ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

April 10, 2006

Ms. Margo M. Kaiser
Staff Attorney
Open Records Unit
Texas Workforce Commission
101 East 15th Street
Austin, Texas 78778-0001

OR2006-03554

Dear Ms. Kaiser:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 245846.

The Texas Workforce Commission (the "commission") received a request for the unemployment records of a named individual. You state that you will provide the requestor, as a representative of an employer, with records of unemployment insurance claims filed by the named individual against the requestor's client. However, you claim that the remaining requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.[1]

Section 552.101 of the Government Code excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected

[1]We assume that the representative sample 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.

by other statutes. The regulations found at part 603 of title 20 of the Code of Federal Regulations send a clear message that "claim information" in the files of a state unemployment compensation agency is to be disclosed only to a "receiving agency," as defined in the regulations, or to other specified parties. *See* 20 C.F.R. §§ 603.1 *et seq.*; *see also* Open Records Decision No. 476 at 4 (1987). Otherwise, pursuant to section 603.7 of title 20 of the Code of Federal Regulations, state unemployment compensation agencies such as the commission must protect the confidentiality of claim information. "Claim information" means information regarding whether an individual is receiving, has received, or has applied for unemployment compensation, as well as "[a]ny other information contained in the records of the State employment compensation agency which is needed by the requesting agency to verify eligibility for, and the amount of, benefits." *See* 20 C.F.R. § 603.2(c)(1), (5). We also note that the names of employers and employees who file unemployment compensation appeals fall within the definition of "claim information" and that the federal regulations prohibit the commission from disclosing this information. *See* Open Records Decision No. 476 at 4 (1987).

In addition, the federal Social Security Act requires states to comply with the directives of the United States Department of Labor (the "department") in administering state unemployment insurance ("UI") programs, and a department directive, UI Program Letter No. 34-97, specifies the conditions under which this claim information may be released. Thus, unless otherwise authorized to release claim information under part 603 or UI Program Letter No. 34-97, the commission must withhold claim information in its entirety pursuant to section 552.101 of the Government Code in conjunction with these provisions. *See* 20 C.F.R. § 603; UI Program Letter 34-97 (allowing disclosure to private entity under a written agreement that requires informed consent from the individual to whom the information pertains).

You state that none of the release provisions specified in the federal directive apply in this instance. Based on your representations and our review of the submitted information, we conclude that the information at issue is made confidential by federal law and, therefore, must be withheld from disclosure under section 552.101 of the Government Code in conjunction with federal law.

The commission also requests a previous determination that unemployment insurance claims are exempt from public disclosure under the Act. We decline to issue a previous determination at this time. Accordingly, this letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the

governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

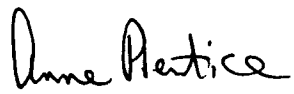
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Anne Prentice
Assistant Attorney General
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AP/sdk

Ref: ID# 245846

Enc. Submitted documents

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(w/o enclosures)