



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 3, 2017

Mr. James G. Nolan  
Associate Deputy General Counsel  
Open Records Division  
Texas Comptroller of Public Accounts  
P.O. Box 13528  
Austin, Texas 78711-3528

OR2017-09451

Dear Mr. Nolan:

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# 655978 (CPA ORTS# 13116378547).

The Texas Comptroller of Public Accounts (the "comptroller's office") received a request for fiscal note calculations pertaining to a specified draft bill. You claim the submitted information is excepted from disclosure under sections 552.106 and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, you have marked some of the submitted information as not responsive to the instant request for information. This ruling does not address the public availability of non-responsive information, and the comptroller's office need not release non-responsive information to the requestor.

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

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<sup>1</sup>We assume that 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.

§ 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.*

You state the responsive information was created by the comptroller's office in response to a request from the Senate Finance Committee and contains recommendations and opinions relating to the fiscal impacts anticipated to occur from legislative changes contained in the proposed bill at issue. You state at such time as the draft bill is filed, a formal fiscal note will be made public. Upon review, we find the comptroller's office has established the responsive information constitutes advice, opinion, analysis, and recommendation regarding proposed legislation. Therefore, the comptroller's office may withhold the responsive information under section 552.106 of the Government Code.<sup>2</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,



Paige Lay  
Assistant Attorney General  
Open Records Division

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

Ref: ID# 655978

Enc. Submitted documents

c: Requestor  
(w/o enclosures)