or opts in, it loses its exemption for all future elections, regardless of whether it continues to field that many candidates.

Requirements for the disclosure of political contributions in the U.S.

This research is based on a review of ten jurisdictions covering elections for federal, state and local office where more frequent disclosure of political contributions is required.⁵ While the specific rules respecting the disclosure of political contributions in the United States vary by jurisdiction, there are some elements that are common to many or all.⁶

U.S. jurisdictions generally have two types of reporting periods when it comes to disclosure of political contributions – ongoing reporting and ‘last minute’ reporting.⁷

Ongoing reporting

Ongoing reporting is comparable to the annual or election reporting cycle in B.C. with respect to the content and format of the reports.

Ongoing reports are generally filed semi-annually in non-election years. In election years, the reporting periods may be quarterly, monthly or even more frequent. Many of the jurisdictions reviewed require pre-election reports be filed during the campaign periods that cover the period up to two weeks prior to General Voting Day and post-election reports be filed a month after General Voting Day; sometimes covering activity through just four days before the report is due.

Last minute reporting

Last minute reports are intended to disclose political contributions received by the campaigns of candidates, political parties and political action committees (PACs) during the period between the last ongoing report and General Voting Day (typically two to four weeks, but as long as 90 days in California). Last minute reports are largely disclosures of individual political contributions over a given threshold and are filed on a transactional basis.⁸

Last minute reports apply to both monetary and non-monetary contributions. The threshold for disclosure is consistent with other significant thresholds for disclosure in the jurisdiction and are generally an amount contributed in aggregate over a period of time.

In seven of the ten jurisdictions examined, campaigns are required to file the last minute report within 24 or 48 hours of the legislated trigger for reporting. The trigger is usually the receipt of the contribution by the campaign, but in two instances the

5 Federal elections, California, Colorado, Maine, Massachusetts, New York State, Ohio, Oregon, Washington, New York City.

6 References to “all jurisdictions” in this section are to all those jurisdictions reviewed.

7 The term used to describe this second type of reporting varies by jurisdiction in the U.S. For simplicity, ‘last minute’ reporting, used by the Federal Election Commission and some states, is used throughout this paper.

8 For more on transactional reporting, see page 13.

trigger is the deposit of the contribution in the campaign bank account. When the trigger is the deposit of the contribution there is also a requirement for the contribution to be deposited within a legislated amount of time. This ensures that all but the contributions received at the very last moment are disclosed prior to General Voting Day.

Jurisdictions require the election management body to publish these reports as soon as possible after filing (often within 24 hours). Due to the transactional nature of the last minute reports and the need to publish them as quickly as possible, campaigns file these reports using a web-based form on the election management body website or upload them to the same website using a pre-approved file format. This enables the election management body to process the report and include the information in its publicly accessible electronic disclosure database. In many cases it appears that the data from the last minute reports are published automatically upon receipt without any intervention by the election management body.

It is for these reasons that last minute reports are the closest to 'real time' disclosure that exists in Canada or the United States.

Contributions reported in last minute reports must also be included in the applicable ongoing reports.

Options

This discussion paper identifies three options to more frequent disclosure of political contributions that could be considered for British Columbia.

Assumptions

The following assumptions about public policy apply to all three options:

- More frequent disclosure rules apply only to political contributions and not other information included in annual, election, or leadership contestant financing reports (i.e. summary of all contributions, anonymous contributions, prohibited contributions, fundraising functions, loans, transfers, expenses, assets and liabilities).
- New rules will be consistent with as many of the existing rules regarding disclosure of political contributions as possible:
 - Use the same threshold for disclosure (total more than \$250).
 - Disclose all monetary and non-monetary contributions (including goods and services).
 - Apply to all client groups that must currently disclose political contributions (political parties, registered constituency associations, candidates, nomination contestants who become candidates, leadership contestants) or there may be an incentive to direct contributions to client groups that do not have to disclose as frequently.
 - Financial agent is responsible for filing disclosure notifications.
 - There are consequences for failure to comply with rules.
- Rules that currently apply to 'reports' under the *Election Act* will not automatically apply to these 'disclosure notifications' unless explicitly stated.
- No change to existing annual/event reporting requirements.
- New rules apply on an ongoing basis whether or not an election is underway.
- Disclosure notifications are not required to be audited before filing with Elections BC.
- Disclosure notifications are filed with Elections BC electronically using an approved file structure.
- Clients that meet a legislated threshold (e.g. political parties endorsing candidates in at least half of all electoral districts) must notify Elections BC at the end of each disclosure notification period whether or not they received any political contributions for that period.
- All other clients are only required to file disclosure notifications during periods in which they have received political contributions.
- Candidates must comply with the rules once they meet the definition of a candidate in the *Election Act* and must disclose any political contributions received prior to that at the first available opportunity.

