

RICHARD H. AUSTIN

SECRETARY OF STATE



LANSING

MICHIGAN 48918

STATE TREASURY BUILDING

February 7, 1984

Mr. S. Don Potter
Michigan Municipal Electric Association
818 Cowley Avenue
East Lansing, Michigan 48823

Dear Mr. Potter:

This is in response to your inquiry concerning the applicability of the lobby act (the "Act"), 1978 PA 472, to an annual Legislative Reception and Fish Fry held by the Michigan Municipal Electric Association ("MMEA"). You set forth the following facts in your letter:

"All members of the Michigan House and Senate are individually invited, and in the past their staff members also have attended in significant numbers. Many MMEA Members and Associate Members also attend. Members are persons directly involved in the operation of municipally-owned electric utilities, usually managers, employees, and governing body members, the latter being either appointed or elected officials. Associate Members are representatives of companies or firms who provide goods and services to municipally-owned electric utilities. Attendance on the part of Members and Associate Members is purely voluntary, and they receive no compensation for the time spent or any expenses involved to attend the function from any source. Each Member and Associate Member donates \$50.00 per person to help defray the costs of this activity."

Your questions are set out and answered below:

"1. Is this function considered lobbying?"

"Lobbying" is defined in section 5(2) of the Act, MCL 4.415, as "communicating directly with . . . an official in the legislative branch of state government for the purpose of influencing legislative or administrative action." The purpose of holding the reception includes creation of good will and providing a place for members and associate members to meet with each other and with Legislators. This is an annual event which is scheduled regardless of whether there are bills pending in the Legislature of concern to MMEA or its members and associate members. While some lobbying may well take place at the reception, the event itself is not lobbying.

"2. If so, how should the expenses be accounted for?"

Section 8(1)(b)(i) of the Act, MCL 4.418, requires lobbyist and lobbyist agents to report "expenditures for food and beverage provided for public officials as specified in subsection (2)." Section 8(2) states:

"(2) Expenditures for food and beverage provided a public official shall be reported if the expenditures for that public official exceed \$25.00 in any month covered by the report or \$150.00 during that calendar year from January 1 through the month covered by the report. The report shall include the name and title or office of the public official and the expenditures on that public official for the months covered by the report and for the year. Where more than 1 public official is provided food and beverage and a single check is rendered, the report may reflect the average amount of the check for each public official. If the expenditures are a result of an event at which more than 25 public officials were in attendance, or, are a result of an event to which an entire standing committee of the legislature has been invited in writing to be informed concerning a bill which has been assigned to that standing committee, a lobbyist or a lobbyist agent shall report the total amount expended on the public officials in attendance for food and beverage and shall not be required to list individually. In reporting those amounts, the lobbyist or lobbyist agent shall file a statement providing a description by category of the persons in attendance and the nature of each event or function held during the preceding reporting period." (emphasis added)

Unlike the other two general categories of expenditures which must be reported, expenditures for food and beverage provided public officials are not qualified by the phrase "for lobbying." This is a legislative determination that all food and beverages provided public officials by a lobbyist or lobbyist agent must be reported, regardless of the reason for those expenditures. Because MMEA is a lobbyist and is providing food and beverage to public officials, MMEA must report the expenditures for food and beverage provided for public officials.

"3. What sort of records should be kept? Must we keep a record of each attendee by name and address? In the past, some 75 Senators and Representatives have attended."

As indicated in the emphasized portion of section 8(2) quoted above, since more than 25 public officials will be in attendance, MMEA does not need to list the expenditures by individual public official. The records MMEA keeps must be adequate to compute the total amount spent for food and beverage provided public officials. Section 9(1)(b) also requires MMEA to record the names of all public officials in attendance and the nature of the event. In addition, should MMEA directly communicate with public officials at the reception for the purpose of influencing administrative or legislative action, MMEA must report any expenditures made for the communication and keep records sufficient to create the report.

"4. Does the \$50.00 donated by each Member and Associate Member count toward the 'threshold' described in the Lobby Registration Act? If so,

whose threshold, the individual, his or her employer, or the Association's?"

As indicated in the answer to your first question, the event is not lobbying. The \$50.00 donation to defray the expenses of the reception is not an expenditure for lobbying. It does not count toward the threshold for any person to become a lobbyist or lobbyist agent and is not reported by any lobbyist or lobbyist agent.

- "5. If no money was collected, and the expenses were paid by Association funds, would Members and Associate Members attending be required to report under the Act, and if so, what?"

This question is answered in the negative provided those in attendance do not lobby.

- "6. Is the time contributed by those persons who actually fry the fish a reportable item? These persons are employed by the Village of Sebawaing, the City of Bay City, and the City of Lansing. They receive no compensation for their services either from their employers or the Association, nor are they reimbursed for their expenses. They contribute their time and expenses on a voluntary basis. If this is a reportable item, is it reportable at the Association, municipal, individual level, or a combination thereof?"

Since the cooks are not compensated or reimbursed by either MMEA or their employers, there is no expenditure being made. Also, they are not lobbying. Their time is not reportable.

- "7. Must attending Members and Associate Members report under the terms of the Act even if they do not attempt to influence legislation or administrative action? Would an affidavit to the effect, the (sic) no "lobbying" was conducted signed by those Members and Associate Members who attended have any relationship to the reporting requirements, or is it assumed that such a function is lobbying on its face?"

Attending members and associate members do not report their respective \$50.00 donations as stated in the answer to your fourth question. This is true even if they do lobby and are reimbursed by their employers. Consequently, an affidavit is not needed to prevent the donations from being reported.

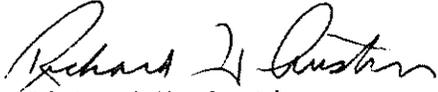
However, any lobbyist agent who actually lobbies at the reception would report any compensation received for the time spent lobbying. Also, any expenditures made or reimbursed for the lobbying would be reported. A person who is not a lobbyist agent would count toward his or her threshold any compensation or reimbursement received.

Mr. S. Don Potter

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This response constitutes a declaratory ruling relating to the specific facts and questions you have presented.

Sincerely,

A handwritten signature in cursive script that reads "Richard H. Austin".

Richard H. Austin
Secretary of State

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