

HOUSE BILL No. 5872

May 12, 2004, Introduced by Reps. Pappageorge, Acciavatti, Ehardt, Steil, Stewart, Hummel, Middaugh, Hager, Caul, Woodward, Anderson, Lipsey, Rivet, Whitmer, Murphy, Ward, O'Neil, Sak and Plakas and referred to the Committee on Government Operations.

A bill to amend 1978 PA 472, entitled

"An act to regulate political activity; to regulate lobbyists, lobbyist agents, and lobbying activities; to require registration of lobbyists and lobbyist agents; to require the filing of reports; to prescribe the powers and duties of the department of state; to prescribe penalties; and to repeal certain acts and parts of acts,"

by amending section 5 (MCL 4.415), as amended by 1986 PA 83.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 or an agency of the legislature.

2 (2) "Lobbying" means communicating directly with an official
3 in the executive branch of state government or an official in the
4 legislative branch of state government for the purpose of
5 influencing legislative or administrative action. Lobbying does
6 not include the providing of technical information by a person
7 other than a person as defined in subsection (5) or an employee
8 of a person as defined in subsection (5) when appearing before an
9 officially convened legislative committee or executive department
10 hearing panel. As used in this subsection, "technical
11 information" means empirically verifiable data provided by a
12 person recognized as an expert in the subject area to which the
13 information provided is related.

14 (3) "Influencing" means promoting, supporting, affecting,
15 modifying, opposing or delaying by any means, including the
16 providing of or use of information, statistics, studies, or
17 analysis.

18 (4) "Lobbyist" means any of the following:

19 (a) A person whose expenditures for lobbying are more than
20 \$1,000.00 in value in any 12-month period.

21 (b) A person whose expenditures for lobbying are more than
22 \$250.00 in value in any 12-month period, if the amount is
23 expended on lobbying a single public official.

24 (c) For the purpose of subdivisions (a) and (b), groups of 25
25 or more people shall not have their personal expenditures for
26 food, travel, and beverage included, providing those expenditures
27 are not reimbursed by a lobbyist or lobbyist agent.

1 (d) The state or a political subdivision ~~which~~ **that**
2 contracts for a lobbyist agent.

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

6 (6) "Representative of the lobbyist" means any of the
7 following:

8 (a) An employee of the lobbyist or lobbyist agent.

9 (b) For purposes of ~~section~~ **sections** 8(1)(b)(i) and
10 9(1)(b), a member of the lobbyist or employee of a member of the
11 lobbyist, ~~when~~ **if** the lobbyist is a membership organization or
12 association, and ~~when~~ **if** the lobbyist agent or an employee of
13 the lobbyist or lobbyist agent is present during any part of the
14 period during which the purchased food or beverage is consumed.

15 (c) A person who is reimbursed by the lobbyist or lobbyist
16 agent for an expenditure, other than an expenditure for food or
17 beverage, ~~which~~ **that** was incurred for the purpose of lobbying.

18 (7) Lobbyist or lobbyist agent does not include:

19 (a) A publisher, owner, or working member of the press,
20 radio, or television while disseminating news or editorial
21 comment to the general public in the ordinary course of
22 business.

23 (b) ~~All~~ **An** elected or appointed public ~~officials~~ **official**
24 of state or local government who ~~are~~ **is** acting in the course or
25 scope of the office for no compensation, other than that provided
26 by law for the office.

27 (c) For the purposes of this act, subdivision (b) ~~shall~~

1 **does** not include:

2 (i) Employees of public or private colleges, community
3 colleges, junior colleges or universities.

4 (ii) Employees of townships, villages, cities, counties or
5 school boards.

6 (iii) Employees of state executive departments.

7 (iv) Employees of the judicial branch of government.

8 (d) A member of a lobbyist, if the lobbyist is a membership
9 organization or association, and if the member of a lobbyist does
10 not separately qualify as a lobbyist under subsection (4).

11 (8) "Mass mailing" means not less than 1,000 pieces of
12 substantially similar material mailed within a 7-day period.

