



Michigan Department of State  
Bureau of Elections  
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# Lobby Manual

## Michigan Lobby Registration Act

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## INTRODUCTION TO MICHIGAN'S LOBBY REGISTRATION ACT

[The Michigan Lobby Registration Act, Public Act 472 of 1978 \(M.C.L. 4.411 - M.C.L. 4.431\)](#) provides for public disclosure of the lobbying of state level public officials. Lobbying means spending money in an attempt to influence the legislative or administrative actions of state level lobbyable public officials.

The Lobby Act (Act) identifies three main actors in the Lobbying process:

1. Lobbyable Public Officials are specific people in State Government that are lobbyable;
2. Lobbyists are organizations or groups that spend money to lobby Public Officials; and
3. Lobbyist Agents are individuals that are paid by Lobbyists to influence Public Officials.

The Act does not license Lobbyists or Lobbyist Agents. Any person may communicate directly with public officials at any time. However, the Act requires a person to register as a Lobbyist or Lobbyist Agent once a monetary threshold is met.

The Act stipulates registration and reporting requirements for Lobbyists and Lobbyist Agents. There are no registration fees required by the Act. However, late filing fees are assessed if a required filing is not received timely. Thresholds and penalties under the Act are adjusted annually to reflect changes in the Detroit Consumer Price Index. The [current thresholds](#) can be found on the Bureau of Elections web site.

### Lobbying

Lobbying is defined as any direct communication with a lobbyable state level public official to influence the official's legislative or administrative actions. The communication may be face to face, by telephone, letter, electronic media or any other means.

Section 5(2), "Lobbying means 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. Lobbying does not include the providing of technical information by a person other than a person as defined in subsection (5) or an employee of a person as defined in subsection (5) when appearing before an officially convened legislative committee or executive department hearing panel. As used in this subsection, "technical information" means empirically verifiable data provided by a person recognized as an expert in the subject area to which the information provided is related."

A person has lobbied if the person makes direct contact with a public official to influence a legislative or an administrative action or pays another person to make direct contact with public officials to influence a legislative or an administrative action. Lobbying may take place anywhere and at any time a person makes direct contact with a lobbyable public official to influence their legislative or administrative actions.

Section 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."

Section 5(1), "Legislative action means introduction, sponsorship, support, opposition, consideration, debate, 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."

Section 5(3), "Influencing means promoting, supporting, modifying, opposing or delaying by any means, including the providing or use of information, statistics, studies or analysis."

If a decision has not yet been made by a Lobbyist to engage in lobbying activity, the cost of analysis or expenditures made in order to assist in determining if a person will engage in lobbying does not count toward the expenditure thresholds. However, once a decision has been made to engage in lobbying, the analysis then becomes lobbying activity and expenditures made during that activity does count toward the expenditure thresholds. The cost of a Lobbyist Agent's fringe benefits or the Lobbyist Agent's travel to visit with a public official are not defined as lobbying expenditures.

### Exclusions from the Definition of Lobbying

The following are excluded from the definition of Lobbying and therefore are not used in determining whether the thresholds for registering are met and are not reportable as a lobbying expense.

- Communications between employees and public officials for whom they work are excluded from the definition of lobbying. Note: Communications between employees of one executive department and another executive department or employees of an autonomous agency within the same department *may* constitute lobbying.
- Ministerial actions, those actions that are taken by a public official in obedience to law without their personal discretion as to whether or not to take action, are excluded from the definition of lobbying. This exemption includes administrative hearings and other quasi-judicial proceedings (IS Paul Bolek 4/19/84).
- The Act does not address grass roots lobbying specifically. Contacting members of an organization or the general public and urging them to contact a public official on their own time and at their own expense is not lobbying under the Act. However, contact that is paid for or controlled by a person may be lobbying and not exempt from the definition of lobbying.
- Taking an editorial stance in a newspaper or similar publication intended for general circulation would not meet the definition of lobbying as the communication is not made directly to lobbyable public officials to influence their actions.
- Communication with county, township, city or village level officials is not governed by the Act. Contact the local municipality to obtain information concerning their possible lobby registration requirements.
- Communication with federal level officials is not governed by the Act. Contact the Federal Elections Commission to obtain information concerning federal lobby registration requirements.

### **Lobbyable Public Officials**

Lobbyable public officials are specified under Section 5 of the Act. Officials in the executive branch are specified under Section 5(9). Officials in the legislative branch are specified under Section 5(10). **Note:** Due to executive orders which have changed the organization of various state executive departments, the listing of public officials as provided in the statute under Section 5 is no longer current. Current lobbyable public officials are available at the Bureau of Elections web site.

Lobbyable public officials are essentially those persons, as defined under statute, that may use personal discretion in deciding whether or not to take legislative or administrative action. The list of state level lobbyable public officials under Sections 5(9) and 5(10) includes:

## Executive Branch

Officials in the Executive Branch are considered lobbyable from the time they are elected, nominated or appointed to any office designated as lobbyable under Section 5(9). They are considered lobbyable even though they have not yet taken office.

