

M I C H I G A N D E P A R T M E N T O F S T A T E

RICHARD H. AUSTIN ◦ SECRETARY OF STATE
STATE TREASURY BUILDING



LANSING
MICHIGAN 48918

August 27, 1981

Honorable Thomas J. Anderson
House of Representatives
State Capitol Building
Lansing, Michigan 48909

Dear Representative Anderson:

Your request for a declaratory ruling regarding the lobbyist reporting act ("the Act"), 1978 PA 472, has been referred to me for a response.

In your letter you indicate you are the current Chairman of the Michigan Energy and Resource Research Association (MERRA), an association "dedicated to the business of bringing energy and resource research dollars to Michigan." The association is made up of industrial and utility corporations as well as universities and government agencies. You have stated your question as follows:

"A question arises, under the new lobbyist law rules to become effective June 18, 1981, as to whether a corporation representative sitting on the MERRA Board of Trustees or any similar board, on which legislators or government representatives sit, can do so without registering as a lobby agent, since the board's activities would place him in contact with legislator(s) or other government official(s)."

To answer your question it is necessary to review the activities which are covered by the Act. In pertinent part, section 5(2) of the Act defines lobbying as follows:

"(2) 'Lobbying' means communicating directly with an official in the executive branch of state government or an official in the legislative branch of state government for the purpose of influencing legislative or administrative action." (emphasis added)

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Section 5(3) defines the term "influencing" as follows:

"(3) 'Influencing' means promoting, supporting, affecting, modifying, opposing or delaying by any means, including the providing of or use of information, statistics, studies, or analysis."

Not every contact or communication between a public official and another is lobbying which would come within the coverage of the Act. When a person makes expenditures in excess of the threshold amounts for direct communication with an official in the executive or legislative branch of state government for the purpose of influencing official action, the provisions of the Act and rules regarding registration and reporting begin.

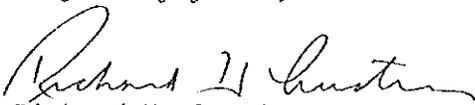
If the other members of MERRA communicate with you or other public officials for the purpose of formulating MERRA policies, there is no "lobbying." The Act does not require registration and reporting merely because a person is in proximity to or communicates with a public official. On the other hand, if another board member encourages you to vote for or against a bill or to introduce a bill or asks you to intervene on his behalf with an administrative agency, the board member would be "lobbying" you. The board member's expenditures for that communication must be counted when determining if the member is a lobbyist or lobbyist agent or if the company which employs the member is a lobbyist.

In addition, MERRA itself could become a lobbyist if it makes expenditures in excess of the threshold amount for the purpose of influencing legislative or administrative action. Expenditures by the organization after a decision to lobby is made would then result in registration and reporting requirements for both the lobbying organization and any lobbyist agents which it compensates or reimburses.

At the present time the Secretary of State is enjoined from implementing the Act pursuant to an order of the Circuit Court for Ingham County. When that litigation is concluded the Secretary of State will take whatever action has been deemed proper by the judicial system.

This response is a declaratory ruling pursuant to rule 4 of the rules promulgated to implement the Act (1980 AACS R4.414).

Very truly yours,


Richard H. Austin
Secretary of State

RHA/cw