

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

September 3, 1981

Mr. Kurt Schindler, County Planner
Manistee County Planning Commission
Manistee Courthouse Building
Manistee, Michigan 49660

Dear Mr. Schindler:

This is in response to your request for an interpretation of the act which regulates lobbyists ("the Act"), 1978 PA 472, with respect to the activities of the Manistee County Planning Commission.

You indicate the County Planning Act, 1945 PA 282, as amended, evidences a legislative intent to allow planning commissions to communicate with various branches of state and local governments. You feel application of the Act to the Manistee County Planning Commission would violate the spirit of the Planning Commission's enabling legislation.

While the Act does regulate certain types of lobbying activities, it is primarily a reporting act and it does not prohibit any verbal or written communication. As you indicate, the Planning Commission normally spends in excess of \$250 per public official and \$1,000 per year on lobbying activities. If so, the county of Manistee will be a lobbyist as defined in section 5(4) of the Act (MCL 4.415). Every person who receives compensation or reimbursement of actual expenses in excess of \$250 in a twelve month period for lobbying on behalf of the county will be a lobbyist agent. This includes employees of the county or any of the county's commissions or subdivisions. However, section 5(7) of the Act expressly states that a lobbyist or lobbyist agent does not include:

"(b) All elected or appointed public officials of state or local government who are acting in the course or scope of that office for no compensation, other than that provided by law for the office."

This means the elected or appointed members of the Commission may lobby without becoming lobbyist agents for the county and without having their salaries included within the amount reported by the county as lobbying expenditures. On the other hand, an employee of the Commission will become a lobbyist agent if the \$250 threshold is met. This is because an employee of a county does not come within the elected or appointed public official exemption (see section 5(7)(c)(ii)).

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Regardless of whether the employee meets the threshold, the county becomes a lobbyist if all its expenditures for lobbying meet the thresholds set forth in the Act and it must report all the compensation and reimbursements paid to the employee for lobbying. Perhaps this can best be illustrated by an example:

Suppose the Commission employs a planner earning \$24,000 per year. Assume twenty percent of the planner's time (\$4,800) is spent lobbying (writing letters, talking on the telephone, and talking personally to public officials in the executive or legislative branches of state government in an effort to influence their administrative or legislative action) and thirty percent of the planner's time (\$7,200) is spent preparing to lobby (drafting speeches to give to legislative committees, compiling data to be used when lobbying, researching the law in other states to find support for a position the Commission has decided it wants to advocate to a public official, etc.).

The planner is a lobbyist agent because of receiving more than \$250 compensation for lobbying, but the planner would file semi-annual reports which indicate no expenditures (\$0.00) made for lobbying. The planner received compensation but made no expenditures.

The county would be a lobbyist and would report \$12,000 (\$4,800 + \$7,200) plus any other expenditures made for lobbying, such as, computer time and programming required to assemble data for the planner to use when preparing to lobby and bills for long distance telephone calls to public officials. An expenditure may or may not be reportable depending on when the decision to lobby is made. If the Commission takes aerial photographs, compiles data, or researches the law in other states before it decides whether or not to lobby, there would be no expenditure for lobbying to report. After a decision to lobby is made there may be expenditures for reproducing the photograph or putting the data into a more suitable form for presentation to the public official, but the initial cost of the photographs or data is still not reportable as lobbying expenditures.

In light of your comment regarding the cost of travel from Manistee to Lansing, it should be pointed out that travel expenses to visit and return from visiting a public official are expressly not "expenditures" as defined in section 3(2) of the Act (MCL 2.413).

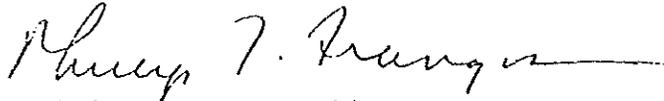
In conclusion, the Act does encompass the lobbying activities of counties, county planning commissions, and employees of counties and commissions.

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Those entities and individuals who exceed the thresholds must register as lobbyists and lobbyist agents and file semi-annual reports.

This response is informational 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.

Phillip T. Frangos, Director
Office of Hearings and Legislation

PTF/jmp