Making the case for electoral finance reform in British Columbia

IntegrityBC.ca

#### INTRODUCTION

The historic US presidential election of 2008 re-confirmed one truism about American politics: Money wins elections.

From the top of the ticket, where Barack Obama declined public financing and went on to amass a nearly two-to-one monetary advantage over John McCain, to congressional races throughout the nation, the candidate with the most money going into Election Day emerged victorious in 93 per cent of House of Representatives races and 94 per cent of Senate races, according to a post-election analysis by the nonpartisan Center for Responsive Politics.

In 2012, that truism repeated itself. Democratic candidates spent \$920 million, roughly \$5.50 for every registered voter. Republican candidates \$885 million. Super PACS and other groups spent \$2 billion.

Total US campaign spending in 2012 would have bought twenty-eight Boeing 787s.

#### BC politics is much of the same

BC voters are increasingly fed up with their electoral system. Whether you talk to people on the street or poll them province-wide you often encounter exasperation, disappointment and anger when they talk about BC politics. It is as if the war has already been lost and a growing sense of resignation among voters is setting in.

At the municipal level only 29.5 per cent of eligible BC voters cast a ballot in the 2011 contests. At the provincial level, 51 per cent of voters cast a ballot in the 2009 BC election and barely half of all voters cast a ballot in the 2011 HST referendum.

According to a public opinion survey commissioned by IntegrityBC and conducted by the Mustel Group on their BC Omnibus, the issue of political financing has struck a chord amongst those polled. It's clear from their response that British Columbians want to see more financial accountability and fairness in BC elections.

Question	Answer		
Unions and corporations should be prohibited from donating money to BC provincial political parties	59.1 per cent of British Columbians agreed		

Source: Mustel Group, March 2013

#### THE CYCLE OF POWER

The abuse of power is nothing new in Canada or British Columbia. Sadly, politics and scandals go hand-in-hand from federal to provincial to municipal politics. As Lord Acton said, "Power tends to corrupt, and absolute power corrupts absolutely. Great men are almost always bad men."

To achieve power, ordinary and honourable citizens are often forced to get into bed with people who have money: corporations, unions and other special interest groups. If future politicians do not have access to funding then how are they going to mount campaigns against other candidates come election time?

Money pays for billboard ads, television commercials, organizing rallies and communicating a candidate's or political party's ideas to the public. The solution for British Columbia politicians in need of funding has been to let corporations and unions open up their bank accounts to pick up the tab.

BC's political parties are raking in the cash but at what cost to BC's democracy?

An election is meant for the exchange of ideas through meaningful debates about society, an election is not about selling out to the highest bidder. In order to understand the magnitude of the looming democracy crisis, let's look at a few numbers:

- Over the past 10 years, the BC Liberal Party has raised \$76 million and the BC NDP \$39.1 million. During the same period, Quebec's two major parties who serve an electorate nearly twice as large didn't raise that much combined.
- In 2011, a non-election year, the single largest donor to the BC Liberal Party was Goldcorp who gave \$210,000 For the NDP it was \$100,000 from the BC Government Employees' Union. No other political party in Canada came even close to hauling in donations of that size.
- BC corporate and union donations outpaced individual voter donations two-toone in the 2009 election.
- After it was revealed that only 51 per cent of voters turned out for the 2009 BC General Election (the lowest turnout in BC history), Elections BC surveyed would-be voters to find out the reasons why they did not take their civic duty to heart. Twenty-nine per cent of non-voters cited a dislike of politics or scepticism of the political system<sup>1</sup>.

#### WHAT'S GONE WRONG

In 2011, the BC Liberal Party received 67.8 per cent of its funding from corporations versus only 27.4 per cent from individuals. The NDP received 28 per cent of its funding from unions versus 62.1 per cent from individuals.

The winning party for the past three elections was also the party that received massive donations from corporations. In the last two elections, the BC Liberal party won a majority of parliamentary seats by only a four per cent margin in the total votes cast. But their reliance on hefty corporate donations overshadows the legitimacy of their victories. The voting public has reason for their cynicism because they are being out-donated in the support of their own political ideas and parties by big business and unions.

