

RICHARD H. AUSTIN

SECRETARY OF STATE

STATE TREASURY BUILDING



LANSING

MICHIGAN 48918

September 4, 1981

John T. Morberg, Director
House Fiscal Agency
Roosevelt Building, 3rd Floor
222 Seymour
Lansing, Michigan 48901

Dear Mr. Morberg:

Your letter asking for a confirmation of your conclusion that staff members of the House Fiscal Agency are not required to register and report pursuant to the lobby act (the "Act"), 1978 PA 472, has been referred to me for a response.

In your letter you set forth the statutory authority of the House Fiscal Agency. You also indicate that the Governing Board of the House Fiscal Agency has approved a policy and procedure manual which specifies the functions of the agency as:

1. providing service to the House Appropriations Committee regarding all legislative fiscal matters, and
2. providing service regarding fiscal information to all members of the House of Representatives.

You also state that:

"The staff, on behalf of the Agency or the committee, cannot originate or implement policy."

Based on the above you conclude that the staff of the House Fiscal Agency is not required to register and report pursuant to the Act because they function in a "nonpolicymaking capacity."

John T. Morberg
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Section 5(10) of the Act (MCL 4.415) defines the term "Official in the legislative branch" as follows:

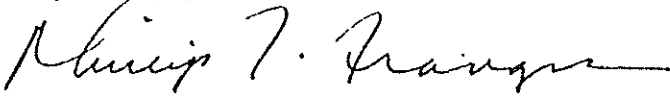
"(10) 'Official in the legislative branch' means a member of the legislature, a member of an official body established by and responsible to the legislature or either house thereof, or employee of same other than an individual employed by the state in a clerical or nonpolicy-making capacity."

This definition is used in the Act to delineate persons with whom direct communication for the purpose of influencing official action may result in an expenditure to be reported. A determination that an employee of the House Fiscal Agency acts in a "nonpolicy-making capacity" simply means that a lobbyist or lobbyist agent is not required to report expenditures made in communicating directly with the staff member.

The Secretary of State in the course of preparing for the implementation of the Act has asked the members and various official bodies established by the Legislature to forward the names of policymaking employees. This was done so that a list could be prepared that would notify the lobbying community which legislative employees act in a policymaking capacity. Based on your response employees of the House Fiscal Agency will not be included on the list of policymaking legislative employees.

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