

RICHARD H. AUSTIN • SECRETARY OF STATE

STATE TREASURY BUILDING

LANSING
MICHIGAN 48918

February 23, 1984

Conrad L. Mallett, Jr.
Director, Legal and Governmental
Affairs
Brian P. Henry
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Office of the Governor
State Capitol
Lansing, Michigan 48909

Dear Messrs. Mallett and Henry:

This is in response to your letter of January 11, 1984, raising questions with respect to the application of the lobby act, 1978 PA 472, (the "Act"), to employees of the Department of Social Services who prepare materials used in lobbying but do not themselves communicate directly with any public official.

The specific issues which concern you are set forth in your letter as follows:

- "A. Whether a person who is compensated for the preparation of materials for use in lobbying but who does not personally communicate directly with any public officials on the department's behalf, must be named in section 6 of Form LR-1 as a person who is 'employed, reimbursed or compensated for lobbying.'"
- "B. Whether a person who is reimbursed in excess of \$250 in a year for preparing materials for use in lobbying but who receives no compensation for personally communicating with a public official is a 'lobbyist agent' as defined in the act and must register with the Department of State and report his/her expenditures to the department for inclusion in the department's periodic reports."

The Act establishes registration and reporting requirements for certain defined persons. Those defined as lobbyist agents are persons who receive payment for engaging in lobbying as defined in section 5(1) of the Act (MCL 4.415). The pertinent portion of the definition states 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."

Section 5(4) of the Act and Rule 24 of the rules promulgated to implement the Act, 1981 AACS R4.424, make it clear that a state executive department is a lobbyist.

Section 8 of the Act (MCL 4.428) sets forth the reporting requirements for lobbyists and lobbyist agents. The rules include a definition for the terms "expenditures related to the performance of lobbying" and "expenditures for lobbying." Rule 1(d), 1981 AACS 4.411(d) states as follows:

"(d) 'Expenditures related to the performance of lobbying' and 'expenditures for lobbying' includes all of the following expenditures of a lobbyist or lobbyist agent:

(i) A payment made on behalf of a public official for the purpose of influencing legislative or administrative action.

(ii) A payment made to influence legislative or administrative action.

(iii) Actual expenses for lobbying other than travel expenses, whether received in the form of an advance or subsequent reimbursement.

(iv) An expenditure for providing or using information, statistics, studies, or analysis in communicating directly with an official that would not have been incurred but for the activity of communicating directly."

A person that makes such expenditures is required to keep records and file reports after meeting the thresholds set forth in the Act. If expenditures take the form of compensation to a person for the preparation of materials for use in lobbying, the expenditures must be reported by the lobbyist or lobbyist agent paying the compensation.

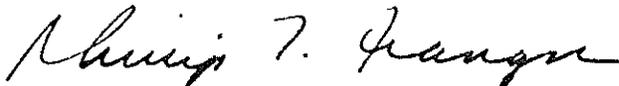
An individual who does not directly communicate with any public official is not a lobbyist or lobbyist agent. Such an individual should not be included in the listing of persons in section 6 of Form LR-1. In addition, a person who does not directly communicate with any public official is not required to register as a lobbyist agent under the Act.

In advising various persons regarding the Act's provisions the Department has attempted to make it clear that compensation paid to support staff such as those you have asked about must be reported pursuant to the Act's provisions even though the individuals receiving the compensation or reimbursement are not themselves required to register or report.

Messrs. Mallett and Henry
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This response is informational only and does not constitute a declaratory ruling.

Very truly yours,



Phillip T. Frangos
Director
Office of Hearings and Legislation

PTF/cw