



January 7, 2002

Ms. Paula A. Jones
General Counsel
Employees Retirement System of Texas
P.O. Box 13207
Austin, Texas 78711-3207

OR2002-0097

Dear Ms Jones:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 156982.

The Employees Retirement System of Texas (the "ERS") received a request "to review the pension/benefits file of the late former lieutenant governor, Bob Bullock." You claim that the requested information is excepted from disclosure under sections 552.101, 552.107, 552.111, 552.115, and 552.117 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also considered the comments submitted to this office by the requestor. See Government Code § 552.304.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses confidentiality provisions such as section 815.503 of the Government Code.

Section 815.503 of the Government code provides that:

[r]ecords of members, annuitants, beneficiaries, and alternate payees under retirement plans administered by the retirement system that are in the custody of the system or of an administrator, carrier, or other governmental agency acting in cooperation with or on behalf of the retirement system are confidential and not subject to public disclosure and are exempt from the public access provisions of Chapter 552, except as otherwise provided by this chapter.

Gov't Code § 815.503; *see also* § 811.001(15) (defining "retirement system" as the ERS).

You state that Exhibits A - P are records of an ERS member, annuitant, beneficiary, and alternate payee under retirement plans administered by the ERS. You also state that this information is made confidential by section 815.503 of the Government Code. However, after reviewing your arguments and Exhibits A - P, we find that the submitted information is the information of an ERS annuitant and beneficiary under a retirement plan administered by the ERS. Accordingly, these records are confidential pursuant to section 552.101 in conjunction with section 815.503 of the Government Code. Additionally, the requestor does not appear to be within the class of persons to whom the ERS may release this confidential information under section 815.503(b). Therefore, the ERS must not release Exhibits A - P to the requestor. As we are able to make this determination, we need not address the remaining claimed exceptions.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



W. Montgomery Meitler
Assistant Attorney General
Open Records Division

WMM/sdk

Ref: ID# 156982

Enc: Submitted documents

c: Mr. Lucius Lomax
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(w/o enclosures)