Glance at the British Columbia Elections Act and it becomes clear why more and more citizens distrust their political system. There are almost no real rules when it comes to political donations in BC. It is as if the financing of BC's political parties was a Western with political bagmen gunslinging at the O.K. Corral for the loot. In fact, the lack of tough rules – real rules – means that there's almost a free flow of money between corporations, unions and political parties. In British Columbia:

- there are no donation limits to political parties. No limits.
- · there are no geographic limits for donors. No borders.
- · anonymous donations to political parties are permissible. No full disclosure.
- corporations and unions can donate as much money as they wish to a party. No problem.

<sup>2.</sup> Statement of Votes, 39th Provincial General Election, May 12th, 2009, Elections BC - http://www.elections.bc.ca/docs/rpt/2009GE/2009-GE-SOV.pdf, Statement of Votes, 38th Provincial General Election, May 17th, 2005, Elections BC - http://www.elections.bc.ca/docs/rpt/2005GEResults/SOV-GEcomplete.pdf

# NO LIMITS. NO BORDERS. NO DISCLOSURE. NO PROBLEM.

But it is a big problem when the BC Liberal Party receives large sums from companies like Northern Gateway Pipeline (\$71,950 since 2009), Great Pacific Capital Corporation (\$208,000 in 2010), from Finning Corporation (\$100,000 in 2010) and CN Rail (\$220,910 since 2005), from mining companies Imperial Metals (\$126,780 since 2005) and Teck Resources (\$1,139,634 since 2005) and from energy giants such as Encana (\$772,170 since 2005).

It's also a problem when the BC NDP receives large donations from the BC Government Employees' Union, CUPE and other unions.

So is it any wonder that voters shake their heads asking: Who really runs BC?

#### STRINGS ATTACHED

The problem is that no matter the protests to the contrary, there really are strings attached to funds being pumped into political parties and their candidates. There is no such thing as a free lunch or free money.

In exchange for their campaign contributions, companies and unions may expect a certain degree of recognition: favouritism during the awarding of government contracts, the rewriting of government regulations, special consideration during contract negotiations or the negotiation of other political perks. This can rot at the very core of our democratic system leaving ordinary citizens to pick up the tab for political favours.

It also foments scandal, something to which BC politics is no stranger. The scandals that British Columbians have witnessed over the past few years have left ordinary British Columbians enraged. Political scandals usually take the form of a Minister or Department awarding a lucrative contract to private companies or the leaking of information on a contract or a privatization that gives one company an insurmountable competitive advantage over another.

In the long run, the problem with a virtually unregulated political contribution regime is that it goes on to cement relationships where the people in power and the people financing them can no longer be separated.

For example, company X donates to the Y Party during their campaign to get reelected. Once elected the Y Party will repay the donation by handing an untendered contract (a contract that isn't put through the regular competitive bidding process) or other perk to company X. Company X might further reward the Y Party by appointing Y Party insiders to its Board of Directors thereby directly increasing its influence in the Y Party. And so begins a twisted relationship in which government officials and high corporate executives exchange places in a game of Duck Duck Goose. The Xs and Ys get all mixed up and can form one incestuous family.

Private companies, unions or individuals that invest large sums in a politician or a party's electoral campaign naturally expect a return on their investment. Regrettably, a candidate or a party is always tempted to take the easy route and ensure stable financing from a small group of powerful contributors who are waiting for the possible payoff.

This "I'll scratch your back if you scratch mine" philosophy has been going on since the dawn of politics and will go on until one political party has the courage to put an end to it.

#### POWER FEEDS POWER

Corruption can take many forms. The actual awarding of a contract is corrupt if there was favouritism in the bidding. Then there is the contract itself whose final costs may be trumped up with fake costs, overcharging or work that has never been done.

There is also favouritism when the time comes for political parties to hire or appoint ex-businessmen and when corporations hire ex-politicians or political appointees for

highly paid job posts. A practice that some are now terming "regulatory capture," when the friends of a particular industry get appointed by a friendly government to oversee the very industry they once worked in and later return to that industry.

The problem with the electoral financing laws in BC's Election Act is that even if everything was above board, the public still grows increasingly cynical when they learn of sweetheart deals such as these recent contracts:

"Because in this province, there are no rules to break... The Wild West approach to campaign donations fuels public cynicism and invites special-interest groups with lots of money to buy political influence."

