



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 10, 1996

Ms. Susan M. Cory
General Counsel
Texas Workers' Compensation Commission
Southfield Building, MS-4D
4000 South IH-35
Austin, Texas 78704-7491

OR96-0529

Dear Ms. Cory:

The Texas Workers' Compensation Commission (the "commission") received a request for information concerning the commission's internal investigation into possible violations of state ethics laws and the commission's own internal policies by commission employees. You have asked if this information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 36268.

You assert that the information at issue is made confidential under an amendment to the Labor Code passed by the 74th Legislature. This confidentiality provision states:

(a) Information maintained in the investigation files of the commission is confidential and may not be disclosed except:

- (1) in a criminal proceeding;
- (2) in a hearing conducted by the commission;
- (3) on a judicial determination of good cause; or
- (4) to a governmental agency, political subdivision, or regulatory body if the disclosure is necessary or proper for the enforcement of the laws of this or another state or of the United States.

(b) Commission investigation files are not open records for purposes of chapter 552, Government Code.

(c) Information in an investigation file that is information in or derived from a claim file, or an employer injury report or occupational disease report, is governed by the confidentiality provisions relating to that information.

(d) For purposes of this section, "investigation file" means any information compiled or maintained by the commission with respect to a commission investigation authorized by law.

(e) The commission, upon request, shall disclose the identity of a complainant under this section if the commission finds:

(1) the complaint was groundless or made in bad faith; or

(2) the complaint lacks in basis in fact or evidence; or

(3) the complaint is frivolous; or

(4) the complaint is done specifically for competitive or economic advantage.

(f) Upon completion of an investigation where the commission determines a complaint is groundless, frivolous, made in bad faith, or is not supported by evidence or is done specifically for competitive or economic advantage the commission shall notify the person who was the subject of the complaint of its finding and the identity of the complainant.

Act of June 16, 1995, 74th Leg., R.S., ch. 980, § 1.19, 1995 Sess. Law Serv. 4916 (Vernon) (codified at Tex. Labor Code § 402.092, effective September 1, 1995) (referred to hereafter as section 402.092).

We have reviewed the information submitted to this office as responsive to the request. Section 402.092 makes confidential the commission's investigation files concerning compliance with Texas worker's compensation laws. Section 402.092 may be applicable to the submitted safety evaluations, or hazard evaluation reports, though we were not provided enough information to make that determination. If section 402.092 is applicable to these safety evaluations, that information must be withheld from public disclosure. However, section 402.092 is not applicable to the other records at issue, which concern the commission's internal investigation into actions of its own employees. The commission's internal investigation into whether its employees have violated internal

policies or state ethics laws, does not appear to be an investigation into worker's compensation laws as provided under section 402.092.

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 should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 36268

Enclosures: Submitted documents

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(w/o enclosures)