At the federal level the *Canada Elections Act* requires larger political parties that meet specified criteria file quarterly reports in a similar manner that include the disclosure of political contributions, among other information.

Monthly or quarterly disclosure necessitates this information be submitted electronically in a pre-approved file format for inclusion in FRPC. To allow this information to be submitted on paper would necessitate additional cost and delay to have the information data entered. The larger political parties in B.C. have been submitting political contribution information electronically in a pre-approved file format for a number of years. Elections BC would supply an approved template that would be used by all political parties, registered constituency associations, leadership contestants and candidates that do not already provide the information in this manner.

While the disclosure notification is filed monthly or quarterly, each filing must include the information for the entire year to date. This is to ensure that contributions that were not previously required to be disclosed because the threshold had not been met are disclosed retroactively once the threshold is met.

For example, a contribution of \$200 made to a political party on January 15 would not be disclosed in the January disclosure notification because the threshold has not been met. However, if the same contributor made another contribution of \$200 on April 15 to the political party, the threshold is met and both contributions, along with the dates each contribution was made, must be disclosed at the time the April disclosure notification is due. The January 15 contribution would subsequently be included in the results of a search for contributions made to the political party in January.

Similarly, if a political party realized after a disclosure notification is submitted that a contribution included in the notification was incorrect, the file provided to Elections BC for the subsequent disclosure notification would remove that earlier contribution.

Clients that meet a legislated threshold (e.g. political parties endorsing candidates in at least half of all electoral districts) must notify Elections BC at the end of each disclosure notification period whether or not they received any political contributions for that period. All other clients are required to file disclosure notifications only during periods in which they have received political contributions.

Table 1: Sample monthly disclosure notification schedule, 2017 ¹⁰

Disclosure notification	Period	Provided to Elections BC	Publicly disclosed
January 2017	January 1 – January 31, 2017	February 10, 2017	February 12, 2017
February 2017	January 1 – February 28, 2017	March 10, 2017	March 12, 2017
2016 Annual	January 1 – December 31, 2016	March 31, 2017	April 5, 2017
March 2017	January 1 – March 31, 2017	April 10, 2017	April 12, 2017
April 2017	January 1 – April 30, 2017	May 10, 2017	May 12, 2017
May 2017	January 1 – May 31, 2017	June 10, 2017	June 12, 2017
June 2017	January 1 – June 30, 2017	July 10, 2017	July 12, 2017
2017 Provincial General Election	January 1, 2017 – May 9, 2017	August 8, 2017	August 15, 2017
July 2017	January 1 – July 31, 2017	August 10, 2017	August 12, 2017
August 2017	January 1 – August 31, 2017	September 10, 2017	September 12, 2017
September 2017	January 1 – September 30, 2017	October 10, 2017	October 12, 2017
October 2017	January 1 – October 31, 2017	November 10, 2017	November 12, 2017
November 2017	January 1 – November 30, 2017	December 10, 2017	December 12, 2017
December 2017	January 1 – December 31, 2017	January 10, 2018	January 12, 2018

Table 2: Sample quarterly disclosure notification schedule, 2017

Disclosure notification	Period	Provided to Elections BC	Publicly disclosed
2016 Annual	January 1 – December 31, 2016	March 31, 2017	April 5, 2017
Q1 2017	January 1 – March 31, 2017	April 10, 2017	April 12, 2017
Q2 2017	January 1 – June 30, 2017	July 10, 2017	July 12, 2017
2017 Provincial General Election	January 1 – May 9, 2017	August 8, 2017	August 15, 2017
Q3 2017	January 1 – September 30, 2017	October 10, 2017	October 12, 2017
Q4 2017	January 1 – December 31, 2017	January 10, 2018	January 12, 2018

Implications

Monthly or quarterly disclosure provides the least additional transparency of the three options presented in this discussion paper. Of the three options, monthly or

¹⁰ Dates shown here have not been adjusted for weekends and holidays. Based on current practices, Elections BC estimates it could make disclosure notifications publicly available on FRPC within two business days.

quarterly disclosure of political contributions is most similar to the current reporting requirements for client groups. It also has the least impact on the operational work of Elections BC. Elections BC could administer monthly or quarterly disclosure without significant changes to our systems, processes, or materials, but would require one additional FTE. Some information systems modifications would be required.

