



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 4, 2015

Mr. Ken Levine
Director
Sunset Advisory Commission
P.O. Box 13066
Austin, Texas 78711-3066

OR2015-25463

Dear Mr. Levine:

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# 589326.

The Sunset Advisory Commission (the "commission") received a request for all records related to the management of a specified contract by a specified state agency. You state you have released some information. You state the commission will continue to rely on Open Records Letter No. 2011-01970 (2011) with respect to some of the requested information.¹ See Open Records Decision No. 673 at 6-7 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure). You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.106 of the

¹In Open Records Letter No. 2011-01970, this office issued a previous determination that authorizes the commission to withhold working papers, including all documentary or other information, prepared or maintained by the commission staff in performing its duties to conduct an evaluation and prepare a report, under section 552.101 of the Government Code in conjunction with section 325.0195 of the Government Code without the necessity of requesting an attorney general decision with regard to the applicability of this exception.

Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

Section 552.106 of the Government Code excepts from disclosure “[a] draft or working paper involved in the preparation of proposed legislation” and “[a]n internal bill analysis or working paper prepared by the governor’s office for the purpose of evaluating proposed legislation[.]” Gov’t Code § 552.106(a), (b). Section 552.106 ordinarily applies only to persons with a responsibility to prepare information and proposals for a legislative body. Open Records Decision No. 460 (1987). The purpose of section 552.106 is to encourage frank discussion on policy matters between the subordinates or advisors of a legislative body and the members of the legislative body, and therefore, it does not except from disclosure purely factual information. *Id.* at 2. However, a comparison or analysis of factual information prepared to support proposed legislation is within the ambit of section 552.106. *Id.* A proposed budget constitutes a recommendation by its very nature and may be withheld under section 552.106. *Id.* Section 552.106 protects only policy judgments, advice, opinions, and recommendations involved in the preparation or evaluation of proposed legislation; it does not except purely factual information from public disclosure. *See* ORD 460 at 2.

You state the information you have indicated consists of working papers involving commission staff that relate to the preparation of proposed legislation. Upon review, we find the information you have indicated constitutes advice, opinion, analysis, and recommendations regarding legislation related to the commission. Therefore, the commission may withhold the information you have indicated under section 552.106 of the Government Code.³

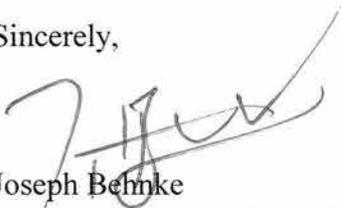
The commission also asks this office to issue a previous determination that would permit the commission to withhold legislative working documents under section 552.106 of the Government Code without the necessity of requesting a decision under section 552.301 of the Government Code. We decline to issue such a previous determination at this time. Accordingly, 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.

²We assume 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.

³As our ruling is dispositive, we need not address the remaining argument against disclosure.

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,

A handwritten signature in black ink, appearing to read "Joseph Bernke", written over a horizontal line.

Joseph Bernke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 589326

Enc. Submitted documents

c: Requestor
(w/o enclosures)