

SEP 02 2011 LL

CAUSE NO. D-1-GN-10-004428

At 10:20 A.M.
Amalia Rodriguez-Mendoza, Clerk

EMPLOYEES' RETIREMENT FUND
OF THE CITY OF FORTH WORTH,
d/b/a FORT WORTH EMPLOYEES'
RETIREMENT FUND,
Plaintiff,

v.

GREG ABBOTT,
ATTORNEY GENERAL OF TEXAS,
Defendant.

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IN THE DISTRICT COURT

126TH JUDICIAL DISTRICT

TRAVIS COUNTY, TEXAS

**ORDER ON PLAINTIFF'S PLEA TO THE JURISDICTION
OVER INTERVENOR'S COUNTERCLAIMS**

Came on to be heard Plaintiff's Plea to the Jurisdiction over Intervenor's Counterclaims.


Having considered the motion, the response, the evidence, and the arguments of counsel, the Court finds and concludes as follows:

1. The Intervenor's rights to the requested information are derived exclusively from the Texas Public Information Act (the "PIA").
2. The threshold question that the parties present is whether the Act of May 25, 2011, 82nd Leg., R.S., H.B. 2460 (to be codified at Tex. Gov't Code § 552.0038) ("Section .0038") applies to this case. This Court concludes that it does.
3. This Court's jurisdiction over this dispute is derived exclusively from the PIA.
4. The original PIA request seeks "Consent Agendas" and explains the purpose for this request. On the record put before this Court, the parties further clarified that the only categories of requested information being disputed in this case are age, department, and years of service of certain current and former employees of the City of Fort Worth. This request falls within the ambit of Section .0038, and the legislature has given sole discretion to the retirement system to determine whether the

records are subject to this section of the PIA. The definition of a Section .0038 record under subsection (h) is not exclusive, and subsection (c) makes clear that the retirement system is not required to accept or comply with "a request for a record or information about a record"

5. In light of the record before this Court, and mindful that the Court's jurisdiction is derived exclusively from the PIA, the Court ORDERS that the Plaintiff's Plea to the Jurisdiction is GRANTED.

SIGNED this 2nd day of September, 2011.



SCOTT H. JENKINS
JUDGE PRESIDING