



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 3, 1993

Mr. William S. Nail
General Counsel
Employees Retirement System of Texas
P.O. Box 13207
Austin, Texas 78711-3207

OR93-078

Dear Mr. Nail:

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 initially assigned ID# 17397, which was later changed to ID# 17490.

You explain that the Employees Retirement System of Texas (the "system") has received a request for the names of the payees on 12 particular state warrants.¹ You also explain that seven of the 12 warrants were issued in response to a request from a former state employee to withdraw his or her retirement funds held by the system in trust for the employee. We are advised that these seven warrants were issued to former employees and represent lump sum payments of their mandatory contributions along with interest earned on those contributions. You state that the remaining five warrants were issued upon the termination of an existing annuity on the death of the annuitant prior to payment of the balance in the annuitant's account at the time of his or her retirement. We are advised that these five warrants were issued to the beneficiary or beneficiaries designated by the annuitants.² You assert that the requested payee names are excepted from required public disclosure by section 3(a)(1) of the Open Records Act (the "act").

Section 3(a)(1) excepts from required disclosure "information deemed confidential by law, either Constitutional, statutory, or by judicial decision." You assert that section 815.503 of the Government Code makes the requested information confidential. That

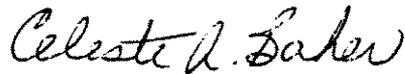
¹The requestor has provided the system the number of each warrant and the amount of each warrant and its issue date.

²As a general rule, a state employee is required to contribute a portion of his or her salary to the separate account maintained by the system on the employee's behalf pursuant to sections 810.001(b), 811.001(a), 812.003 of the Government Code. Former employees may withdraw all of their accumulated contributions in accordance with sections 812.101-.102 of the code. Other code provisions provide for payment of retirement annuities to eligible retirees. See, e.g. Gov't Code §§ 814.104-.105. In addition, a former employee's estate or his designated beneficiary is entitled to a lump-sum payment of the amount remaining in the former employee's individual account at the time of his death. *Id.* § 814.403

section states that "records of members and beneficiaries under retirement plans administered by the retirement system . . . are considered to be personnel records and are required to be treated as confidential under Section 3(a)(1)" of the Open Records Act. The requested payee names are system records made confidential by this section, and thus, you must withhold the requested names pursuant to section 3(a)(1).³ With regard to future requests for information made confidential by section 815.503, you may consider this ruling as well as OR90-179 (copy enclosed) to be previous determinations under section 7(a) of the act and need not request determinations from this office.

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 OR93-078.

Yours very truly,



Celeste A. Baker
Assistant Attorney General
Opinion Committee

CAB/lmm

Ref.: ID# 17490

³Compare *Calvert v. Employees Retirement System*, 648 S.W.2d 418, 420 n.1 (Tex. App.—Austin 1983, writ ref'd n.r.e.) (holding predecessor statute to § 815.503 inapplicable given its 1981 effective date and ordering release of system's records of retired judges' names and addresses); see also Open Records Decision No. 545 (1990) at 5.

Enclosure: Submitted documents
Open Records Decision Nos. 545, 600

cc: Mr. Frank R. Wilkeson
Corporate Counsel
Full Circle Services, Inc.
P. O. Box 3388
Tulsa, Oklahoma 74101-3388
(w/o enclosures)