- The Governor
- The Lieutenant Governor
- The Secretary of State
- The Attorney General
- A Classified Director
- A Classified Chief Deputy Director
- A Classified Deputy Director
- An individual under the executive branch and not under civil service (This does not include an individual serving in a clerical, non-policy making or non-administrative position.)
- A President of a public university

Each department of the Executive Branch designates those people they deem lobbyable public officials. The public officials list is made available by the Bureau of Elections, however it is created by each department.

## Legislative Branch

Officials in the legislative branch are considered lobbyable when they are members of the legislature or occupy any of the other offices designated under Section 5(10). Section 5(10) does not include any language indicating an official in the legislative branch is lobbyable prior to assuming office.

- Senators
- Representatives
- The Auditor General
- The Deputy Auditor General
- A policy-making employee of the legislature (This does not include an individual employed by the state in a clerical or non policy-making capacity.)
- The Director of the Legislative Retirement System

## **Lobbyist**

A Lobbyist is any person that makes expenditures or enters into an agreement to make expenditures in excess of the [current monetary thresholds](#) (published annually by the Bureau of Elections) to lobby public officials. A person can be a business, individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, labor organization, company, corporation, association, committee or any other organization or group of persons acting jointly, including a state agency or a political subdivision of the state.

A person exceeds the thresholds immediately upon entering into any type of agreement which specifies that the person will make expenditures in excess of the thresholds during any 12 month period. Therefore, a person may meet the definition of a Lobbyist by entering into such an agreement before expenditures for lobbying are actually made.

## Individuals as Lobbyists

Most often Lobbyists are corporations, unions, trade associations or other groups or organizations that make expenditures in order to lobby public officials. An individual can meet the definition of a Lobbyist if he/she spends their own personal funds in excess of the Lobbyist threshold.

Individuals, in most situations, do not meet the definition of a Lobbyist. Rather, individuals usually meet the definition of a Lobbyist Agent. See Lobbyist Agent section below for more information.

### Units of Government as Lobbyists

Units of government such as state executive departments, counties, cities, townships, villages, public universities, colleges and school districts are required to register if they exceed the thresholds under the Act. Section 5(4)(d) of the Act specifies that units of government become Lobbyists immediately upon contracting with a Lobbyist Agent regardless of the amount of the expenditure.

The cost of lobbying activities carried out on behalf of a unit of government by lobbyable public officials would not be counted toward the registration or reporting thresholds under the Act.

### Non-profit Organizations as Lobbyists

Non-profit organizations, with the exception of church related organizations, are required to register and report under the Act if the organization meets the definition of a Lobbyist or Lobbyist Agent. Non-profit organizations planning to engage in lobbying activities are advised to consult federal tax officials as there are limits placed on lobbying activities by non-profit groups under federal statutes.

### **Lobbyist Agents**

A Lobbyist Agent is any person that receives compensation or reimbursement in excess of the [current monetary thresholds](#) (published annually by the Bureau of Elections) for lobbying on behalf of employers or clients during any 12 month period. A person can be a business, individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, labor organization, company, corporation, association, committee or any other organization or group of persons acting jointly, including a state agency or a political subdivision of the state.

A person exceeds the thresholds immediately upon entering into any type of agreement which specifies that the person will receive compensation or reimbursement in excess of the thresholds during any 12 month period. Therefore, a person may meet the definition of a Lobbyist Agent by entering into such an agreement before compensation or reimbursement for lobbying is actually received.

Section 2(4): "Compensation means anything of monetary value received or to be received from a person, whether in the form of a fee, salary, forbearance, forgiveness or another form of recompense."

### Lobbyist Agent Firms

When a firm is compensated or reimbursed in excess of the thresholds by for lobbying on a client's behalf, the firm must register as a Lobbyist Agent. Any individual employees of the Lobbyist Agent firm that are compensated or reimbursed for lobbying must also register as Lobbyist Agents.

### Part-time Lobbying

A person is required to register if they receive compensation or reimbursement for lobbying in excess of the threshold. It does not matter if lobbying activity is only part of the duties they perform in their position. Any compensation or reimbursement received from any source for making direct contact with lobbyable public officials in order to influence their legislative or administrative actions counts toward the registration threshold.

### Government Employees as Lobbyist Agents

Employees of government units are required to register if they meet the definition of a Lobbyist Agent under the Act and if they do not fall into one of the exemptions from registration. Please refer to the Persons Exempted from Registration section of this manual for further detail.

## REGISTRATION REQUIREMENTS

### Registration Requirements

A person may begin to lobby public officials at any time. The Lobby Registration Act requires that a person register only after they meet the definition of a Lobbyist or Lobbyist Agent. The Act is not a licensing requirement that must be completed before lobbying.

