



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 23, 2014

Ms. Patsy Shaw
Secretary of the Senate
The Senate of the State of Texas
P.O. Box 12068
Austin, Texas 78711

OR2014-10735

Dear Ms. Shaw:

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# 528843.

The Texas Senate (the "senate") received a request for all correspondence between a named employee of the Texas Governor's Office (the "governor's office") and three named Texas senators and their staff for a specified time period. You claim the submitted information is excepted from disclosure under sections 552.103, 552.106, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note a portion of the submitted information, which we have marked, is not responsive to the present request for information because it does not consist of correspondence between the named governor's office employee and the three named Texas senators and their staff. This ruling does not address the public availability of any information that is not responsive to the request, and the senate need not release such information in response to this request.

You assert the responsive information is excepted from disclosure under section 552.106 of the Government Code, which excepts from required public disclosure "[a] draft or working paper involved in the preparation of proposed legislation[.]" Gov't Code § 552.106(a). Section 552.106 protects advice, opinion, and recommendation on policy matters in order to encourage frank discussion on policy matters between the subordinates or advisors of a legislative body and the members of the legislative body. *See* Open Records Decision No. 460 at 3 (1987). Therefore, section 552.106 is applicable only to the policy judgments,

recommendations, and proposals of persons who are involved in the preparation of proposed legislation and who have an official responsibility to provide such information to members of the legislative body. *Id.* at 1. Section 552.106 does not protect purely factual information from public disclosure. *See id.* at 2; *see also* Open Records Decision No. 344 at 3-4 (1982). However, a comparison or analysis of factual information prepared to support proposed legislation is within the ambit of section 552.106. *Id.*

You state the information at issue was “prepared directly and entirely for the purpose of enacting legislation, including for the purpose of developing and communicating policy judgments and analysis regarding the legislation.” Additionally, you state that, at the time of these communications, the legislation to which they relate “was being drafted or was already filed and within the legislative process and so was subject to amendment or revision before being finally passed.” You explain the information at issue was never made public or distributed to any person beyond the staff of a senator or the staff of the governor’s office. Upon review, we find the responsive information constitutes advice, opinion, analysis, and recommendation regarding proposed legislation. The parties involved in these communications share a privity of interest because they are representatives of state entities communicating for the purpose of reviewing legislation and making recommendations. Therefore, the senate may withhold the responsive information under section 552.106 of the Government Code.¹

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/akg

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure.

Ref: ID# 528843

Enc. Submitted documents

c: Requestor
(w/o enclosures)