



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 16, 1995

Ms. Alana Marie Holmes
Staff Attorney
Texas Natural Resource Conservation
Commission
P.O. Box 13087
Austin, Texas 78711-3087

OR95-122

Dear Ms. Holmes:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 29141.

The Texas Natural Resource Conservation Commission (the "commission") has received a request for the public files of a former employee of the Texas Water Commission, including (1) a copy of her college transcript, (2) her gross monthly salary at the time of termination, (3) the total contributions in her state retirement account, and (4) a listing of all savings bonds purchased by payroll deduction during her employment. You indicate that the commission is willing to release the information requested in item numbers (1) and (2), and we trust that you have already done so. You claim that section 552.101 protects the remaining information from required public disclosure. We agree with your conclusion with respect to item number 4. However, for the following reasons we conclude that the information requested in item number 3 is public.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Information may be withheld under common-law privacy if it meets the criteria the Texas Supreme Court articulated for section 552.101 in *Industrial Foundation v. Texas Industrial Accident Board*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Under *Industrial Foundation*, a governmental body must withhold information on common-law privacy grounds only if the information is highly intimate or embarrassing *and* it is of no legitimate concern to the public. This office has determined that personal financial information, such as an individual's decisions about payroll savings plans, "is highly intimate or embarrassing,"

thus it meets the first part of the *Industrial Foundation* test. Open Records Decision No. 545 (1990). The amount voluntarily invested by payroll deduction is also of no legitimate concern to the public. *Id.* The total amount of contributions in an individual's state retirement account, however, does not involve an individual's personal investment decision but is completely regulated by state law. *See* Gov't Code ch. 815, subch. E (collection of membership fees and contributions). Therefore you must release item number three and withhold the fourth requested item from public disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/PIR/rho

Ref.: ID# 29141

cc: Ms. Beverly De La Zerda
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