Each individual, group or organization meeting the definition of a Lobbyist or Lobbyist Agent must register on separate forms. Joint or group registrations are not allowed. Care should be taken to fill out the Registration form completely and accurately as explained in the instructions. Lobby Registration forms are available at the Bureau of Elections web site. The Lobby Registration forms must be filed on paper and cannot be filed electronically at this time.

#### Lobbyist Registration

A Lobbyist must submit an [Original Registration](#) form within 15 calendar days after meeting the definition of a Lobbyist. A Lobbyist meets the definition when they make expenditures for lobbying in excess of the registration thresholds.

#### Lobbyist Agent Registration

A Lobbyist Agent must submit an [Original Registration](#) form within 3 calendar days after meeting the definition of a Lobbyist Agent. A Lobbyist Agent meets the definition when they receive compensation or reimbursement in excess of the registration thresholds.

#### Registration Late Filing Fees

Late filing fees for Original Registrations are assessed based on the active date provided in Item 5 of the Lobby Registration form. The active date should indicate the date the registrant met the definition of a Lobbyist or Lobbyist Agent. Please refer to the Late Filing Fees section of this manual for further detail.

### Termination of a Registration

Registrants may terminate their Lobby Registration when they no longer meet the definition of a Lobbyist or Lobbyist Agent. In order to terminate the registration, the registrant **MUST** submit a final completed [Financial Report Summary](#) form with the effective date of termination indicated. Until the registrant submits a completed report with an effective termination date indicated, the registrant must continue to file reports on January 31<sup>st</sup> and August 31<sup>st</sup> each year. Please see Reporting Requirements section for further information.

### Persons Exempted from Registration Requirements

The following persons are not required to register as Lobbyists or Lobbyist Agents in the specific circumstances indicated below. A person may be exempted from registration requirements when engaging in these specific exempted activities, however, registration may be required if that person is engaging in other activities which meet the definition of lobbying.

- Lobbyable state level public officials, as defined under the Act (Sections 5(9) and 5(10)), who are acting in the scope of the office for no compensation, other than that provided by law for the office, are not required to register.



- Elected or appointed public officials of state or local government acting in the scope of the office for no compensation, other than that provided by law for the office, are not required to register. The exemption applies only to those who serve in an autonomous, policy making capacity. An individual, that meets the definition of an elected or appointed public official of state or local government, may lobby without becoming a Lobbyist or Lobbyist Agent. (IS Downs 6/11/84). Employees of units of government, other than exempt public officials, are not included in this exemption (Sections 5(7)(b) and 5(7)(c)).

Note: This registration exemption does not extend to the following persons referenced under Section 5(7):

- Employees of public or private colleges, community colleges, junior colleges or universities
  - Employees of townships, villages, cities, counties or school boards
  - Employees of state executive departments
  - Employees of the judicial branch of state government
- A publisher, owner or working member of the press, radio or television while disseminating news or editorial comment to the general public in the ordinary course of business, is not required to register (Section 5(7)(a)).
  - A member of a Lobbyist, if the Lobbyist is a membership organization or association, is not required to register. Membership dues do not count toward the registration thresholds (IS Bertler 8/29/84). Compensation or reimbursement for lobbying received by a person (who is a member), from a membership organization, does not count toward the registration threshold. Any compensation or reimbursement for lobbying received from any other source would count toward the registration threshold. Membership organizations themselves are required to register if the organization meets the registration requirements; the exemption applies only to members (Section 5(7)(d)).
  - Churches and religious institutions are not required to register. (Pletz v SOS and IS Ball 6/22/84).
  - An attorney who is engaged in an activity which only an attorney licensed in Michigan can perform is exempt from the Act. (DR Saford 11/8/84 and IS Kelly 4/25/84).
  - A vendor communicating with a public official concerning the purchase of goods or services is not lobbying if no policy decision is required on the part of the public official. If the public official can enter into an agreement with the vendor through the exercise of personal discretion, the communication would be considered lobbying. (IS Broadhead 11/1/84).
  - An individual involved in a quasi-judicial proceeding, such as an administrative hearing, is not lobbying as quasi-judicial determinations are exempted from the definition of lobbying under Section 2(1) of the Act. (IS Broadhead 11/1/84).
  - Communications concerning ministerial actions, such as encouraging a public official to enforce the law, is not lobbying as the enforcement of the law is a ministerial rather than an administrative action. Ministerial actions are those actions that are taken by a public official in obedience to the law, without the exercise of personal discretion as to whether or not to take action. (IS Bolek 4/9/84).
  - Lobbying does not include the providing of technical information by a person other than a person as defined in subsection (5) or an employee of a person as defined in subsection (5) when appearing before an officially convened legislative committee or executive department hearing panel. As used in this subsection, "technical information" means empirically verifiable data provided by a person recognized as an expert in the subject area to which the information provided is related.
  - An individual who voluntarily appears before a legislative committee at the committee's request is not required to register. (AG #6457 8/3/87).