- Times Colonist

- Backbone Technology Inc. awarded a \$52,746 untendered contract to develop a website for the HST referendum.
   Backbone Technology also created the BC Liberal party's website.
- Campaign Research Inc. awarded a \$167,800 untendered contract to conduct telephone town hall meetings on the HST. Campaign Research also worked on cabinet minister George Abbott's unsuccessful Liberal party leadership bid.
- Marc Andrew awarded a \$33,000 untendered contract to provide political analysis to Tom Syer, the head of the HST information office. Marc Andrew was the former senior political aide to Colin Hansen, the Finance Minister who brought in the HST.

In the face of such reports it is fair to ask: what can be done?

#### **ALTERNATIVE MODELS**

#### The money race

If BC elections are now just a race for cash – to see which candidate will attract the most funds – then whoever wins that race will likely also win the election. In fact, according to a study, in the United States, the better funded candidate is almost certain to win,3 "in 93 per cent of House of Representatives races and 94 per cent of Senate races that had been decided by mid-day Nov.5 [2008], the candidate who spent the most money ended up winning." Indications are the same held true in 2012.

It makes sense though because the candidate with the money will have their voice monopolize the airwaves while the other candidates struggle to get their message across.

In the eyes of the Supreme Court of Canada, a balance must be struck between political funding, having an informed electorate and fostering a healthy democracy. In 2004, the case Harper v. Canada dealt with the tricky issue of third party spending, that is organizations other than political parties that wish to influence an election by buying advertising or launching ad campaigns. Since 1997, third parties have been limited to spending \$150,000 country-wide or \$3,000 in a single district at the federal level.

In 2002, the Alberta Court of Appeal ruled that third party spending limits violated the Charter of Rights and Freedoms.

The Supreme Court of Canada overruled that decision in 2004 stating that "the limits allow third parties to inform the electorate of their message in a manner that will not overwhelm candidates, political parties or other third parties. The limits preclude the voices of the wealthy from dominating the political discourse, thereby allowing more voices to be heard. The limits allow for meaningful participation in the electoral process and encourage informed voting. The limits promote a free and democratic society."<sup>3</sup>

A political race should not be a race for money. No political candidate or third party organization should have the right to monopolize the airwaves or other mediums, no matter how successful they are at filling campaign coffers or how deep their pockets. Before or during elections.

#### **Alternatives**

It bares repeating that the BC Liberal Party raised \$76 million and the BC NDP \$39.1 million over the past 10 years. Once again, during the same period, Quebec's two major parties – who serve an electorate nearly twice as large – didn't raise that much combined. That's because Quebec banned corporate and union donations and capped personal donations in 1978, just like Manitoba, Nova Scotia and Canada later did.

	British Columbia	Nova Scotia	Manitoba	Quebec	Canada
Prohibits or limits corporate and union donations	No	Yes	Yes	Yes	Yes
Limits personal donations	No	Yes	Yes	Yes	Yes
Prohibits non-Canadian (foreign) donations	No	Yes	Yes	Yes	Yes
Prohibits out- of-province donations	No	Yes	Yes	Yes	Not applicable

TABLE 1 - BC Stands out and not for the right reasons. Source: IntegrityBC

When the Quebec government first proposed its new electoral financing law, it was a cutting edge piece of legislation not only for Canada but for the entire world. For the first time, corporate, union and special interest group donations were banned outright for political parties and individual contributions to political parties were limited to \$3,000 per year. This watershed legislation was aimed at undoing the decades long control of the political system by Quebec's wealthy elite.

Hailed as one of the most advanced and comprehensive electoral finance systems ever, the new law also proposed public financing for political parties so they would not be subject to corruption or influence peddling.

However, many corporations still found a way to circumvent even this system pressuring their employees to give \$3,000 donations that were later reimbursed by their employers. To address this, new laws came into effect in 2010 that further lowered donation limits from \$3,000 to \$1,000 annually; and increased public financing from 50 cents per vote to 82 cents per vote. Since then, the contribution limit has been further reduced to \$100 and public financing increased to \$1.50.

The news laws also gives the DGE (Chief Electoral Officer in Quebec) the power to cross-reference donations with tax returns provided by Revenue Quebec.