The implications for client groups differ between monthly or quarterly disclosure. The implications for client groups increase with the frequency of disclosure. The implications for political parties are estimated to be lower than those for constituency associations, candidates and leadership contestants.

While larger political parties are more likely to receive more political contributions and therefore have more to disclose, these organization also are more likely to already have the resources and infrastructure to disclosure more frequently.

In contrast, smaller political parties, constituency associations, leadership contestants and candidates are more reliant on volunteers who may be less willing to provide their services on a more frequent basis; however, candidates and these smaller organizations typically do not receive the same volume of political contributions as the larger parties and so their new obligations may not be as significant.

See Appendix A for the sections of the *Election Act* that could be impacted by this model.

Table 3: Implications of Option 1

Affected group	Implications (monthly)	Implications (quarterly)
Elections BC	Moderate	Low
Political parties	Moderate	Low
Constituency associations	Moderate	Moderate
Candidates	Moderate	Moderate
Leadership contestants	Moderate	Moderate

Implementation

Legislative change is required to implement monthly or quarterly disclosure of political contributions. Until these new rules are legislated, Elections BC does not have statutory authority to spend money on implementing these new rules.

Elections BC believes it could implement these rules within three months of the enabling legislation receiving Royal Assent during the fall 2016 legislative session.

If the legislation is passed during that session, Elections BC recommends that political parties be required to file a disclosure notification beginning in February (monthly disclosure) or April (quarterly disclosure), but that the first disclosure notification be due in July (monthly or quarterly) for all other client groups.

While this staggered implementation will reduce the level of transparency in the near term, the challenges to the other client groups of implementing significant new campaign financing requirements during the election period would be too great.

Regardless of when the first disclosure notification is due, all client groups should be required to report all political contributions received since the start of the calendar year in their first disclosure notification.

Table 4: Implementation of Option 1

	Elections BC	Political parties	Other client groups
Time to implement (following Royal Assent)	3 months	3 months	7 months
First monthly disclosure notification due	N/A	February 10, 2017	July 10, 2017
First quarterly disclosure notification due	N/A	April 10, 2017	July 10, 2017

Cost

Elections BC could implement and administer Option 1 with a one-time capital budget of \$50,000, a \$100,000 increase to the annual operating budget, and one-time implementation costs of \$25,000.

Table 5: Estimated cost of Option 1

Capital costs	Operating costs	One-time implementation costs
\$50,000	\$100,000	\$25,000

Option 2 – Disclosure within ten business days

Overview

Within ten business days after a contribution that meets the requirements for disclosure is made, the financial agent would complete a form disclosing the contribution and information about the contributor and file the form with Elections BC. Like monthly or quarterly disclosure, the information collected would be identical to what is currently collected from the client groups on the form Political Contributions of Money, Property or Services with a Value Greater than \$250 (S-A1).¹¹

The information would be provided to Elections BC electronically in a pre-approved file format and published on FRPC within a few business days.

While the amount and type of information being disclosed under this model does not change, requiring disclosure of political contributions within ten business days changes the nature of the disclosure from periodic (a single report including all political contributions made within a given time period) to transactional (each contribution requiring its own report). For this reason it makes more sense to think about each disclosure as a transaction, not a report in the current sense of the word.

Financial agents would be responsible for submitting these disclosure notifications on an ongoing basis – as frequently as political contributions are made.

Ontario's *Election Finances Act* requires political parties and leadership contestants report political contributions over a legislated threshold to Elections Ontario within ten business days.

Disclosure on an ongoing, transactional basis requires this information be submitted electronically in a pre-approved file format for inclusion in FRPC.

When a contributor's aggregate contributions exceed the threshold, the financial agent must immediately disclose all the earlier contributions that were not previously required to be disclosed. Similarly, if a financial agent becomes aware of an error after it is disclosed, the financial agent must inform Elections BC so the contribution can be removed from FRPC.