- A state employee who appears before a legislative committee or subcommittee at the request of the committee or subcommittee to furnish information is not required to register. (AG #6231 6/15/84).
- Employees of state government, when communicating with their employers or others within the same department are not required to register. The Department of State has interpreted the Act to exclude communications between employees and public officials for whom they work. Communications between employees of one executive department and another executive department or employees of an autonomous agency within the same department may constitute lobbying. (IS Mallett and Henry 4/6/84).
- Employees of state government, when communicating in the course of formulating the governor's budget pursuant to constitutional and statutory mandates, are not considered to be lobbying. (IS Bolek 4/19/84).
- Employees of state government (or their representatives) when communicating with lobbyable public officials in the executive branch while engaged in collective bargaining, labor/management meetings, unfair labor practice hearings or grievance administration and arbitration hearings are not considered to be lobbying. (IS Parks 10/15/85).

### **Persons Prohibited from Registering**

Section 6(a) of the Act provides that a state senator or state representative who resigns from office shall not make expenditures or receive compensation or reimbursement for actual expenses for lobbying for the remainder of the term of office from which the person resigned.

Section 11(4) of the Act prohibits a public official, other than an individual who is appointed or elected to a board or commission and is not an ex officio member or prohibited by law from having other employment, shall not accept compensation or reimbursement, other than from the state, for personally engaging in lobbying.

## REPORTING REQUIREMENTS

### Financial Report Summary Form

Each individual, corporation or any other type of group or organization registered as a Lobbyist or Lobbyist Agent is required to file a separate Financial Report Summary on January 31 and August 31 each year.

- Each registrant must file a separate Financial Report Summary form.
- Required filings can not be waived.
- Reports must be filed even if there is no activity to report for the period covered by the report.
- Reports must be filed until a registration is terminated.

See the [Financial Report Summary](#) form for details instructions for completing the form.

### Itemized Expenditure Form

Under certain circumstances, filers may be required to file an Itemized Expenditure form along with the Financial Report Summary form. See the [Itemized Expenditure](#) form for details on when this form must be filed as well as for instructions for completing the form. The Itemized Expenditure Form is never filed without an accompanying Financial Report Summary. An Itemized Expenditure form should only be filed if there are expenditures to itemize.

### Coverage Periods and Due Dates

Title of Report	Date Due By 4:00 pm	Coverage Dates
Winter Financial Report Summary	January 31	August 1 - December 31
Summer Financial Report Summary	August 31	January 1 - July 31

### Financial Report Late Filing Fees

Reports must be received by 4:00 pm on the due date. Late fees will be assessed for each calendar day a report is late. Please refer to the Late Filing Fees section of this manual for further detail.

### Termination Reports

Registrants must terminate their registrations when they end their lobbying activities to be released from filing obligations. Registrants are only required to remain registered while they meet the definition of a Lobbyist or a Lobbyist Agent. To terminate a registration a completed Financial Report Summary form with the effective date of termination must be completed and filed. Each registrant must submit a separate form. An individual must sign their own form. An organization's termination form may be signed by any authorized person. Registrants that request termination may not be terminated until all required reports are filed and all outstanding notices of Error or Omission have been satisfactorily answered.

The final Financial Report Summary form filed must indicate an effective termination date and must disclose all lobbying activity and expenditures from the beginning of the reporting period until that effective date of termination. Each registrant must submit a final Financial Report Summary.

## Methods for Filing Financial Reports

### e-Lobby Electronic Filing

A Financial Report Summary and Itemized Expenditure form can be filed online via the [e-Lobby](#) electronic filing program. The program and complete instructions for filing online are available at the Bureau of Elections web site.

### Paper Filing

A [Financial Report Summary](#) and [Itemized Expenditure](#) form can be filed on paper. The forms are available at the Bureau of Elections web site and must be mailed.

## Record Keeping

Registrants are required to keep original source records or exact copies of source records of their lobbying activities for 5 years after the report containing the information is filed. The records to be retained include all accounts, bills, receipts, books, papers and other documents necessary to substantiate reports submitted under the Act. The Act does not require that copies of original records be submitted with financial reports. Additional record keeping requirements are outlined below.