13 (9) "Official in the executive branch" means the governor,
14 lieutenant governor, secretary of state, attorney general; ~~or~~
15 an individual who is in the executive branch of state government
16 and not under civil service; **or** a classified director, chief
17 deputy director, or deputy director of a state department. This
18 includes an individual who is elected or appointed and has not
19 yet taken, or an individual who is nominated for appointment to,
20 any of the offices or agencies enumerated in this subsection. An
21 official in the executive branch does not include a person
22 serving in a clerical, nonpolicy-making, or nonadministrative
23 capacity **but does include any at-will employee**. In addition to
24 all of the foregoing, an official in the executive branch
25 includes all of the following:

26 (a) In the executive office of the governor, the chief and
27 deputy chief ~~of staff~~ **operating officer**, press secretary,

1 director of job training, and director of personnel.

2 (b) In the department of agriculture, the racing commissioner
3 and a member of the **Michigan commission of** agriculture.

4 ~~commission.~~

5 (c) In the department of civil rights, a member of the civil
6 rights commission.

7 (d) In the department of civil service, a member of the civil
8 service commission.

9 (e) In the department of ~~commerce~~ **labor and economic**
10 **growth**, the commissioner of financial ~~institutions~~ **and**
11 **insurance services**, the executive director of the housing
12 development authority, and a member of the liquor control
13 commission, strategic fund board, state housing development
14 authority, travel commission, **utility consumer participation**
15 **board**, or public service commission.

16 (f) In the department of education, a member of the state
17 board of education ~~, higher education facilities commission,~~
18 ~~higher education facilities authority, higher education~~
19 ~~assistance authority, higher education student loan authority,~~
20 or state tenure commission.

21 (g) In the department of labor **and economic growth**, the
22 director of the bureau of workers' ~~disability~~ compensation
23 **agency**, the director of the employment security commission, and a
24 member of the construction code commission, employment relations
25 commission, employment security board of review, employment
26 security commission, or wage deviation board.

27 (h) In the department of ~~licensing and regulation, the state~~

1 ~~insurance commissioner~~ **community health, the director of the**
2 **office of services to the aging and the chairperson of the crime**
3 **victim services commission.**

4 (i) In the department of management and budget, ~~the lottery~~
5 ~~commissioner, the director of the office of services to the~~
6 ~~aging, the director of the office of state employer, the~~
7 ~~chairperson of the crime victims compensation board, and a~~
8 member of the ~~council for the arts,~~ state administrative board,
9 state building authority, **or** toxic substance control commission.
10 ~~, or utility consumer participation board.~~

11 (j) In the department of natural resources **or department of**
12 **environmental quality,** the supervisor of wells and a member of
13 the air pollution control commission, natural resources
14 commission, or water resources commission.

15 (k) In the department of public health, a member of the
16 occupational health standards commission.

17 (l) In the department of transportation, a member of the
18 aeronautics commission and a state transportation commissioner.

19 (m) In the department of treasury, **the lottery commissioner,**
20 a member of the hospital finance authority, investment advisory
21 committee, ~~or~~ state tax commission, **higher education facilities**
22 **commission, higher education facilities authority, higher**
23 **education assistance authority, or higher education student loan**
24 **authority.**

25 (n) In the department of history, arts, and libraries, a
26 member of the council for the arts.

27 (10) "Official in the legislative branch" means a member of

1 the legislature **or an at-will employee on the member's staff**, the
2 auditor general, the deputy auditor general, an employee of the
3 consumer's council, the director of the legislative retirement
4 system, or any other employee of the legislature other than an
5 individual employed by the state in a clerical or
6 nonpolicy-making capacity.

7 (11) "Governmental body" means any state legislative or
8 governing body, including a board, commission, committee,
9 subcommittee, authority, or council, ~~which~~ **that** is empowered by
10 state constitution, statute, or rule to exercise governmental or
11 proprietary authority or perform a governmental or proprietary
12 function, or a lessee thereof performing an essential public
13 purpose and function under the lease agreement.