



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 31, 2018

Ms. June B. Harden  
Assistant Attorney General  
Assistant Public Information Coordinator  
Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

OR2018-02173

Dear Ms. Harden:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 693629 (PIR No. 17-48046).

The Office of the Attorney General (the "OAG") received a request for the requestor's file. The OAG states it will release most of the requested information. The OAG states, pursuant to the previous determination in Open Records Decision No. 684 (2009), it redacted personal e-mail addresses subject to section 552.137 of the Government Code.<sup>1</sup> Further, the OAG states it redacted certain information subject to section 552.139 of the Government Code, which we understand the OAG did in accordance with Open Records Letter Nos. 2011-18124

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<sup>1</sup>Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including e-mail addresses of members of the public under section 552.137, without the necessity of requesting an attorney general decision.

(2011) and 2016-21830 (2016).<sup>2</sup> The OAG claims the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses information protected by other statutes. In addition, a federal regulation enacted pursuant to statutory authority can provide statutory confidentiality for purposes of section 552.101 of the Act. *See* Open Records Decision No. 599 at 4 (1992). The OAG raises section 552.101 in conjunction with part 603 of title 20 of the Code of Federal Regulations, which implements the Federal-State Unemployment Compensation Program, and pertains to the confidentiality and disclosure of information related to state unemployment compensation programs. 20 C.F.R. § 603.1 (providing purpose and scope of part 603). Section 1302(a) of title 42 of the United States Code authorizes the Secretary of Labor (the “secretary”) to promulgate rules and regulations necessary to the efficient administration of the functions with which the secretary is charged. *See* 42 U.S.C. § 1302(a). Section 603.4 of title 20 of the Code of Federal Regulations requires state unemployment compensation agencies, such as the Texas Workforce Commission (the “commission”), must protect the confidentiality of unemployment claim information which “reveals the name or any identifying particular about any individual or any past or present employer or employing unit, or which could foreseeably be combined with other publicly available information to reveal any such particulars, and must include provision for barring the disclosure of any such information[.]” 20 C.F.R. § 603.4(b). “Claim information” means information about whether an individual is receiving, has received, or has applied for unemployment compensation, as well as “[a]ny other information contained in the records of the State [unemployment compensation] agency which is needed by the requesting agency to verify eligibility for, and the amount of, benefits.” *Id.* § 603.2(a)(1)(i), (2)(ii). Information in the commission’s files may be disclosed to a requesting agency or other specified parties under certain circumstances. *See id.* §§ 603.5, .6, .21. Section 603.5(e) provides “[d]isclosure of confidential [unemployment compensation] information to a public official for use in the performance of his or her official duties is permissible.” *Id.* § 603.5(e). “Performance of official duties” means “administration or enforcement of law or the execution of the official responsibilities of a Federal, State, or local elected official.” *Id.* Section 603.9 provides, in part:

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<sup>2</sup>In Open Records Letter No. 2011-18124, this office issued the OAG a previous determination authorizing it to withhold an employee’s user identification under section 552.139 of the Government Code without the necessity of requesting a decision from this office. In Open Records Letter No. 2016-21830, this office issued the OAG a previous determination authorizing it to withhold photographs of its employees that are created specifically for use on identification badges under section 552.139(b)(3) of the Government Code without the necessity of requesting a decision from this office. *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

(a) In general.—For disclosures of confidential [unemployment compensation] information under . . . § 603.5(e) (to a public official) . . . a State or State [unemployment compensation] agency must require the recipient to safeguard the information disclosed against unauthorized access or redisclosure, as provided in paragraphs (b) and (c) of this section, and must subject the recipient to penalties provided by the State law for unauthorized disclosure of confidential [unemployment compensation] information.

...

(c) Redisclosure of confidential [unemployment compensation] information.

(1) A State or State [unemployment compensation] agency may authorize any recipient of confidential [unemployment compensation] information under paragraph (a) of this section to redisclose information only as follows:

(i) To the individual or employer who is the subject of the information[.]

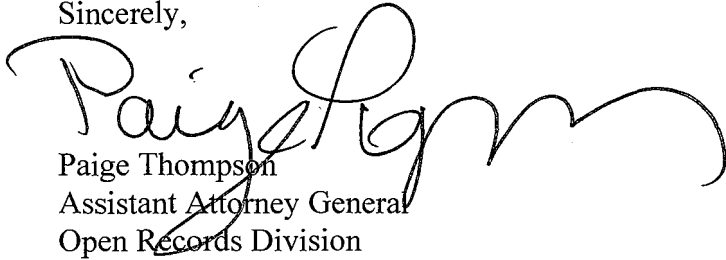
*Id.* § 603.9(a), (c)(1)(i). The OAG states the submitted information consists of confidential unemployment claim information provided to the OAG by the commission. The OAG states the commission maintains this information as part of its administration of the state unemployment compensation program, and the commission has determined that releasing this information to the OAG is necessary for the administration or enforcement of laws under the OAG’s purview. *See id.* § 603.5(e). The OAG further states the OAG has executed a confidentiality agreement with the commission with respect to this information. *See id.* § 603.9. We therefore conclude the submitted information is made generally confidential by section 603.4 of title 20 of the Code of Federal Regulations.

We note a recipient of confidential unemployment compensation information under section 603.5(e) may only redisclose the information as permitted by section 603.9(c). *See id.* § 603.9(c). Section 603.9(c)(1)(i) provides, “[a] State or State [unemployment compensation] agency may authorize any recipient of confidential [unemployment compensation] information under [section 603.5(e)] to redisclose information . . . [t]o the individual . . . who is the subject of the information[.]” *See id.* § 603.9(c)(1)(i). In this instance, the requestor is the individual who is the subject of the information. The OAG does not inform us the commission has authorized the redisclosure of the information at issue to the requestor. Therefore, we conclude the OAG must withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with section 1302(a) of title 42 of the United States Code and section 603.4 of title 20 of the Code of Federal Regulations.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Thompson  
Assistant Attorney General  
Open Records Division

PT/eb

Ref: ID# 693629

Enc. Submitted documents

c: Requestor  
(w/o enclosures)