- An Itemized account of all expenditures related to the performance of lobbying must be retained. Single expenditures in excess of \$100.00 are to be recorded separately. The account must include the date, purpose and the name and address of the recipient (Section 9(1)(a)).
- An itemized account of all expenditures for food and beverage provided to public officials must be retained. If more than 1 public official is provided with food and beverage and a single check or voucher is rendered, the account may reflect the average amount of the check for each public official (Section 9(1)(b)).
- A registrant may use any reasonable accounting method in maintaining itemized accounts required by Section 9 of the Act. The method selected must be used consistently and must reasonably reflect the expenditures and financial transactions of the registrant during any given reporting period (Rule 31(1)).
  - A Lobbyist Agent's salary can be prorated in order to make a determination what portion attributable to lobbying activity. The portion that is attributable to lobbying activity would count toward the registration and reporting thresholds specified under the Act.
  - A Lobbyist's expenditures can be prorated in order to determine the portion attributable to lobbying activity. The portion that is attributable to lobbying activity would count toward the registration and reporting requirements under the Act.
- Any expenditure incurred wholly or partially in connection with lobbying must be posted in the appropriate current itemized amount required under Section 9. An expenditure incurred partially in connection with lobbying may be allocated or prorated by any reasonable accounting method. The accounting method used must be described in an attachment to the itemized account (Rule 31(2)).
- The itemized accounts required under Section 9(1) with the exception of petty cash transactions of less than the threshold for goods or services for which a receipt of proof of purchase is normally available and was not obtained, must be supported by original source records, including bills, receipts, books, papers, invoices, canceled checks and other record or an exact copy of the record. An original source document must include, the name and address of the payee, the name, address and official position, if any, of the beneficiary of the payment if other than the payee, Lobbyist or Lobbyist Agent. A description of the consideration or notation of the purpose of the expenditure must also be included (Rule 32).

## EXPENDITURES FOR LOBBYING

### Expenditures for Lobbying

Expenditures for lobbying would include the following referenced under Administrative Rule 1(1)(d):

- A payment made on behalf of a public official for the purpose of influencing legislative or administrative action.
- A payment made to influence legislative or administrative action.
- Actual expenses for lobbying (excluding travel expenses) received in the form of an advance or subsequent reimbursement.
- An expenditure for providing or using information, statistics, studies or analysis in communicating directly with a public official that would not have been incurred but for the activity of communicating directly.

Expenditures for lobbying do not include:

- Membership dues paid by a member of a Lobbyist if the member does not separately meet the definition of a Lobbyist or a Lobbyist Agent. (IS Bertler 8/29/84). Membership organizations themselves are required to register; the exemption applies only to members (Section 3(2)).
- The cost of travel to and from visiting with a public official (Section 3(2)).
- A campaign contribution otherwise reported under the Campaign Finance Act (Section 4(1)(a)).
- Costs incurred by a Lobbyist, such as the cost of analysis of proposed legislation or administrative regulations, made in order to assist in deciding whether or not to lobby. Once a decision to lobby has been made, the costs of engaging in the lobbying activity would be reportable lobbying expenditures (IS Bianco 2/3/84).
- The cost of an employee's fringe benefits would not be counted when allocating the value of their time devoted to lobbying (IS Bianco 2/3/84).

### Other Expenditures Related to Lobbying

Some activity takes place between a registrant and a public official that are not expenditures for lobbying, but are regulated by the Act. These activities are discussed below.

#### Prohibited Gifts

The Act defines a prohibited gift as any goods or services of value, in excess of the current threshold in value, provided to a lobbyable public official by a Lobbyist or Lobbyist Agent, or anyone acting on their behalf, during any 1 month period. As the Act provides a prohibited amount for a gift, a gift given below this amount is allowed. See the [Lobby Registration Act Thresholds](#) for more information on the definition of a prohibited gift and the current threshold. The amount prohibited is adjusted annually based on the Detroit Consumer Price Index. Gifts are not reported on the Financial Report Summary or an Itemized Expenditure form.

The following are exempted from the definition of prohibited gifts:

- A registrant may give a gift to a member of a lobbyable public official's immediate family or any person that is not a lobbyable public official under the Act. Any portion of a gift that provides any benefit to a public official may not exceed the gift threshold (Administrative Rule 71).
- Registrants may provide lobbyable public officials with payments, goods or services (commonly referred to as honoraria) in exchange for services provided by the officials. Such services may include speeches, participation in panel discussions or other similar events. Subject to MCL 169.250 and

169.207, the compensation may take the form of an honorarium payment for the service as well as reasonable travel and lodging associated with an event (Section 8(1)(c), Administrative Rule 1(e)).