Quebec's electoral finance reforms are not exceptional, other provinces serve as alternative models as well (See Table 2). In fact, since 1978, seven provincial governments, and the federal government, have followed suit with some – or all – of Quebec's trail-blazing electoral finance reform. Only Prince Edward Island, Newfoundland and British Columbia have been left three decades behind on some of the key reforms.

In Manitoba, there is a limit of \$3,000 donation per year for one or more political entities. In Nova Scotia, there is an annual limit of \$5,000 on contributions to one party, association and candidate. In all three provinces, only individuals are allowed to contribute. Corporate and union donations are specifically banned. No anonymous donations are allowed in Quebec or Nova Scotia whereas Manitoba severely limits anonymous donations to no more than \$10.

	British Columbia	Nova Scotia	Manitoba	Quebec
Who can contribute.	Residents, corporations, unions. No residency requirements, can be foreign.	Individuals only ordinarily resident in NS. <sup>1</sup>	Individuals normally residing in Manitoba.	Electors normally residing in Quebec only.
Who cannot contribute (no registered charity in any province may contribute).	Unregistered political parties and constituency associations.	Corporations, partnerships and unions.	Unions, corporation, unincorporated groups, partnerships and associations.	Unions, corporations.
Annual limits on contributions.	No limits.	Yes – no more than \$5,000 per year to one party, association and candidate.	Yes - \$3,000 per year to one or more political entities.	Yes - \$1,000 per year to one registered party or registered independent candidate or member.
Anonymous donations.	Anonymous contributions must be made at an event and be less than \$50 each. Registered parties and associations can accept up to \$10,000 in anonymous donations a year. Candidates can accept up to \$3,000 a year.	No anonymous donations.	No anonymous contributions above \$10.	No anonymous donations. All donations must go through Elections Quebec.

Table 2 - Alternative provincial models for electoral financing. Source: IntegrityBC

#### WHO WILL FUND THE PARTIES?

There is a fear that the outright banning of corporate and union donations is akin to banning the oxygen that feeds political parties. To fill the financing void, BC political parties might be tempted to circumvent the laws and this would create even greater corruption and unwanted influence. However, there are several solutions to this donations dilemma.

Part of the solution is citizens themselves. To compensate for the loss of big donors, BC's two largest political parties would be forced to return to a more grassroots effort in raising funds and appeal directly to the public. This would mean that a candidate's campaign would engage in more real-time, personal engagement with the citizens of British Columbia both before and during the electoral process. Greater input from voters could help reverse the trend of voter apathy and general electoral disinterest among the public.

Currently, this would be more of a challenge for the governing party in British Columbia. The BC Liberals have relied heavily on corporate funding for the past decade and it would be a jolt in their organization to re-evaluate their funding strategy. The BC NDP would also lose its union funding, roughly 20 per cent of its current funding.

Candidates, party associations and their volunteers from all BC parties would be forced to canvass for funding, as federal parties do quite successfully now (See Table 3).

The Conservative Party was particularly efficient in garnering small donations to replenish their war chest. Over 40 per cent of the \$17 million they collected in 2010 came from 74,659 individuals that donated \$200 or less. In forming the opposition for the first time in history, the NDP proved itself quite capable of raising funds among citizens as well as 65 per cent of their earnings came from 20,873 individuals who donated \$400 or less.

\$ Amt of donations -	Liberal		NDP		Conservatives	
# of donors	\$ Amt	Num	\$ Amt	Num	\$ Amt	Num
TOTAL	\$6,402,210	32,431	\$4,363,086	22,784	\$17,416,856	94,802
	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)
(% of 2009)	(70.7%)	(85.7%)	(108.8%)	(96.2%)	(98.4%)	(93.8%)
<=\$200	2,042,838	24,502	1,512,984	16,448	7,461,245	74,659
	(31.9%)	(75.6%)	(34.7%)	(72.2%)	(42.8%)	(78.8%)
<=\$400	1,191,413	4,070	1,353,003	4,425	4,023,726	12,429
	(18.6%)	(12.5%)	(31.0%)	(19.4%)	(23.1%)	(13.1%)
<=\$600	685,152	1,392	560,241	1,116	1,869,014	3,580
	(10.7%)	(4.3%)	(12.8%)	(4.9%)	(10.7%)	(3.8%)
<=\$800	260,260	368	242,972	342	732,088	998
	(4.1%)	(1.1%)	(5.6%)	(1.5%)	(4.2%)	(1.1%)

