

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date November 7, 1975

To Markham L. Gartley, Secretary of State Dept. Secretary of State

From Leon V. Walker, Assistant

Dept. Attorney General

Subject Clarification of Question #9 of letter to Speaker John Martin of the House, dated October 14, 1975

Synopsis:

A person who gives testimony as an expert in a particular field before the Legislature, at the request of a legislator, but not pursuant to his employment, is not engaged in lobbying as defined in 3 M.R.S.A. § 311, sub-§§ 8, and is not required to register as a lobbyist under § 313, sub-§1.

Facts:

In the answer to question #9 of subject letter, this office gave as its opinion that, where the Board of Directors of a non-profit organization ordered its executive director, a paid employee, to locate experts to come to the Legislature to testify on a Bill introduced by one of the board members, who was also a legislator, a duty of the employment of the director was created which constituted "soliciting others to communicate" with officials in the Legislative Branch within the definition of "lobbying" in 3 M.R.S.A. § 312, sub-§8, as enacted by P.L. 1975, c. 576.

To clarify a similar but slightly different question, you ask the following:

Question:

Does a person who gives testimony as an expert in a particular field have to register as a lobbyist when he is asked by a legislator to give such testimony?

Answer:

No.

Reason:

In the above question, there are no facts to indicate that the expert is engaged in lobbying. The giving of expert testimony in the legislature by a person, without any agreement with his employer to do so does not constitute "lobbying" as defined in § 312, sub-§8, and the expert is not a "lobbyist" within the definition of sub-§9 and is not required to register as such under § 313, sub-§1.

Markham L. Gartley

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Should the employer, however, direct the employee-expert to testify at the request of the legislator, and agree to reimburse him for his expenses and his wages for the time spent in travel and appearance before the legislative committee, the expert is then engaging in lobbying under the Act and must register as a lobbyist, since his activities are "engaged in pursuant to employment" is defined in § 312, sub § 3.

LVW

LVW:jg