- Registrants may not give a gift or a loan to a lobbyable public official, other than a loan made in the ordinary course of business by a qualified financial institution as defined under the Act (Section 11(2)).
- Registrants may not give a preferential interest rate based on the applicant being a lobbyable public official or a member of the official's immediate family (Section 11(2)).
- Under certain limited circumstances, a registrant may pay for a lobbyable public official's travel costs associated with visiting a site where a unique technology is in operation. Under this provision no lodging costs may be provided to the official and the travel must meet the specific criteria. (IS Pirich 11/9/89).
- Registrants may make a donation to a charitable organization in the name of a lobbyable public official. The payment of the donation must be made directly to the charitable organization and no prohibited benefit may go to the official at any time. (IS Owen 2/7/84).
- A campaign contribution otherwise reported under the Campaign Finance Act.
- A gift from a family member is defined under Section 4(1)(c) to mean "A gift received from a member of a person's immediate family, a relative of a spouse, a relative within the seventh degree of consanguinity as computed by the civil law method or from the spouse of a relative." Section 4(2) defines immediate family as "a child residing in an individual's household, a spouse of an individual or an individual claimed by that individual or that individual's spouse as a dependent for federal income tax purposes."
- Food and beverage provided to a lobbyable public official for immediate consumption, such as a breakfast, lunch or dinner (Section 4(1)(d)).
- An item such as an award or commemorative plaque if the open market value of the item does not exceed the gift threshold. (IS Mickelson 1/31/84).
- A financial transaction where a lobbyable public official provides money, a service or goods in exchange for what they receive from a Lobbyist or Lobbyist Agent that is equal to or greater than the value of what is received from the Lobbyist or Lobbyist Agent. A transaction would not be permitted if a public official were to receive payment, goods or services of value that exceeded the value of the payment, goods or services provided by the public official as the excess value received by the public official would apply toward the threshold defining a prohibited gift (Section 4(1)).
- Information, statistics, studies or analysis in the form of research or technical material, with a value exceeding the gift threshold, provided to a public official for use in assessing proposed legislation as indicated in an interpretive statement issued to Gary M. Owen on 2/7/84. Expenditures for these types of materials would be reported as expenditures for lobbying.

### Financial Transactions

A Financial Transaction is defined as, "a loan, purchase, sale or other type of transfer or exchange of money, goods, other property or services for value" between the Lobbyist or Lobbyist Agent, or a person acting on behalf of the Lobbyist or Lobbyist Agent and a public official or a member of a public official's immediate family, or a business with which the individual is associated.

A Financial Transaction that meets or exceeds the current thresholds must be reported on the Itemized Expenditure form. If it is below the current threshold, it is not required to be reported. For additional information and detailed instructions on reporting a Financial Transaction, refer to the [Itemized Expenditure](#) form.

The value of the service or goods provided by a public official must be equal to or greater than the value of what the public official receives from the Lobbyist or Lobbyist Agent. If a Lobbyist or Lobbyist Agent provides anything of value to a public official that exceeds the value of the service or goods provided by the public official, the amount would be counted toward the threshold defining a prohibited gift.

For example, if a public official is provided with an honorarium in exchange for providing a speech at an event and the public official and their spouse are both provided with travel and lodging in association with the event, the entire amount spent on both the public official and their spouse would be reported as a financial transaction.

A Financial Transaction does not include:

- Expenditures made for the purpose of lobbying a public official that do not involve a financial transaction with a public official, a member of a public official's immediate family, or a business with which the individual is associated.
- Costs associated with a Fact Finding Tour. Fact Finding Tours are discussed in more detail later in this manual.
- A transaction carried out during the ordinary course of business of a Lobbyist, if the primary business of a Lobbyist is other than lobbying and if consideration of equal or greater value was received by the Lobbyist. This exemption does not apply to Lobbyist Agents.
- A law firm that is registered as a Lobbyist Agent may not invoke attorney client privilege as a reason for failing to disclose information required under this item. (IS Miro 2/20/96).

### Honoraria

Honorarium means a payment of money to a person holding elective office as consideration for an appearance, a speech, an article, or any activity related to or associated with the performance of duties as an elected official. An honorarium does not include any of the following:

- Reimbursement for the cost of transportation, accommodations, or meals for the person.
- Wages, salaries, other employee compensation and expenses authorized to be paid by this state or a political subdivision of this state to the person holding elective office.
- An award.

Under Michigan's Campaign Finance Act, a state senator or state representative is prohibited from accepting payment, for providing a service such as an appearance, a speech, an article, or any activity related to or associated with the performance of duties as an elected public official (MCL 169.250). This prohibition does not include wages, salaries, other employee compensation and expenses authorized to be paid by the state or a political subdivision of the state to a person holding elected office. A state senator or state representative may accept travel, lodging and meals associated with an event at which the legislator provides such a service.

Public officials, other than state senators or state representatives, may accept payment of honoraria as allowed under the MCFA. The service provided by the public official must be equal to or greater in value than the honoraria, travel and lodging they receive from a Lobbyist or Lobbyist Agent in exchange for the service.

Honoraria, travel and lodging costs qualify as a Financial Transaction and must be reported if the current reporting threshold is met. Costs paid on behalf of immediate family members who accompany a public official would be included when disclosing a Financial Transaction. For additional information on Financial Transactions, refer to the section above discussing Financial Transactions.