\$ Amt of	Liberal		NDP		Conservatives	
donations - # of donors	\$ Amt	Num	\$ Amt	Num	\$ Amt	Num
<=\$1000	300,530	325	130,212	139	1,035,924	1070
	(4.7%)	(1.0%)	(3.0%)	(0.6%)	(5.9%)	(1.1%)
<=\$1100	1,802,752	1,680	336,043	307	2,236,778	2,040
	(28.2%)	(5.2%)	(7.7%)	(1.3%)	(12.8%)	(2.2%)
>\$1100	119,265	94	227,632	7	58,080	26
	(1.9%)	(0.3%)	(5.2%)	(0.0%)	(0.3%)	(0.0%)

Table 3 - Cumulative distribution of donations and contributors by total donation, by party, 2010. Alice Funke, "Pundits' Guide to Canadian Federal Elections," www.punditsguide.ca

Relying on the citizens of BC to finance the province's political parties themselves would be a significant step forward. A step towards greater transparency in the electoral process and a diminishing of the public perception that politicians are up for sale to the highest bidder. Elections would be less about money and more about issues.

But there are other ways to fund elections and political parties. Small donations are part of the solution but other systems also merit study in order to determine what is the fairest way to provide financial support.

# **PUBLIC FINANCING**

Earlier we compared British Columbia's electoral finance laws to those of Nova Scotia, Manitoba and Quebec. Let's compare those provinces again and see which provinces fund their political parties through some form of public financing (See Table 4).

	British Columbia	Nova Scotia	Manitoba	Quebec
Annual public allowances to political parties	No	Yes	Yes	Yes
Portion of candidate election expenses reimbursed	No	Yes	Yes	Yes
Based on	No	Yes	Yes	Yes
percentage of popular votes		If a candidate wins the election or receives no less than 15% of the valid votes cast, they qualify for reimbursement. The reimbursement cannot exceed the total of valid campaign expenses.	50 per cent of election expenses if the candidate obtains 10 per cent of the popular vote.	50 per cent of election expenses incurred and paid to every candidate declared elected or who obtained at least 15 per cent of votes.
Public financing	No	Yes	Yes	Yes
		\$1.50 for each vote depending on votes received.	Maximum annual allowance (non-election year) is the lesser of \$1.25 per vote up to \$250,000 or total expenses paid by the party as reported in the audited annual statement.	\$1.50 per vote based on a percentage of the popular vote to every party that obtained at least one per cent of the valid votes.
			A \$10,000 minimum allowance is payable to a party represented by at least one MLA or \$600 in all other cases.	

Table 4 - Public funding of political parties at the provincial level. Source: IntegrityBC

If banning corporate and union donations is akin to turning the oxygen off for political parties then is public funding a way to turn the oxygen back on?

In Nova Scotia, Manitoba and Quebec political parties no longer have the same fears over their capacity to operate between elections. To a lesser degree this stability also exists in provinces that reimburse a portion of a candidate's or central party's election expenses.

As long as they meet the minimal requirements (a threshold determined in each province), political parties in these provinces are guaranteed some funding, until the next election, based on the number of votes they received or other criteria.

In Nova Scotia, political parties who pass the threshold receive \$1.50 for each vote so that for the 2006-2010 period, the NS Liberal Party received \$800,000, the NS NDP received \$1,110,000, the Progressive Conservatives of NS received nearly \$1,000,000 and the Green Party of NS received \$329,000.

In Manitoba, a political party is entitled to a maximum annual allowance (non-election year) which is the lesser of: \$1.25 per vote received in the last election to a maximum of \$250,000 or the total expenses paid by the party as reported in the audited annual statement. A \$10,000 minimum allowance is payable to a party represented by at least one MLA or \$600 in all other cases.

Nova Scotia, Manitoba and Quebec also reimburse a portion of a candidate's expenses after an election. Actually, all Canadians provinces reimburse candidate's expenses except for Alberta and British Columbia. Once again, this is usually conditional to the number of votes received by any one candidate. In Manitoba, for example, a candidate receives a 50 per cent reimbursement if he/she obtains 10 per cent of the vote in his/her riding. In Quebec, half the campaign costs are reimbursed if the candidate obtains 15 per cent of the vote and a party is reimbursed half of its costs if it obtains one per cent of the votes province wide.