While the amount of information being disclosed does not change, reducing the deadline for disclosing each contribution is a significant change from current practices for both Elections BC and the affected client groups. Under this option, client groups must file disclosure notifications based upon when the individual political contribution is made, rather than on a regular and scheduled basis.

¹¹ See page 8.

Implications

Requiring the disclosure of political contributions within ten business days makes the disclosure of each contribution much timelier and significantly improves the level of transparency over the current model and Option 1.

Moving to a transactional model has a higher impact on the operational work of Elections BC and a more significant impact on our systems. Client groups would provide the information electronically by uploading files in a pre-approved format or entering transactions into a secure web form. In both cases, the information would be published directly to FRPC with minimal manual intervention by Elections BC. This increased level of automation would require significant changes to FRPC and would require an additional FTE to administer on an ongoing basis.

These new rules will require Elections BC to make significant changes to internal processes and systems, update forms and guides, and conduct a comprehensive education campaign for the impacted client groups.

The implications for client groups as a whole are estimated to be high.

Table 6: Number of political contribution transactions reported by political parties¹²

	BC Liberal Party	BC NDP	BC Green Party	All other parties	Total
2014 annual financial report	8,731	21,603	1,184	211	31,729
2013 annual financial report	8,701	47,934	1,071	197	57,903

While larger political parties are more likely to receive more political contributions and therefore have more to disclose, these organizations are more likely to already have the resources and infrastructure to disclose more frequently in this manner.

In contrast, smaller political parties, constituency associations, leadership contestants and candidates are more reliant on volunteers who may be less willing to provide their services on a more frequent basis; however, candidates and these smaller organizations typically do not receive the same volume of political contributions as the larger parties and so their new obligations may not be significant.

Disclosing political contributions retroactively once the threshold is met is very difficult under a transactional system if the contributions are not recorded by the financial agent in an electronic format with a method to automate the identification of

¹² Source: political party S-A1. Note: It is permitted for multiple, regular contributions within a reporting period from a single contributor to be reported as a single contribution (for example, the BC Liberal Party often reports regular pre-authorized contributions during the period from a contributor as one transaction on its S-A1). Therefore, the number of contribution transactions that would be reported under a transactional system would be greater than the number of transactions shown in this table.

contributions by a single contributor. Candidates and smaller organizations are less likely to already be using such a system.

See Appendix A for the sections of the *Election Act* that could be impacted by this model.

Table 7: Implications of Option 2

Affected group	Implications
Elections BC	High
Political parties	High
Constituency associations	High
Candidates	High
Leadership contestants	High

Implementation

Legislative change is required to implement disclosure of political contributions within ten business days. Until these new rules are legislated, Elections BC does not have statutory authority to spend money on implementing these new rules.

Elections BC believes it could implement these rules within 15-21 months of the enabling legislation receiving Royal Assent. Elections BC would be able to begin developing procedures to implement these rules after July 1, 2017 due to the magnitude of the changes and our existing responsibilities associated with administering the 2017 Provincial General Election.

Regardless of when the requirement to file disclosure notifications comes into force, all client groups should be required to report all political contributions received since the start of the calendar year (or since the individual became a candidate or leadership contestant) at that time.

Table 8: Implementation of Option 2

	Elections BC	Client groups
Time to implement (following Royal Assent)	15-21 months	15-21 months

Cost

Option 2 would require an estimated capital budget of approximately \$250,000 to implement the systems changes, an increase to Elections BC's ongoing operating budget of \$150,000 to administer, and one-time implementation costs of \$25,000.

Table 9: Estimated cost of Option 2

Capital costs	Operating costs	One-time implementation costs
\$250,000	\$150,000	\$25,000

Option 3 – Disclosure within 24 or 48 hours¹³

Overview

Within 24 or 48 hours after a contribution that meets the requirements for disclosure is made, the financial agent would complete a form disclosing the contribution and information about the contributor and file the form with Elections BC. Like both other options, the information collected would be identical to what is currently collected from the client groups on the form Political Contributions of Money, Property or Services with a Value Greater than \$250 (S-A1).¹⁴

The information would be provided to Elections BC electronically in a pre-approved file format or via a secure web form available through the Elections BC website and published in FRPC with minimal manual intervention.

