



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

July 25, 2016

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

OR2016-16691

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# 624242.

The Office of Senator Joan Huffman (the "senator's office") received a request for all records containing several specified terms and any communications received from a named individual on behalf of the Texas County and District Retirement System during a specified time period. You state the senator's office has released some of the requested information. You claim 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 you claim and reviewed the submitted information.

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 resembles section 552.111 in that both exceptions protect advice, opinion, and recommendation on policy matters, in order to encourage frank discussion during the policymaking process. *See* Open Records Decision No. 460 at 3 (1987). However, section 552.106 applies specifically to the legislative process and thus is narrower than section 552.111. *Id.* 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. *See* ORD 460 at 3. 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) (for purposes of statutory predecessor, factual information prepared by State Property Tax Board did not reflect policy judgments, recommendations, or proposals concerning drafting of legislation). However, a comparison or analysis of factual information prepared to support proposed legislation is within the scope of section 552.106. ORD 460 at 2.

You explain the submitted information consists of working papers involved in the preparation of proposed legislation by the senator's office. You explain the working papers contain analysis and descriptions of proposed legislation, including policy advice, judgments, and recommendations. You explain at the time the information at issue was created and used, the legislation to which the information relates was being drafted or was already filed in the legislative process. You state the information at issue was never made public or distributed to any person beyond the senator's office. Upon review, we agree the submitted information constitutes advice, opinion, analysis, and recommendation regarding proposed legislation. Therefore, the senator's office may withhold the submitted information under section 552.106 of the Government Code.<sup>1</sup>

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](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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/som

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of the submitted information.

Ref: ID# 624242

Enc. Submitted documents

c: Requestor  
(w/o enclosures)