

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

7

February 7, 1984

Dr. Martha Bigelow
Director
Michigan History Division
Third Floor, Mutual Building
Lansing, Michigan 48918

Dear Dr. Bigelow:

This is in response to your inquiry concerning the applicability of the lobby act (the "Act"), 1978 PA 472, to the participation of Department of State personnel in the Friends of the Capitol (the "Friends").

You indicate you, Kathryn Eckert (the Historic Preservation Supervisor), and Brian Conway (Historical Architect) are involved with the Friends. You serve on the Board of Trustees, Ms. Eckert is Treasurer and serves on the Executive Committee, and Mr. Conway serves on the Preservation Committee. All three of you support the Friends at least partly because of your employment with the Department. The Capitol is a building of historical significance to Michigan. While you might volunteer your time if you did not work in the History Division, there would always be representatives of the History Division participating in the Friends.

A lobbyist is a person whose expenditures for lobbying exceed a threshold, and a lobbyist agent is a person who is compensated or reimbursed for lobbying in excess of \$250.00 in a twelve month period. Lobbyists must report expenditures, and lobbyist agents must report compensation and reimbursement. Once your total compensation and reimbursement for lobbying from all sources exceeds \$250.00 in twelve months, you must register as a lobbyist agent and file biannual reports. Similarly, the person who compensates or reimburses you for lobbying (the Department or the Friends) becomes a lobbyist and must report the compensation or reimbursement once it spends in a twelve month period more than \$250.00 lobbying a single public official or \$1,000.00 for all lobbying.

Volunteer lobbying efforts where the person doing the lobbying is not compensated or reimbursed is not counted toward the lobbyist or lobbyist agent thresholds and is not reported. To the extent you lobby on your own time, and are not reimbursed for expenses, and do not spend your own money lobbying (other

than the cost of travel), you do not need to keep records or report your lobbying activities. However, when you lobby for the Department, are compensated for your time by the Friends, or are reimbursed for your expenses by the Department or the Friends, records and reports of your activity must be made. Compensation and reimbursement for lobbying includes time spent directly communicating with public officials and time spent preparing for the direct communication.

You, Ms. Eckert, and Mr. Conway are all professional, salaried employees of the Department of State. As such, you are not eligible for overtime pay and are expected to perform your job outside normal business hours, if necessary. Therefore, if you are a lobbyist agent for the Department, all lobbying consistent with your position in the Department is compensated lobbying time. You cannot lobby after normal business hours and consider it volunteered time. The important issue is whether you or your employees are lobbyist agents for the Department. Once you are, you are recognized as an official spokesperson for the Department before public officials.

In actuality, none of you is a registered lobbyist agent for the Department. The Department has made a conscious decision to concentrate its lobbying efforts in as few employees as possible. Because you are not an official spokesperson for the Department, at least for the purpose of relaying the Department's position to public officials, lobbying activities are not duties for which you are compensated by the Department. As lobbying is not part of your job, you are able to volunteer your time to lobby for outside organizations, such as the Friends. To lobby for the Friends without your activity being reportable by the Department, you must do all of the following:

- 1) Lobby outside normal working hours or take annual leave for the time you lobby.
- 2) Identify yourselves as board members of the Friends.
- 3) Not identify yourselves as employees or representatives of the Department or the History Division.
- 4) If the public official is aware of your employment by the Department, expressly state that you are not espousing the Department's position.
- 5) Limit your communication with the public official to the business of the Friends.

Of course, you may choose the simpler method of absenting yourselves from any direct communication with public officials or preparation of materials used to directly communicate with public officials.

Dr. Martha Bigelow
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This response is informational only and does not constitute a declaratory ruling.

Very truly yours,

A handwritten signature in cursive script, reading "Phillip T. Frangos", followed by a horizontal line extending to the right.

Phillip T. Frangos
Director
Office of Hearings and Legislation

PTF/cw