

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN • SECRETARY OF STATE

STATE TREASURY BUILDING

LANSING
MICHIGAN 48918

September 27, 1984

Kurt Kimball
Assistant City Manager
300 Monroe Avenue, N.W.
Grand Rapids, Michigan 49503

Dear Mr. Kimball:

This is in response to Jan Perkin's inquiry concerning applicability of the Lobby act (the Act), 1978 PA 472, to communications between City of Grand Rapids' employees and the Job Development Authority.

The Job Development Authority (JDA) consists of nine members who are "officials in the executive branch" as defined in section 5(9) of the Act (MCL 4.415). Housed within the Department of Commerce, JDA was established to promote full employment and to maximize economic growth in Michigan. To this end, JDA is authorized by section 13 of 1975 PA 301 (MCL 125.1713) to provide financing to creditworthy applicants through direct loans or "loan guarantees and participations in cooperation with financial institutions," including economic development corporations.

To facilitate implementation of its enabling statute, JDA and the City of Grand Rapids have entered into a "memorandum of understanding." According to the executive director of JDA, William Cochran, this agreement provides that city employees may assist private sector applicants in completing loan applications and assembling necessary documents in exchange for a percentage of JDA fees. At times, the employees accompany the applicants to public sessions of the JDA, where the loan applications are presented for approval. The City asks whether employees who attend JDA meetings are required to register as lobbyist agents under the Act.

"Lobbyist agent" is defined in section 5(4) of the Act as "a person who receives compensation or reimbursement of actual expenses, or both, in a combined amount in excess of \$250.00 in any 12-month period for lobbying."

Pursuant to section 5(2), "lobbying" includes "communicating directly with an official in the executive branch of state government . . . for the purpose of influencing . . . administrative action." According to section 2(1) (MCL

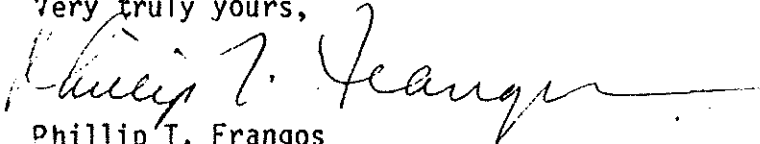
1.412), "administrative action" is "the proposal, drafting, development, consideration, amendment, enactment, or defeat of a nonministerial action or rule by an executive agency or an official in the executive branch of state government" but does not include a quasi-judicial determination as authorized by law.

Both William Cochran and the City of Grand Rapids' development manager, Ned Zimmerman, have indicated that city employees who attend JDA sessions do not necessarily communicate with the board. The employee's role is limited to providing technical information in response to questions from JDA members. Technical matters are raised infrequently and in general the only persons who communicate with the JDA are the loan applicants themselves. In these circumstances, city employees are not engaged in direct communications with public officials for the purpose of influencing administrative action, and the employees are not required to register as lobbyist agents.

In her letter, Ms. Perkins also asks whether an attorney who represents clients before the JDA is subject to the Act's requirements. A specific answer to this question cannot be provided because the attorney's role is not clearly explained. However, the Department has previously indicated in a letter to Senator John Kelly, dated April 25, 1984, that the Act does not apply to an attorney who is engaged in an activity for which a Michigan license is required. A copy of the Kelly letter, which answered a series of questions concerning attorneys, is enclosed for your use.

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.