### Fact Finding Tours

A public official may participate in a fact finding tour sponsored by a Lobbyist or Lobbyist Agent to observe a facility incorporating the operation of an advanced technology. The costs associated with the fact finding tour are lobbying expenditures to provide information to the public official concerning the advanced technology in operation at the site. Travel that meets the criteria of a fact finding tour may be provided only when the following criteria are met:

- There must be actual operations at the tour site which demonstrate unusual advanced technologies.
- The tour site selected with the advanced technologies must be the closest to Lansing.
- The tour must be planned so that the arrival and departure schedules permit no free periods for personal or recreational activities.
- The tour sponsor, rather than the public official, must select the means and times of transportation.
- The real purpose of the transportation must be to provide the public official with information for lobbying and not as a subterfuge to give a gift.

Note: A Lobbyist or Lobbyist Agent may only provide transportation and can not provide lodging if the event was a fact finding tour. (IS Pirich 11/9/89).

The costs associated with a fact finding tour are reported as a lobbying expenditures on the Financial Report Summary form. Expenditures for travel associated with a fact finding tour are reported on the Itemized Expenditures form if the travel costs exceed the current threshold.

#### Travel and Lodging for Public Officials

Travel and lodging costs paid for or reimbursed to a public official in connection with public business by the Lobbyist or Lobbyist Agent in excess of the threshold are required to be disclosed on the Itemized Expenditure form. Travel and lodging costs are reported separately even if they have been reported as part of a financial transaction or as a lobbying expenditure for a fact finding tour under another section of the report. Travel and lodging costs paid for or reimbursed to a non public official, such as the spouse of a public official, would not be reported. Care must be taken to ensure that the payment or reimbursement does not constitute a prohibited gift.

When a registrant reports travel and lodging costs provided to a state senator or representative, the registrant is required to send a copy to the affected legislator simultaneously with the filing of the report with the Secretary of State.



## LATE FILING FEES

### Late Filing Fees Assessment

Late filing fees are assessed for the late filing of an original Registration or a Financial Report Summary required under the Act. The fees are assessed for each calendar a filing is late until the maximum assessment is reached. See the current thresholds for more information for the late filing fee amounts. Fees that remain unpaid for more than 180 days are referred to the Department of Treasury for collection.

A late filing fee can be waived/voided upon receipt of a copy of the dated postal receipt documenting the report was sent in compliance with the certified/registered mail provision (MCL 4.423). Late fees may also be waived/voided if the circumstances surrounding a registrant's late filing meet the criteria specified under the good cause waiver provision (R 4.453). The unfiled report must be received by the Bureau of Elections before any consideration can be given to the waiver request.

### Ensuring a Timely Filing

A Registration or Financial Report Summary that is sent by registered or certified mail *and* postmarked two or more days before the filing deadline is considered timely regardless of when the Bureau of Elections receives the filings (MCL 4.423). A Registration or Financial Report Summary that is delivered by any other means must be received on or before the filing deadline to avoid late filing fees.

### Good Cause Waiver

There are two categories of good cause:

#### First Category of Good Cause

- Incapacitating physical illness
- Hospitalization
- Accident involvement
- Incapacitation for medical reasons
- Death

#### Second Category of Good Cause

- Loss of records due to fire, theft, flood or similar reason.
- Difficulties in the transmission of the filing due to bad weather or strikes involving transportation systems.

#### Categories of Persons Affected

These causes must relate to persons in the following categories:

- A person required to file. This will be either the individual Lobbyist Agent or the person authorized to sign on behalf of a Lobbyist or Lobbyist Agent which is not an individual.
- A person whose participation is essential to the preparation of the report or registration, (not a person who functions in a clerical fashion for the Lobbyist or Lobbyist Agent).
- A member of the immediate family of these persons.

## **The Waiver Request**

The request must be in writing and must contain the following:

- The reason for the request that fall into a category provided above.
- Documentation such as a letter from a physician or a police report providing the general nature of the good cause reason and the relevant dates the person was prevented from filing (Please do not include sensitive medical records or other personal information with a request).
- The signature of the person required to sign the registration or report referenced in the request.

The request must be sent to:

Michigan Department of State  
Bureau of Elections  
Richard H. Austin Building  
430 W. Allegan Street, 1<sup>st</sup> Floor  
Lansing, Michigan 48918

The registrant requesting a good cause waiver will receive a response in writing. If the request is granted, the fee will be voided. If the request is denied, the fee must be paid. Should you wish to appeal the denial of your request; a request for review can be sent to:

Michigan Department of State  
Legal and Regulatory Services Administration  
430 West Allegan Street, 4<sup>th</sup> Floor Richard H. Austin Bldg  
Lansing, Michigan 48918

