

Questions about the Attorney General's final opinion? Please read the following.

You can also read the Attorney General's opinion here:

<http://www.doj.mt.gov/resources/opinions2011/default.asp>. If you still have questions or concerns, please call the TRS office at 406-444-3134 or toll free at 1-866-600-4045.

Q: Why did the Attorney General issue an opinion regarding TRS?

A: In 2010, TRS provided a ranked list of the highest annual benefit amounts paid by TRS to the Legislative Audit Division during an audit of the retirement system; names of the benefit recipients and identify of their employers were not included. Later the Legislative Committee on State Administration and Veterans' Affairs (SAVA) requested a copy of the list from Legislative Audit Division related to SAVA's consideration of pension funding issues. Again, names of benefit recipients and employers were not included. A media outlet, following up on the information provided to SAVA, submitted a written request to TRS for the benefit recipient names and employers attached to each of the 10 highest benefit amounts, asserting Montana's constitutional "public right to know" as requiring the disclosure. TRS declined to provide the information based on its belief that its members have individual rights of privacy under the Montana Constitution that may outweigh the public right to know. TRS then sought a formal opinion from the Attorney General on the issue.

Q: Why did the Attorney General favor disclosing information over protecting privacy concerns?

A: Essentially, the Attorney General weighed the competing Montana constitutional interests of "public right to know" and "individual privacy" and concluded that TRS members may very well have an expectation of privacy in the amount of their retirement benefits, but that any right of privacy TRS's retirees may have in that information does not outweigh the public interest served by disclosure of the information. The Attorney General's full opinion may be read at <http://www.doj.mt.gov/resources/opinions2011/default.asp>

Q: What information will TRS disclose?

A: First, the TRS Board is still considering its options based on the Attorney General's opinion, including the possibility of asking a state district court to review the matter. In general, TRS is required to release public record information unless an individual right of privacy clearly exceeds the merits of public disclosure. If the TRS Board does not request court review of the issue, or if the court reaches the same legal conclusion that the Attorney General reached, TRS will be required to disclose the names of retirees with their benefit amounts and identification of their employers. The Attorney General's opinion does not require and TRS will **not** disclose other private information of its members, including Social Security or financial account numbers. As legally required, and as it has always done, TRS will evaluate requests for information pertaining to its members based on application of Montana law and consideration for balancing of the members' individual rights of privacy and the public's right to know.

Q: Will TRS disclose information about me?

A: While the request for information that prompted TRS's request for Attorney General opinion related to ten specific retirees' benefit amounts, the Attorney General's opinion would apply equally to any request for the same information about any TRS retiree. In fact, since the AG's opinion was issued, Montana Watchdog, which originally requested the information, and its parent company, the Montana Policy Institute, have officially expanded the request for information to include all TRS retirees. Therefore, if the TRS Board decides to provide information in conformity with the Attorney General opinion, or a court reaches the same legal conclusion as the Attorney General, TRS will provide the names, employer names, and benefit amounts of all TRS retirees.

Q: When will TRS disclose information?

A: As indicated, the TRS Board will take action in the near future in deciding to provide information in conformity with the Attorney General's opinion, or to request court review of the issue. TRS will not disclose the requested information pertaining to any TRS retiree until the Board takes action, and if the Board's decision is to seek court review of the matter, no information will be provided pending a final determination of the court.

Q. Will TRS notify me before it discloses my information?

A. TRS will keep its membership informed of the development of this issue through continued postings on this website and through directed communications to members, if necessary. However, at any time that public information is requested, and TRS is clear there is no individual right of privacy that outweighs the public right to know, TRS may disclose requested public information without prior notice to members that it is doing so.

Q. Can I tell the TRS Board what I think about this issue?

A. The TRS Board will determine what action it will take based on the Attorney General's opinion in a publicly noticed Board meeting, with opportunity for public comment. Notice of TRS Board meetings is posted on the TRS website at least 3 business days in advance of the Board meeting. If you are interested in attending the Board meeting at which action will be taken on this matter, please watch the TRS website for meeting notice. If you would like to provide written comments to the Board for their consideration prior to taking action, please submit your written comments to TRS at the address below. Written comments must be received by TRS by 5:00 p.m. on the last business day before the Board Meeting, so please feel free to submit your comments even before notice of the meeting is posted.

Q: Why would anyone want information about my retirement benefits?

A: According to Montana Watchdog and the Montana Policy Institute, the reason for their request for benefit information is to further the objectives of governmental transparency - to allow Montanans to know how their government is spending their money. Such "objectives" are specifically cited by the Attorney General in his opinion to TRS as reasons for a determination that the public right to know the benefit amounts of public retirees outweighs any individual privacy interest in the information.

However, TRS cannot speak to the motives or reasons of any individual or organization in requesting benefit information. In fact, under case law in Montana, if information is public information, the objective of the person/entity requesting the public information is immaterial to the public agency called upon to provide the information. Therefore, TRS reminds its members that TRS conducts retirement system business and communicates with its members through standard, official avenues of communication; communications to you from TRS will be made directly by TRS or through your employer. TRS is never involved in any effort to market financial or other consumer products to you. If you ever have questions about TRS's involvement in any communication or direct contact with you made by any person or organization, please contact TRS, 1-406-444-3134 or 1-866-600-4045.