

1 GEORGIA GOVERNMENT TRANSPARENCY AND
2 CAMPAIGN FINANCE COMMISSION
3

4 **ADVISORY OPINION**
5 **C.F.C. 2011-04**
6

7 **QUESTION PRESENTED**
8

9 Whether an individual who identifies herself as representing a non-profit organization is
10 lobbying by appearing to testify before a House Committee if such person is not compensated (as
11 an employee or otherwise) and does not make any expenditures as defined by the Georgia
12 Government Transparency and Campaign Finance Act (the "Act").
13

14 **RESPONSE**
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16 The Georgia Government Transparency and Campaign Finance Commission (the
17 "Commission") has received this request for advisory opinion based on the above hypothetical.
18 Upon review of the limited circumstances provided in the hypothetical, the answer is "no", the
19 individual would not need to register as a lobbyist in Georgia.
20

21 The issue of whether an individual is acting as a lobbyist must begin with a review of who is
22 considered to be a lobbyist under the Act. Section 21-5-70(5) defines a state level lobbyist as:
23

24 (5) "**Lobbyist**" means, subject to the qualifications at the end of this paragraph:
25

- 26 (A) Any natural person who, either individually or as an employee of another
27 person, is compensated specifically for undertaking to promote or oppose
28 the passage of any legislation by the General Assembly, or any committee
29 thereof, or the approval or veto of legislation by the Governor;
30 (B) Any natural person who makes a total expenditure of more than \$1,000.00
31 in a calendar year, not including the person's own travel, food, lodging
32 expenses, or informational material, to promote or oppose the passage of
33 any legislation by the General Assembly, or any committee thereof, or the
34 approval or veto of legislation by the Governor;
35

36 The hypothetical states that the individual is not compensated by the organization she represents
37 as an employee or otherwise. Because compensation is a prerequisite to performing lobbyist
38 activities, the individual would not be considered a lobbyist under Section 5(A). The same
39 would be true for Section 5(B) regarding expenditures. Because the lobbyist under the
40 hypothetical circumstances does not make expenditures (as defined under section 21-5-70(1))
41 which are greater than \$1,000 in a calendar year, the individual cannot be said to be performing
42 lobbying activities.¹

¹ We do not need to further address the ten percent lobbying activity threshold included in the definition of lobbyist because the individual in the hypothetical does not first qualify as conducting lobbying
Footnote continued on next page.

1 The hypothetical also states that the individual is giving testimony before a House Committee.
2 We have stated in Advisory Opinion 2011-01 that O.C.G.A. §21-5-71(2) grants an exemption
3 from the registration requirement for those who give testimony before a public agency or
4 governmental entity and are not otherwise required to register. As the individual would not
5 otherwise need to be registered as a lobbyist, the fact that she is giving testimony to a House
6 Committee does not require her to register.

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8 Prepared by Stacey Kalberman
9 April 26, 2011

activities under 21-5-71(5)(A) or (B). Additionally, this Opinion assumes that the individual in the hypothetical would only need to register as a state level lobbyist because the only hypothetical presented includes testifying before a House Committee.

Advisory Opinion 2011-04 Request:

- Question of hypothetical situation submitted by Representative Bobby Franklin
- Submitted on: February 22, 2011

Whether an individual who identifies herself as representing a non-profit organization is lobbying by appearing to testify before a House Committee if such person is not compensated and she does not make any expenditures.