

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN • SECRETARY OF STATE

STATE TREASURY BUILDING



46-84-LI

LANSING
MICHIGAN 48918

October 23, 1984

John D. Niederhauser
Legislative Liaison Committee
1575 Suncrest Drive
Lapeer, Michigan 48446

Dear Mr. Niederhauser:

This is in response to your inquiry concerning applicability of the lobby act (the Act), 1978 PA 472, to the Local Public Health Legislative Liaison Committee (the Committee). Specifically, you ask whether the Committee, which is composed of representatives from a variety of local public health organizations and governmental agencies, is required to register as a lobbyist under the Act.

"Lobbying" is defined in section 5(2) of the Act (MCL 4.425) 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." "Administrative action" and "legislative action" are defined in section 2(1) (MCL 4.412) and section 5(1), respectively, as follows:

"Sec. 2. (1) 'Administrative action' means the proposal, drafting, development, consideration, amendment, enactment, or defeat of a non-ministerial action or rule by an executive agency or an official in the executive branch of state government. Administrative action does not include a quasi-judicial determination as authorized by law.

Sec. 5. (1) 'Legislative action' means introduction, sponsorship, support, opposition, consideration, debate, vote, passage, defeat, approval, veto, delay, or an official action by an official in the executive branch or an official in the legislative branch on a bill, resolution, amendment, nomination, appointment, report, or any matter pending or proposed in a legislative committee or either house of the legislature. Legislative action does not include the representation of a person who has been subpoenaed to appear before the legislature or an agency of the legislature."

Pursuant to section 5(4) and 7(1) of the Act (MCL 4.417), a person including an

organization is required to register as a lobbyist if the person or organization expends more than \$1,000 for lobbying, or more than \$250 on lobbying a single public official, in a 12 month period. The \$1,000 and \$250 thresholds are calculated pursuant to rule 21, 1981 AACS R4.421, which provides:

"Rule 21. For the purpose of determining whether a person's expenditures for lobbying are more than \$1,000.00 in value in any 12-month period, or are more than \$250.00 in value in any 12-month period if expended on lobbying a single public official, the following expenditures shall be combined:

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

(b) Expenditures, other than travel expenses, incurred at the request or suggestion of a lobbyist agent or member of a lobbyist, or furnished for the assistance or use of a lobbyist agent or member of a lobbyist while engaged in lobbying.

(c) The compensation paid or payable to lobbyist agents, employees of the lobbyist, and members of a lobbyist for that portion of their time devoted to lobbying."

These provisions indicate that the Committee is required to register as a lobbyist only if two conditions are met. First, the Committee must communicate with public officials for the purpose of influencing legislative or administrative policy decisions. Second, the Committee must make related expenditures which exceed the thresholds established in section 5(4).

You state that while the primary purpose of the Committee is to exchange information and act as a clearinghouse for the legislative concerns of its constituent organizations, there is occasional "contact with members of the House and Senate. For example, on a quarterly basis, the committee sponsors a legislative breakfast inviting appropriate members of both Houses and the Governor's office to discuss items of concern." You indicate the costs of the breakfasts are generally paid on a rotating basis by one of the organizations represented on the Committee.

If, at the breakfasts, members of the Committee communicate with public officials for the purpose of influencing legislative or administrative action, the members are engaged in lobbying. Therefore, any expenditures associated with the breakfasts are subject to the Act's registration and reporting provisions. Pursuant to rule 21, if the Committee pays any breakfast expenses with its own funds, those payments must be included to determine whether the spending limitations found in section 5(4) have been met. If in any 12 month period the Committee's total expenditures for lobbying exceed \$1,000, or \$250 on lobbying a single public official, the Committee must register as a lobbyist and file periodic reports as required by the Act.

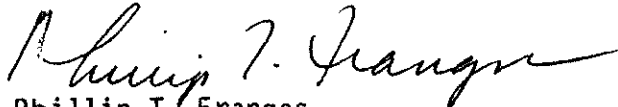
On the other hand, if an organization affiliated with the Committee pays for the breakfast, that organization must register as a lobbyist upon reaching the

John D. Niederhauser
Page 3

\$1,000 or \$250 expenditure threshold. If the organization has previously registered with the Department, the cost of the breakfast must be reported as required by the Act.

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