Like disclosure within ten business days, disclosure within 24 or 48 hours is also transactional and therefore looks very similar to Option 2 on the surface.

Financial agents would be responsible for submitting these disclosures on an ongoing basis – as frequently as political contributions are made.

Disclosure at this frequency is typical in the United States during the last minute reporting period.¹⁵

Implications

Requiring the disclosure of political contributions within 24 or 48 hours is as close to real time disclosure as is reasonably possible and would make B.C. a leader in this regard in North America.¹⁶ It provides the most transparency of the three options presented in this discussion paper.

This option has the most significant implications for Elections BC. Disclosure at this frequency requires the automation of the receipt and public disclosure of the information. Client groups would provide the information electronically by uploading files in a pre-approved format or entering transactions into a secure web form. In both cases, the information would be published directly to FRPC with minimal manual intervention by Elections BC. This increased level of automation would require significant changes to FRPC and would require an additional FTE to administer on an ongoing basis.

13 With the exception of the frequency of the work involved, the implications for Elections BC and the client groups of disclosure within 48 hours are almost identical to the implications for disclosure within 24 hours and therefore the two variants have been combined as one option for the purposes of this paper.

14 See page 8.

15 See page 5.

16 No American jurisdiction requires reporting at this frequency on an ongoing basis. Rather, it is required only in the last few weeks before an election.

These new rules will also require Elections BC to make significant changes to internal processes and systems, update forms and guides, and conduct a comprehensive education campaign for the impacted client groups.

The implications for client groups as a whole are similar to those for disclosure within ten business days and estimated to be significant.

While larger political parties are more likely to have the resources and infrastructure to disclose more frequently in this manner, the smaller political parties, constituency associations, leadership contestants and candidates don't have access to those levels of resources on an ongoing basis and the implications for those clients are very significant. Client groups would need a longer lead time to implement the administrative and systems changes required to disclose at this frequency.

See Appendix A for the sections of the *Election Act* that could be impacted by this model.

Table 10: Implications of Option 3

Affected group	Implications
Elections BC	High
Political parties	Very High
Constituency associations	Very High
Candidates	Very High
Leadership contestants	Very High

Implementation

Legislative change is required to implement disclosure of political contributions within 24-48 hours. Until these new rules are legislated, Elections BC does not have statutory authority to spend money on implementing these new rules.

Elections BC believes it could implement these rules within 15-21 months of the enabling legislation receiving Royal Assent. Elections BC would only be able to begin developing procedures to implement these rules after July 1, 2017 due to the complexity of the changes and existing responsibilities associated with administering the 2017 Provincial General Election.

Regardless of when the requirement to file disclosure notifications comes into force, all client groups should be required to report all political contributions received since the start of the calendar year (or since the individual became a candidate) at that time.

Table 11: Implementation of Option 3

	Elections BC	Client groups
Time to implement (following Royal Assent)	15-21 months	15-21 months

Cost

Option 3 would require an estimated capital budget of approximately \$250,000 to implement the systems changes, an increase to Elections BC's ongoing operating budget of \$150,000 to administer, and one-time implementation costs of \$25,000.

Table 12: Estimated cost of Option 3

Capital costs	Operating costs	One-time implementation costs
\$250,000	\$150,000	\$25,000

Appendix A: Legislative changes

Elections BC has identified potential impacts to the following sections of the *Election Act* that could result from at least one of the three options indicated in this discussion paper.

Election Act

Section #	Section title	Possible implications
1	Definitions	New definition for 'disclosure notifications'?
174	Reregistration	No impact
178	Deputy financial agents	Will deputy financial agents be authorized to submit disclosure notifications?
180	Political contributions generally	No impact
181	Political contributions through loans and debts	No impact
182	Political contributions through fundraising functions	No impact
190	Financial agent must record each political contribution	No impact
191	Candidate and constituency association records must be provided to political party	No impact
206	Reporting of information regarding political contributions	Add reference to information required to be disclosed in a disclosure notification
206.1 (NEW)	Disclosure notifications	Add new requirements here
207	Annual financial reports by registered political parties and constituency associations	No impact
209	Election financing reports by candidates	No impact
210	Election financing reports by registered political parties and constituency associations	No impact
211	Leadership contestant financing reports	No impact
212	Supplementary reports	Will there be similar provisions for disclosure notifications?
213	General requirements for reports	Add general requirements for disclosure notifications (in a format approved by the CEO, 'normalize' contributors?)

