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ATTORNEY GENERAL
SALEM, OREGON

November 22, 1988

Jack Sollis
2410 Fisher Road
Salem, OR 97305

Re: **Petition for Public Records Disclosure Order; State Employes Benefit Board**

Dear Mr. Sollis:

This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on November 15, 1988, asks the Attorney General to direct the State Employes' Benefit Board (SEBB) to disclose a list of names and addresses of retired state employes between the ages of 55 and 65, covered by Blue Cross/Blue Shield health insurance, who recently had their insurance premiums raised. SEBB previously has refused your request. For the reasons stated below, we respectfully deny your petition.

The Public Records Law confers a right to inspect any public record of a public body in Oregon, subject to certain exceptions. ORS 192.420. A "public record" includes "any writing containing information relating to the conduct of the public's business, prepared, owned, used or retained by a public body regardless of physical form or characteristics." ORS 192.410(4). SEBB has advised this office that it does not maintain the names and addresses of retired state employes between the ages of 55 and 65 covered by Blue Cross/Blue Shield health insurance. Therefore, the records that you requested do not exist in the form in which you have requested them.

SEBB also has advised this office that retiree insurance benefits for SEBB, the Bargaining Units Benefit Board and the Public Employee Retirement System are administered by an independent private organization, Health Choice Administrators, Inc. Officials at SEBB believe that Health Choice has a list or can create a list of retired employe names and addresses that you seek.

Oregon's Public Records Law reaches only those records maintained by "public bodies." A "public body" is defined as "every state officer, agency, department, division, bureau, board and commission; * * * and any other public agency of this state." ORS 192.410(1). We previously have said that the term "public body" under the Public Records Law "does not include private non-profit corporations and cooperatives, and the like, even if those bodies contract to perform governmental functions and receive all their funding from public funds." 44 Op Atty Gen 239, 240 (1984) (Attorney General's Public Records and Meetings Manual) (emphasis in original). More recently, we concluded that the Oregon Trade and Marketing Center, which was created with significant governmental involvement, receives state financial aid, and performs functions for a public purpose that otherwise would be performed by the Economic Development Department, is not a public body subject to the Oregon Public Records Law. 46 Op Atty Gen ___ (No. 8194, July 6, 1988). Records held by Health Choice Administrators, Inc., therefore, are not subject to the Public Records Law.

We conclude that the records you seek are not subject to disclosure under the Public Records Law, and that the State Employes' Benefit Board lawfully refused your request. Accordingly, we respectfully deny your petition to compel disclosure.

Very truly yours,

James E. Mountain Jr

JAMES E. MOUNTAIN, JR.
Special Counsel to the
Attorney General

cc: James D. McIntosh, Insurance Manager
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