



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 6, 1991

Honorable John Hannah, Jr.
Secretary of State
P. O. Box 12697
Austin, Texas 78711-2697

OR91-554

Dear Secretary Hannah :

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# 14012.

You have received a request from the State Auditor's Office for a copy of the Texas Administrative Code as it exists in its electronic, machine-readable form. You do not object to release of the requested information; however, you are concerned that release of such may be in violation of the Texas Administrative Code Act, article 6252-13b, V.T.C.S. which provides in section 5A:

The data base, which is the machine-readable form of the material prepared for and used in the publication of the Texas Administrative Code, including indexes, annotations, tables of contents, tables of authority, cross-references, compiled rules, and other unique material, is confidential and is exempted from disclosure under the open records law

You request a decision as to whether the requested information must be excepted from public disclosure by section 3(a)(1) of the Open Records Act which protects "information deemed confidential by law, either Constitutional, statutory, or by judicial decision."

Section 5A of article 6252-13b, V.T.C.S., provides that the requested material is confidential and exempted from disclosure under the open records law. Thus, you are not required by the Open Records Act to provide this information upon request to a member of the public or legislature. Open Records Decision No. 237 (1980). However, you may transfer this information to another governmental agency without destroying its confidential character or violating the confidentiality provision. Open Records Decision No. 567 (1990) (copy enclosed). Attorney General Opinion M-713 (1970) held that information which is not accessible to the public by statute may nevertheless be transferred between state agencies without violating its confidential character on the basis of a recognized need to maintain an unrestricted flow of information between state agencies. Accordingly, you are not prohibited by section 5A of article 6252-13b, V.T.C.S., from providing the data base to the State Auditor, but you are not required by any law to provide it to him.

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 OR91-554.

Yours very truly,



Susan Garrison
Assistant Attorney General
Opinion Committee

SG/GK/lcd

Ref.: ID# 14012

Enclosure: Open Records Decision No. 567

cc: Randy Townsend, C.P.A.
P.O. Box 12067
Austin, Texas 78711-2067