

From: [MDOS-BOERegulatory](#)
To: [MDOS-BOERegulatory](#)
Subject: FW: Request for declaratory ruling or in the alternative an interpretive statement - #SecI01057025
Date: Wednesday, May 15, 2024 9:02:24 AM

On 14 May 2024 at 08:45:45 PM, bob@boblabrant.com wrote:

By email transmission: secretary@michigan.gov

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May 14, 2024

Jocelyn Benson

Secretary of State

Michigan Department of State

Richard H. Austin Building

430 W. Allegan Street

Lansing, MI 48918

RE: Request for Declaratory Ruling or Interpretive Statement Under MCL 4.429

Dear Secretary Benson:

As provided for in Section 19 of the Michigan Lobby Law, I am writing to request a declaratory ruling or in the alternative an interpretive statement providing an informational response to the question presented.

INTRODUCTION:

State law bans lobbyists and lobbyist agents from giving officeholders “gifts” as that term is defined in the Michigan Lobby Law (MCL 4.414) that limit has been adjusted to be more than \$76.00 a month. As a recent article printed in the *Detroit News* “*Michigan law bans pricey gifts from lobbyists, but tickets still flow in Lansing*,” May 12, 2024. As reported by Craig Mauger, “It has become common practice for lobbyists to ask lawmakers to reimburse them for the cost of tickets over the gift limit. One attorney said such transactions are perfectly legal.” Mauger asked that attorney “Has the Secretary of State issued a ruling to that effect? The attorney acknowledged “No.” This is the Department’s opportunity to address that reimbursement question.

The *Detroit News* article reported lobbyists sending lawmakers letters asking for a voluntary reimbursement of the cost of ticket(s) exceeding the gift limit.

The article’s research showed four lawmakers out of 146 in their required April personal

financial disclosure reported that they received tickets valued over \$76.00 to events from lobbyists in 2023.

QUESTION PRESENTED:

Whether a lobbyist or lobbyist agent, or someone acting for a lobbyist or lobbyist agent, may provide to a public official, as public official is defined in the Michigan Lobby Law, a gift of a ticket(s) to include, but not limited to sporting events, music concerts, theatre performances or a round of golf valued over \$76.00, as long as the public official reimburses the lobbyist or lobbyist agent for the value of the “gift” over \$76.00?

DISCUSSION:

In the context of the Michigan Campaign Finance Act, in what amounts to be the sister law to Michigan’s Lobby Law, reimbursement even in advance does not cure the illegal act. See OAG Opinion 7187, p. 81, February 16, 2006.

The Michigan Court of Appeals (2008) and the Michigan Supreme Court in *MEA v Secretary of State (2011)* both found even in advance reimbursement did not cure a violation of MCL 169.257. That AG opinion and Supreme Court decision should provide direction to the Department of State in answering this ruling request.

In a September 8, 2006, declaratory ruling issued to me and Richard Robertson, then with the Michigan Campaign Finance Network, the Department of State responded to our request whether we as lobbyist agents could split the cost for a round of golf for a public official in order to keep the amount of public official’s round of golf under the gift limit. The Department said we could not split the cost (1-06-DL).

What’s not a gift under the Michigan Lobby Law: a campaign contribution, a gift from an immediate family member, food and beverage for immediate consumption, and a loan in the ordinary course of business by a financial institution.

Reimbursement of “gifts” to a lobbyist or lobbyist agent cannot be twisted into a permissible loan made by a financial institution in its ordinary course of business.

If a public official wants to pay the Detroit Lions, Tigers, Pistons, Red Wings, or Fisher Theatre, etc., directly for a ticket out of the public official’s candidate committee by finding a way to categorize that payment as an incidental expense maybe legal, however, the lobbyist or lobbyist agent shouldn’t be allowed to play *Ticketmaster*, by delivering the ticket to the public official and be the one reimbursed.

A lobbyist or lobbyist agent should not be given license to give ticket(s) to a public official’s parents, siblings, spouse, or children creating the fiction that those tickets they received are now free to be used by those close relatives as their holiday or birthday gift to their public official relative.

CONCLUSION:

The answer to the submitted question should be an unequivocal, “No.”

The Department in responding to this question needs to make it abundantly clear that reimbursement plays no role whether a gift is a gift. \$76.00 means \$76.00.

It seems that the political reforms enacted post-Watergate, campaign finance reform and lobby reform are evaded, ignored and are on the verge of becoming dead letters. The

reimbursement theory cannot be allowed to subvert the gifts limits of the Michigan Lobby Law.

Please contact me if you need anything further.

Sincerely,

s/Robert S. LaBrant

Robert S. LaBrant

cc: elections@michigan.gov