



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

August 7, 1989

Mr. William Grossenbacher  
Administrator  
Texas Employment Commission  
T.E.C. Building  
Austin, Texas 78778

Dear Mr. Grossenbacher:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 6921; this decision is OR89-238.

Under the Open Records Act, all information held by governmental bodies is open unless the information falls within one of the act's specific exceptions to disclosure. The act places on the custodian of records the burden of proving that records are excepted from public disclosure. If a governmental body fails to claim an exception, the exception is ordinarily waived unless the information is deemed confidential under the act. See Attorney General Opinion JM-672 (1987). The act does not require this office to raise and consider exceptions that you have not raised.

The Texas Employment Commission received a request for the amount of unemployment compensation benefits, if any, paid to a named individual. You assert that the requested information is protected from required public disclosure to anyone but the parties involved in the claim at issue. You rely on the rationale of Open Records Decision No. 476 (1987).

In Open Records Decision No. 476, this office held that certain federal regulations, in conjunction with section 3(a)(1) of the Open Records Act, prohibit the release of the names of employees who have filed unemployment compensation benefit appeals. The apparent purpose behind the federal regulations is to provide confidentiality in order to prevent a chilling effect on employees filing unemployment compensation claims. Releasing such information to

Mr. William Grossenbacher  
August 7, 1989  
Page 2

potential employers could have a substantial chilling effect on the willingness of individuals to file claims.

Accordingly, the requested information, i.e., the amount of benefits paid, may be released only to the claimant and the employer involved in the specific claim at issue. See Open Records Decision No. 476. The amount of benefits paid to specified individuals is also "claim information" within the meaning of the federal regulations addressed in Open Records Decision No. 476. If the names of employees who have filed appeals may be withheld so may the names of employees who have filed claims. To release the amount of a claim is to release the fact that a claim was filed.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR89-238.

Yours very truly,

*Open Government Section*  
*of the Opinion Committee*

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of the Opinion Committee  
Prepared by Jennifer S. Riggs  
Chief, Open Government Section

JSR/bc

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Enclosures: ORD-476  
H-626  
H-404