214	Auditing of reports	No impact
215	Publication of election financing summary	No impact
216	Publication of failure to comply	How will this apply to disclosure notifications?
220	Late filing of required reports	How will this apply to disclosure notifications?
221	Candidate who fails to file election financing report	What implications for failure to file disclosure notifications?
222	Leadership contestant who fails to file contestant financing report	What implications for failure to file disclosure notifications?
223	Deregistration of political party or constituency association for failure to file financial reports	What implications for failure to file disclosure notifications?
224	Deregistration of political party or constituency association for failure of candidates to file financial reports	What implications for failure to file disclosure notifications?
225	Court order for relief from filing obligations	Will this apply to disclosure notifications?
263	Offences in relation to election financing	Will there be offences related to disclosure notifications?
266	Offences in relation to false or misleading information	Will this apply to disclosure notifications?
271	Filing documents with chief electoral officer	No impact
276	Investigations and audits by chief electoral officer	No impact
280	Emergencies and other extraordinary circumstances	Existing authorities sufficient
283	Regulations of the chief electoral officer	Regulate format of disclosure notifications

Appendix B: Correspondence between the Attorney General and the Chief Electoral Officer

From: JAG WEBFEEDBACK JAG:EX
Sent: April-01-16 10:43 AM
To: Elections BC, Generalmail EBC:EX
Subject: Attorney General File no. 420807
Importance: High

Dr. Keith Archer
Chief Electoral Officer
Elections BC
Email: ElectionsBC@elections.bc.ca

I am writing further to my telephone message to you on March 31, 2016, to confirm my advice to you regarding the request by the Premier that the Office of the Chief Electoral Officer undertake a process of evaluating the requirements for more frequent contribution reporting (“Real Time Disclosure”). As discussed, I anticipate that this would involve disclosure requirements on a quarterly, or possibly a monthly basis, rather than the current requirement for annual disclosure.

While the first priority for the Office of the Chief Electoral Officer must be the completion of the electoral boundary maps and supporting material, I would ask that your office begin to give consideration to the following questions regarding Real Time Disclosure:

- How much time would be required to develop a proposal and to implement Real Time Disclosure;
- What cost would be involved;
- What legislative changes would be required; and
- Are there precedents in other jurisdictions that could be considered.

Thank you for your consideration of this request.

Yours very truly,

Original signed by:

Suzanne Anton QC
Attorney General
Minister of Justice



Mailing Address:
PO Box 9275 Stn Prov Govt
Victoria BC V8W 9J6

Location:
Suite 100 – 1112 Fort Street, Victoria BC

Phone: 250-387-5305
Toll-free: 1-800-661-8683/ TTY 1-888-456-5448
Fax: 250-387-3578
Toll-free Fax: 1-866-466-0665
Email: electionsbc@elections.bc.ca
Website: www.elections.bc.ca

April 5, 2016

Honourable Suzanne Anton, QC
Attorney General and Minister of Justice
PO Box 9044 Stn Prov Govt
Victoria BC V8W 9E2

Dear Minister:

Thank you for your voice message of March 31, and follow-up letter of April 1, regarding “Real Time Disclosure”.

In your letter, you request that I give consideration to the following questions

- How much time would be required to develop a proposal and to implement Real Time Disclosure;
- What cost would be involved;
- What legislative changes would be required; and
- Are there precedents in other jurisdictions that could be considered.

I am pleased to undertake this task. In keeping with my role as an independent officer of the legislature, and following established protocol, I will provide this advice to you, with a copy to the Speaker, the Opposition Spokesperson for Justice (Attorney General), the member in the Legislative Assembly for the third party, the independent member in the Legislative Assembly, and will post the response on the Elections BC webpage.

Sincerely,

Keith Archer, Ph.D.
Chief Electoral Officer
British Columbia

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- 2 -

cc. Honourable Linda Reid
Speaker of the Legislative Assembly

Leonard Krog
Opposition Spokesperson Justice (Attorney General)

Andrew Weaver
Member in the Legislative Assembly for the Green party

Vicki Huntington
Independent Member in the Legislative Assembly

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