



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 27, 2016

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

OR2016-02012

Dear Ms. Spaw:

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# 595616.

The Texas Senate (the "senate") received a request for 1) all records of correspondence sent or received by Texas Senators or staffers containing any of certain specified terms, from within a specific date range, and 2) all records of meetings with any of certain named entities and individuals.¹ We understand the senate will release some information to the requestor. The senate claims the submitted information is excepted from disclosure under sections 552.106, 552.107, and 552.111 of the Government Code. We have considered the exceptions the senate claims and reviewed the submitted information.

¹The senate states it sought and received clarification of the request. *See* Gov't Code § 552.222(b) (providing that if request for information is unclear, governmental body may ask requestor to clarify the request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

Initially, we note the senate has marked some of the submitted information as non-responsive to the instant request. This ruling does not address the public availability of non-responsive information, and the senate is not required to release such information in response to this request.

Section 552.106(a) of the Government Code 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(a) ordinarily applies only to persons with a responsibility to prepare information and proposals for a legislative body. *See* Open Records Decision No. 460 at 1 (1987). The purpose of this exception is to encourage frank discussion on policy matters between the subordinates or advisors of a legislative body and the members of the legislative body. Therefore, section 552.106 encompasses only policy judgments, recommendations, and proposals involved in the preparation of proposed legislation and does not except purely factual information from public disclosure. *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.*

The senate states the responsive information consists of communications, bill analyses, and working papers created by senators and their staffs prepared directly and entirely for the legislative purpose of enacting legislation during the 84th Texas Legislature. The senate further states at the time the information at issue was created and used, the legislation to which it relates was being drafted or was already filed and within the legislative process and thus, was subject to amendment or revision before being finally passed. The senate further informs us the information at issue was never made public or distributed to any person beyond members of the legislature, appropriate legislative staff, and employees of certain state agencies that would be relying on or charged with implementing the legislation. Upon review, we find the senate has established the responsive information constitutes advice, opinion, analysis, and recommendation regarding proposed legislation. Therefore, the senate may withhold the responsive information under section 552.106 of the Government Code.²

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

²As our ruling is dispositive, we need not address the senate’s remaining arguments against disclosure of this information.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/som

Ref: ID# 595616

Enc. Submitted documents

c: Requestor
(w/o enclosures)