

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



1-85-LI

LANSING

MICHIGAN 48918

May 6, 1985

John F. Cavanagh
House Democratic Staff
Michigan House of Representatives
Lansing, Michigan 48909

Dear Mr. Cavanagh:

This is in response to your inquiry concerning applicability of the lobby act (the Act), 1978 PA 472, to the following situation:

"Several lobbyist agents, some representing multiple lobbyists, pool their resources for the purpose of hosting a reception for a public official in the executive branch. The reception will feature food and beverage and it is anticipated that public officials in the legislative branch will be in attendance."

You ask "what reporting requirements are triggered by virtue of the pooling of resources and the attendance of legislative public officials."

Lobbyists and lobbyist agents are required to file disclosure reports on January 31 and August 31 of each year. Pursuant to section 8(1)(b) of the Act (MCL 4.413), the reports must include expenditures for food and beverage provided to public officials, advertising and mass mailing expenses directly related to lobbying, and all other expenditures for lobbying. "Lobbying" is defined in section 5(2) of the Act (MCL 4.415) as "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."

Expenditures for food and beverage must be reported regardless of their purpose. Therefore, each lobbyist agent hosting the reception is required to report his or her share of the cost of food and beverage provided to officials in both the legislative and executive branches, even if lobbying does not occur at the event. The amount of detail required will depend upon the number of officials in attendance and whether the lobbyist agent has reached the expenditure thresholds established in section 3(2) of the Act.

Section 8(2) provides:

Sec. 8. (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."

Enclosed are copies of forms entitled "Financial Report Summary" and "Food & Beverage for Public Officials" which lobbyist and lobbyist agents must file with the Department. As indicated in section 8(2), if more than 25 public officials attend the reception, each lobbyist agent is required to complete part 4 of the Food & Beverage report, describing the nature of the event, the category of persons attending, the date, and the amount expended. While the lobbyist agent need not identify the public officials in attendance, their names must be included in the lobbyist agent's records pursuant to section 9(1)(b) of the Act (MCL 4.419).

If less than 25 public officials appear at the reception, the lobbyist agent may divide his or her food and beverage cost by the number of officials attending. The lobbyist agent must then complete part 3 of the Food & Beverage report, identifying each public official who has been the beneficiary of food and beverage expenditures exceeding \$25.00 in one month or \$150.00 during the calendar year.

Finally, if less than 25 public officials attend and the lobbyist agent has not reached either the \$25.00 or \$150.00 threshold for a particular public official, the cost of the food and beverage must be reported in part 7a of the Financial Report Summary.

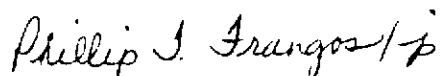
Other expenditures relating to the reception are reportable only if they are for the purpose of lobbying. For example, if a lobbyist agent communicates with a legislator or other public official at the event for the purpose of influencing

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legislative or administrative action, the lobbyist agent must report any compensation or reimbursement received for the time spent lobbying. However, the reception itself is not lobbying and costs associated with the event, other than for food and beverage, are not reportable unless they are for the purpose of influencing a public official's action.

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

Enc.