



**TRUST ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**JOHN L. HILL,
ATTORNEY GENERAL**

June 23, 1975

The Honorable Don B. Odum
Commissioner of Insurance
State Board of Insurance
1110 San Jacinto
Austin, Texas 78786

Open Records Decision No. 95

Re: Open Records - information
furnished to State Board of Insurance
to be used in computing Workmen's
Compensation Insurance Rates

Dear Mr. Odum:

Pursuant to section 7 of the Open Records Act article 6252-17a, V. T. C. S., you have requested our decision on whether information submitted to the Board by named businesses, which is used to fix Workmen's Compensation rates, is excepted from disclosure under section 3(a)(1), as information deemed confidential by law; under section 3(a)(10), which excepts trade secrets and commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision; or under section 3(a)(4), as information which would give advantage to competitors or bidders.

The request was made by the Texas Association of Temporary Services and asks for information submitted by eight named businesses which is used to set workmen's compensation insurance modifiers. It specifically asks for (1) the application, if any, for insurance through the assigned risk pool; (2) the experience rating form reflecting the experience modifier; (3) for companies not in assigned risk pool, ownership information in state's file; (4) pool surcharge computations; (5) the retrospective maximum percentage for any company on a retrospective plan; (6) copy of the ERM 14 forms in file for each company.

The information requested contains detailed information concerning job classifications, number of employees in each classification, payroll information for particular job classifications, actual loss or claims experience of the employer, premiums paid by employer for workmen's compensation coverage and information on the nature of the business entity and its ownership.

You contend that the information requested is made confidential by law by virtue of a rule adopted by the Board under article 5.62 of the Insurance Code which gives the Board authority to adopt reasonable rules and regulations. We have said that ". . . we do not believe a governmental body may bring its information within an exemption under the Open Records Act merely by the promulgation of a rule." Open Records Decision No. 29 (1974). Cf. Attorney General Opinion H-258 (1974); Open Records Decision No. 46 (1974); Open Records Decision No. 8 (1973).

We are not aware of any specific statutory provision or judicial decision which declares any of the information to be confidential. The information is not excepted from disclosure under section 3(a)(1).

You contend that the information is excepted from disclosure under section 3(a)(10) which excepts:

Trade secrets and commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision. (Emphasis added).

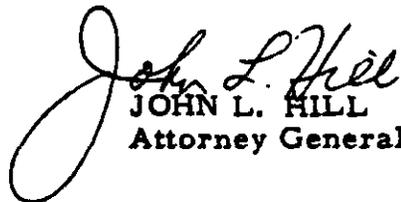
In Attorney General Opinion H-258 (1974), we said that because of the requirement of the emphasized provision ". . . it is unlikely that, as presently written, § 3(a)(10) exempts from disclosure any information not already exempt under § 3(a)(1)."

The question is then whether any of the information is excepted under section 3(a)(4), as "information which, if released, would give advantage to competitors or bidders."

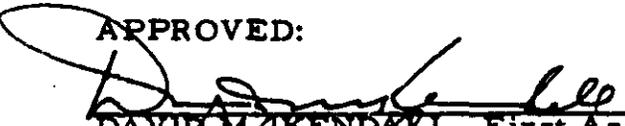
It is conceivable that some of the information requested might be covered by this exception. We believe that the issue is one of fact. We notified each of the named businesses of the request and asked them to submit whatever arguments they wished. None responded. Thus, we have no information which would indicate that this exception applies.

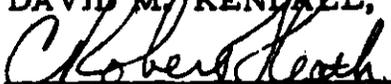
Based upon the information before us, it is our decision that the information requested is not excepted from disclosure under sections 3(a)(1), (4), or (10), and thus is public information and should be disclosed.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


DAVID M. KENDALL, First Assistant


C. ROBERT HEATH, Chairman
Opinion Committee

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