## PROHIBITIONS UNDER THE ACT

### Prohibitions under the Act

- A state senator or state representative who resigns from office may not make expenditures for lobbying or receive compensation or reimbursement for lobbying for the remainder of the term of office from which they resigned (Section 6(a)(1)).
- A person may not be employed as a Lobbyist Agent for compensation or reimbursement that is contingent in any manner upon the outcome of legislative or administrative action (Section 11(1)).
- A Lobbyist or Lobbyist Agent, or anyone acting on their behalf, may not give a gift or a loan to a lobbyable public official. For additional information, see the section on Prohibited Gifts.
- A Lobbyist or Lobbyist Agent may not give a preferential interest rate solely on the basis of a credit applicant being a lobbyable public official or a member of their immediate family (Section 11(1)).
- Information compiled from registration or report forms required under the Act, or from lists compiled from registration or report forms, may not be sold or used by any person for any commercial purpose (Section 11(3)).
- A public official, other than an individual who is employed or elected to a board or commission and is not an ex officio member or prohibited by law from having other employment, may not accept compensation or reimbursement, other than from the state, for personally engaging in lobbying (Section 11(4)). Public officials affected by this prohibition are defined as officials in the executive or legislative branch of state government (Section 6(2)).
- The Michigan Campaign Finance Act prohibits a state senator or state representative from accepting payment, for providing a service such as an appearance, a speech, an article, or any activity related to or associated with the performance of duties as an elected public official. This prohibition does not include wages, salaries, other employee compensation and expense authorized to be paid by the state or a political subdivision of the state to a person holding elected office. A state senator or state representative may accept travel, lodging and meals associated with an event at which the legislature provides such a service. For additional information, see the section on Honoraria.

## COMPLAINTS

### Complaints

Anyone who believes that a violation of the Lobby Registration Act has occurred may file a written complaint with the Secretary of State as indicated under Section 14 and Administrative Rule 63. There is no specific form required in order to submit a complaint. However, the complaint must contain the following:

- The complaint must be typewritten or handwritten in ink and include the name, address and phone number of the person submitting the complaint.
- The name and address of the alleged violator.
- A description of the alleged violation in reasonable detail.
- Any evidence or documentation of the alleged violation that is available.
- A verification statement that is worded exactly as indicated below:

"I certify that the statements set forth above are true to the best of my knowledge, information and belief."

- This verification statement must appear after the items listed above.
- The complainant must place their signature after the verification statement.

Completed complaints are to be sent to the following address:

Michigan Department of State  
Bureau of Elections  
Richard H. Austin Building  
430 W. Allegan Street, 1<sup>st</sup> Floor  
Lansing, Michigan 48918

Upon receipt of a sworn complaint, the Secretary of State determines whether complaint is complete in all respects, as indicated under Rule 63. If such a determination is made, the Secretary of State will then forward the complaint to the Attorney General who will investigate to determine if Act or Administrative Rules have been violated. Both the complainant and the alleged violator will be notified, of the actions taken relative to the complaint, as required under Section 14 and Administrative Rule 63.

As is indicated under Section 17 of the Act, the Attorney General, upon an investigation and determination that the Act or Administrative Rules have been violated, shall initiate a civil action to enforce the Act or begin a criminal prosecution for the imposition of criminal penalties.

## DECLARATORY RULINGS AND INTERPRETIVE STATEMENTS

### Declaratory Rulings

The Secretary of State, upon the written request of an interested person, may issue a declaratory ruling as to the applicability of the Act or Administrative Rules to a specific situation. The Secretary of State will not respond to anonymous requests or requests that are not submitted in writing. Administrative Rule 3 provides that the following must be included when submitting a written request for a declaratory ruling:

- The request must contain a clear, concise and complete statement of the actual facts upon which a ruling may be based.
- A precise statement of the legal question or issue asked must be included.
- The signature of the person asking the request must be included.

The person requesting the declaratory ruling may submit a brief or other reference to legal authority that the person believes the request should be based. The Secretary of State will decline to issue a declaratory ruling under the conditions outlined below:

- The subject matter of the request is frivolous on its face.
- The statement of actual facts or issues contained in the request is indefinite, incomplete or lacks specificity.
- The same, or substantially the same, course of action is under investigation or is or has been, the subject of a current action, order, judgment or decree initiated or obtained by the Secretary of State, the Attorney General or a prosecuting attorney.

If the Secretary of State declines to issue a declaratory ruling, the interested person making the request will be notified of the reason for the refusal.

Each declaratory ruling issued will contain a finding of the facts, a conclusion of law based on all legal authority upon which the Department relies for its rulings and the ruling or determination that was made. Once issued, a declaratory ruling is binding on the Department and may not be retroactively changed, but nothing in Administrative Rule 3 prohibits the Secretary of State from prospectively changing a rule.

### Interpretive Statements

After declining to issue a declaratory ruling, the Secretary of State may issue an interpretive statement relative to any issue that was raised in the request. An interpretive statement issued is for informational and explanatory purposes only and does not carry the force or effect of law.

Requests may be forwarded to:

Michigan Department of State  
Bureau of Elections  
Richard H. Austin Building  
430 W. Allegan Street, 1<sup>st</sup> Floor  
Lansing, Michigan 48918

All Declaratory Rulings and Interpretive Statements issued are available on the Bureau of Elections web site.