Best Practices for Developing Drafting Team Expertise

British Columbia — Legislation and Legislative Process Course

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Training of Legislative Counsel

- Legislative Drafting Course [Dept. of Justice (Canada)]
- Review of Drafts
- Temporary Legislative Counsel Position

Like all skills and crafts, drafting legislation cannot be learned completely from a book. A book may instruct and guide, but a draftsman needs much more—experience in and knowledge of the law, maturity of judgment, an interest in and feeling for language, practice, criticism (both self-inflicted and otherwise). … <u>The attitude is sometimes encountered that a legislative draftsman is born and not made, and as a result a draftsman may find himself projected into the deep end of the drafting pool with little or no help; he is invited to sink or swim, and not infrequently expected to sink.</u>

G.C. Thornton
Legislative Drafting
Preface to the 1st ed. (1970)

Legislation and Legislative Process Course

- Course covers —
  - the process by which a legislative proposal becomes legislation
  - the process by which regulations are developed and made
  - how to read legislation
  - best practices for drafting instructions and the drafting process
- based on *A Guide to Legislation and Legislative Process in British Columbia* —
  - www.llbc.leg.bc.ca/public/PubDocs/bcdocs/408512/index.htm
  - www.publications.gov.bc.ca/pubdetail.aspx?nato=7665005851

Legislation and Legislative Process Course

- 2005 to 2007 - 19 presentations of the course to a total of 463 persons
- Fall 2008 – 4 to 6 presentations of the course
- Participants —
  - policy analysts
  - program area staff
  - ministry staff
  - articling students

Course Content

- Session 1 — Legislative Process
  - Introduction to the Office of Legislative Counsel and the role of the Attorney General
  - policy development and approval process
  - How a Bill proceeds through the Legislative Assembly – from Introduction to Enactment

Course Content

- Session 2 — Statutory Interpretation (How to Read an Act)
  - key common law principles of statutory interpretation
  - overview of the *Interpretation Act*
- Session 3 — Drafting the Legislation
  - drafting instructions
  - drafting process (including best practices)
  - consultations and confidentiality

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Course Content

- Session 4 – Subordinate Legislation, Revision and Corrections
  - subordinate legislation
    - role of Legislative Counsel
    - process under the *Regulations Act*
  - statute and regulation revision
  - statute correction power
    - *Statute Revision Act*, R.S.B.C. 1996, c. 440, s. 12

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Course Presentation

- PowerPoint
- Videos to illustrate proceedings in the Legislative Assembly
- invite questions and discussion
- Guest speakers
  - Cabinet analysts (Session 1)
  - Solicitor (Session 3)

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Course Presentation

- Course binder
  - PowerPoint slides
  - *A Guide to Legislation and Legislative Process in British Columbia* and other published resources
  - Legislation
- use our own facilities
- charge $75 (includes lunch)

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Course Evaluations

- very high satisfaction with the organization and content of the course
- almost unanimous in recommending the course to others
- small percentage would like to see the course lengthened
- more statutory interpretation
- more video, more examples

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Experience of Participants

	2005	2007
in government		
less than 4 years	21%	50%
more than 12 years	48%	25%
as a policy or legislative analyst		
less than 4 years	61%	75%
more than 12 years	11%	6%

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Future Development

- After our presentations of the course this fall, we will be reviewing the course content and its presentation.

- Options that will be considered:
  - moving the course to a larger venue
  - splitting the course into ½ day courses
  - developing an advanced course on providing drafting instructions

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