## A CITIZENS' ASSEMBLY

The first ever Citizens' Assembly in BC, involving 160 randomly chosen British Columbians, was held in 2004 to analyze and make recommendations on the province's electoral system. This democratic experiment was so unique that it was considered a first in Canada.

"Nowhere else in the world had randomly selected citizens been so empowered to shape the electoral process. The Assembly was unanimously endorsed by the parties in the legislature and parties and community leaders outside it."

Independent and non-partisan, a Citizens' Assembly is a cost-effective way to focus on real issues and have everybody come together around those issues rather than squabbling just for squabbling's sake.

The 2004 Citizens' Assembly in BC had 160 members, 80 women and 80 men, from all of the province's then 79 electoral districts. The process was divided into three parts that lasted three months each: learning about the issue, public hearings, and deliberation. The entire process was concluded in less than a year.

While immediately capping individual donations, banning corporate and union donations and doing away with anonymous donations altogether will help create a more transparent and honest electoral financing system, other more divisive issues surrounding election finance reform remain.

A Citizens' Assembly mandated with studying, reporting and making binding recommendations on other aspects of BC's election financing regime would be the best approach to unite British Columbians behind some of these more divisive issues, including: setting the annual cap on individual donations, public funding of BC political parties, reimbursing campaign expenses, third party spending, the reporting of donor information to the public, and specific funding issues related to municipal elections.

Sparks of true innovative thought regarding these issues exist across British Columbia. The hope is that a Citizens' Assembly can re-enfranchise citizens by applying their wisdom in a real way to a real problem. By elevating the political debate and creating a conversation around these issues, voters will directly participate in the democratic process and the outcome.

A Citizens' Assembly will be the best way to get real, impartial results and is a proactive way to get the public involved. Politicians will already be on board through the establishment of such an Assembly and the public will more likely accept the transparency of a Citizens' Assembly compared to past processes.

And a Citizens' Assembly with teeth – whose recommendations would be binding on government – would put British Columbia voters in the driver's seat towards meaningful electoral finance reform.

### CONCLUSION

In 2008, one of the most successful candidates in the world raised record amounts of money to become the first black President of the United States of America. Barack Obama's voice was heard across the world. To win the presidency he spent an average of \$5.10 per registered voter during the campaign.

To win reelection, the BC Liberal Party spent \$5.54 per registered voter in 2009.

It is not surprising that BC voters feel disenfranchised, powerless and, as a result, increasingly turned off. And with good reason: as already noted over the past decade the BC Liberal Party has raised \$76 million while the BC NDP has raised \$39.1 million; BC corporations and unions out donate voters two-to-one; there are few rules regarding political donations in the BC Elections Act.

Political donations in British Columbia are not subject to limits, borders, full and meaningful disclosure, or any real barriers that would actually hinder the free flow of cash in politics.

And this state of affairs is contributing to a crisis in BC's democracy. It has created a system in which politicians are too frequently finding themselves linked to some sort of scandal or favouritism. It has created a political castle in which politicians isolate themselves from voters. It has created a short-circuit where political parties can bypass the electorate and go straight to corporations or unions in order to find the cash to win an election.

But British Columbia has another story, a story of political innovation through grassroots mobilization and an educated and savvy citizenry. And that is why IntegrityBC is appealing to you to mobilize and call on the government to address this democratic deficit by capping political donations for individuals, banning corporate and union donations, prohibiting non-Canadian donations, stopping out-of-province donations and eliminating anonymous political donations to ensure that elections are about issues and not about money.

Some ways other provinces ensure that the public good comes before private interests include annual public funding for political parties, election expense reimbursements for candidates and public oversight of nomination contests and leadership races.

These are trickier questions that demand more attention in order to find the ideal fit for British Columbia. That is why IntegrityBC is also calling on the government to establish a Citizens' Assembly that will study the question and come up with binding recommendations for additional reforms.

Taking back BC starts now and it starts with you:

- sign our petition calling for electoral finance reform
- · talk to your friends, neighbours, co-workers about the stakes
- · sign-up on website
- volunteer with IntegrityBC
- donate

Sign up at IntegrityBC.ca today

IntegrityBC.ca