



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 1, 2015

Mr. Jon Heining
General Counsel
Texas Legislative Council
P.O. Box 12128, Capitol Station
Austin, Texas 78711-2128

OR2015-08481

Dear Mr. Heining:

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# 564963.

The Texas Legislative Council (the "council") received a request for committee preference cards submitted by members of the Texas House of Representatives (the "house"). The council claims the requested information is either not subject to the Act or excepted from disclosure under sections 552.101 and 552.111 of the Government Code. We have considered the submitted arguments and reviewed the submitted representative sample of information.¹

Initially, we address the council's assertion the submitted information is not subject to the Act because it is not "public information." The Act applies only to public information. *See* Gov't Code §§ 552.021, 552.221. Section 552.002 of the Act defines "public information" as the following:

information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

¹We 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 those records contain substantially different types of information than that submitted to this office.

- (1) by a governmental body;
- (2) for a governmental body and the governmental body:
 - (A) owns the information;
 - (B) has a right of access to the information; or
 - (C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
- (3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

Id. § 552.002(a). Section 552.002(a-1) also provides the following:

Information is in connection with the transaction of official business if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer's or employee's official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the governmental body.

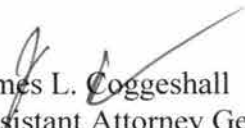
Id. § 552.002(a-1). Thus, virtually all information in a governmental body's physical possession constitutes public information and is subject to the Act. *Id.* § 552.002(a)(1); *see* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). You argue, pursuant to section 323.018 of the Government Code, the requested records are not subject to the Act because they are not public information for the purposes of section 552.002. Section 323.018 provides, "[r]ecords relating to requests of council staff for the drafting of proposed legislation or for assistance, information, advice, or opinion are not public information." Gov't Code § 323.018. After review of your arguments, we find you have failed to demonstrate how section 323.018 removes the information covered by this section from the scope of the Act's provision defining public information. *See id.* § 552.002(a). You inform us "[t]he documents at issue relate directly to a specific request for assistance and advice by council staff." Based on this representation, we conclude the submitted records are collected, assembled, and maintained by the council in connection with the transaction of its official business. *See id.* Therefore, the submitted information constitutes public information subject to the Act and may only be withheld if an exception to disclosure under the Act applies. Accordingly, we will address your arguments to withhold the submitted information under the Act.

You assert the submitted information is excepted under section 552.101 of the Government Code, which excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses section 323.018. You inform us the submitted information consists of committee preference cards in which members of the house listed the committees to which they wished to be appointed according to seniority or preference. You also explain the house members provided the cards to the Office of the Speaker of the House (the “speaker”) after the house adopted its rules of procedure for the 84th Legislature, which established the standing committees of the house and the committees’ jurisdictions and membership requirements. You state the speaker then transferred these cards to the council for the purpose of “obtaining analysis from council staff of the committee selection process and determining if a technology solution could be deployed to facilitate the committee assignment process in the future.” In addition, as noted above, you assert “[t]he documents at issue relate directly to a specific request for assistance and advice by council staff.” Based on this representation, we agree the submitted information is confidential under section 323.018 of the Government Code. Therefore, the council must withhold the submitted information under section 552.101 of the Government Code on that ground.²

Although the council requests a previous determination regarding sections 323.017 and 323.018 of the Government Code, we decline to issue one at this time. Accordingly, this letter ruling is limited to the particular records 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 records 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,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/cbz

²As our ruling is dispositive, we do not address the council’s other arguments to withhold this information.

Ref: ID# 564963

Enc. Submitted documents

c: Requestor
(w/o enclosures)