



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 15, 1998

Ms. Sandra C. Joseph  
Open Records/Disclosure Officer  
Comptroller of Public Accounts  
P.O. Box 13528  
Austin, Texas 78711-3528

OR98-2196

Dear Ms. Joseph:

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# 117901.

The Comptroller of Public Accounts (the "comptroller") received a list of "visiting judges statewide" with a request for "the comparison with judicial retirement [figures]." The requestor asks for the retirement account information of each 200 separately named individuals. The comptroller submitted a representative sample of the information it considers responsive, which consists of a list of the individual judges and the individualized aggregate amounts received by each named judge for fiscal years 1993 through 1998.<sup>1</sup> You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. Additionally, the Employees Retirement System of Texas ("ERS") as well as the Teacher Retirement System<sup>2</sup> ("TRS") submit responses to the issues presented in the instant request. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential

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<sup>1</sup>We assume that the "representative samples" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

<sup>2</sup>The Teacher Retirement System states that although its own information is not at issue in the instant request, it submits its brief in the light of the fact that "your interpretation of some of the relevant statutory provisions could affect TRS in the future."

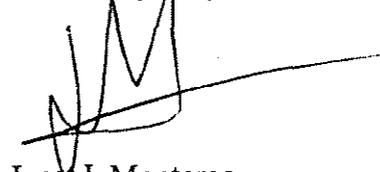
by law, either constitutional, statutory, or by judicial decision.” This section encompasses information protected by other statutes. The Judicial Retirement System of Texas Plan One, (“JRS 1”) and the Judicial Retirement System of Texas Plan Two (“JRS 2”) are judicial retirement programs administered by the ERS. *See* Tex. Gov’t Code Ann. §§ 835.001, 840.001. The pertinent programs are administered as retirement plans entirely within the administrative framework of the ERS. *See* Tex. Gov’t Code Ann. §§ 835.001, 840.001. Government Code section 815.503 reads as follows:

Records of members and beneficiaries under retirement plans administered by the retirement system that are in the custody of the system are considered to be personnel records and are required to be treated as confidential information under Section 552.101.

However, the request is directed to the comptroller. You have submitted to this office copies of ERS annuity computer inquiries. In that regard, we note that confidential information may be transferred between state agencies without destroying its confidential character if the agency to which the information is transferred has the authority to obtain it. *See* Open Records Decision Nos. 516 (1989), 490 (1988). In this instance, the comptroller derived information from the ERS as the trustee responsible for administering the judicial retirement programs in question. *See* Tex. Gov’t Code Ann. §§ 835.001, 840.001. ERS makes retirement payments to the judges through the Uniform Statewide Accounting System (USAS), which is administered by the comptroller’s office. Consequently the information may be transferred between ERS and the comptroller’s office without destroying its confidential character. Therefore, the comptroller must not release the information to the requestor. Gov’t Code § 552.101.

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 on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Janet I. Monteros', written over a horizontal line.

Janet I. Monteros  
Assistant Attorney General  
Open Records Division

JIM/nc

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Enclosures: Submitted documents

cc: Mr. Mark Smith  
Houston Chronicle  
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(w/o enclosures)