

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN • SECRETARY OF STATE

STATE TREASURY BUILDING

LANSING
MICHIGAN 48918

March 8, 1990

John Cavanagh
House of Representatives
242 Roosevelt Building
PO Box 30014
Lansing, Michigan 48909-7514

Dear Mr. Cavanagh:

This is in response to your inquiry regarding the applicability of the lobby act (the Act), 1978 PA 472, as amended, to the following scenarios:

"A 'lobbyist' is sponsoring a conference that is scheduled to last several days. The conference will feature, inter alia, round table discussions (as a presentation to conference attendees) on topics of interest to the 'lobbyist'. Among the topics of interest slated for discussion is an issue of relevance in this state and on which a 'public official' has familiarity. The 'lobbyist' seeks the participation of the 'public official' in one of the round table discussions referred to above. The 'lobbyist' proposes to assume the cost of travel, meals and accommodations for the 'public official'."

You ask whether, in these circumstances, the lobbyist may pay an honorarium to the public official. You also ask "what status under the Lobby Law does the provision of travel, meals and lodging assume".

Rules 1(1)(e) and 73 of the administrative rules promulgated to implement the Act, 1981 AACS R4.411 and R4.473, address honoraria. These rules provide:

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"Rule 1. (1) As used in the act or these rules:

(e) 'Honorarium' means a payment for speaking at an event, participating in a panel or seminar, or engaging in any similar activity. Free admission, food, beverages, and similar nominal benefits provided to a public official at an event at which he or she speaks, participates in a panel or seminar, or performs a similar service, and a reimbursement or advance for actual travel, meals, and necessary accommodations provided directly in connection with the event, are not payments."

"Rule 73. An honorarium paid directly to a public official by a lobbyist or lobbyist agent shall be considered a gift within the meaning of section 11 of the act when it is clear from all of the surrounding circumstances that the services provided by the public official do not represent equal or greater value than the payment received."

Section 11(2) of the Act (MCL 4.421) and rule 71, 1981 AACS 4.471, prohibit a lobbyist or lobbyist agent from giving a gift to a public official. Pursuant to section 4(1) of the Act (MCL 4.411), a "gift" includes anything having a value which, for 1990, exceeds \$35.00 in a one month period. (The original amount of \$25.00 has been adjusted for inflation as required by section 19a of the Act.)

As defined in rule 1(1)(e), "honorarium" includes a payment for "participating in a panel or seminar, or engaging in any similar activity." The hypothetical lobbyist described in your letter seeks the participation of a public official in one of several round table discussions presented at a conference. If the public official is obligated to take part in the round table and his or her participation is integral to the discussion, it would appear that a round table discussion is an activity similar to participating in a panel or seminar. In these circumstances, the lobbyist may pay an honorarium to the public official.

Your second question concerns the lobbyist's payment of the public official's travel, meal and lodging expenses. This issue has been previously discussed in interpretive statements issued to Representative Vernon J. Ehlers, dated January 27, 1984, and former House Speaker Gary M. Owen, dated February 7, 1984. Copies of these interpretive statements are attached for your convenience.

Rule 1(1)(e) provides that travel expenses, meals and necessary lodging are not "payments" and, therefore, are not part of an honorarium. At the same time, this rule acknowledges that "a reimbursement or advance for actual travel, meals, and necessary accommodations provided directly in connection with the event" is permissible under the

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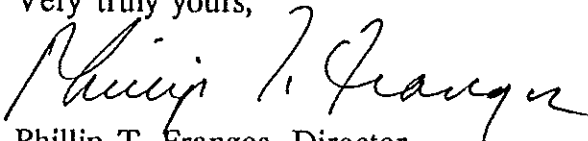
Act. The payment of these expenses must be reported by the lobbyist, as indicated in the Ehlers and Owen letters:

"A lobbyist or lobbyist agent must report any advance payment or reimbursement given to a public official for meals as food and beverage expenditures. The cost of food and beverage provided directly to the public official at the meeting or seminar must also be reported by the lobbyist or lobbyist agent. In general, when the total of the travel expense, lodging expense, and honoraria paid to the public official is \$500.00 or more [\$725.00 in 1990], the lobbyist or lobbyist agent must also report the total as a financial transaction pursuant to section 8(1)(C) (MCL 4.418)."

Thus, in your hypothetical, if the lobbyist pays an honorarium to a public official to be an integral participant in a round table discussion, or other event, the lobbyist may pay the public official's actual travel, meal and lodging costs if they are directly connected to that event. However, an impermissible gift may result if the lobbyist pays for unconnected travel and lodging costs. Expenditures for food and beverage provided to the official must be reported if the expenditures for that public official exceed the adjusted dollar amount of \$35.00 in one month or \$275.00 for the calendar year, as required by section 8(2) of the Act. If the total cost of travel, accommodations and the honorarium paid to the official is \$725.00 or more, that cost must be reported as a financial transaction pursuant to section 8(1)(c).

This response is informational only and does not constitute a declaratory ruling.

Very truly yours,



Phillip T. Frangos, Director
Office of Hearings and Legislation

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attachments