



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 10, 2018

Mr. James Person
Assistant General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2018-00716

Dear Mr. Person:

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# 690981 (OOG ID# 17-373).

The Office of the Governor (the "governor's office") received a request for any documents related to the National College Athletic Association and specified key words during a specified time frame. You state you will release some information. 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.¹

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). We note section 552.106(b) applies to information created or used by employees of the governor's office for the purpose of

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.

evaluating proposed legislation. 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* Open Records Decision No. 615 at 2 (1993). Therefore, section 552.106 is applicable only to the policy judgments, recommendations, and proposals of persons who are involved in the preparation or evaluation of proposed legislation and who have an official responsibility to provide such information to members of the legislative body. *See id.* at 1; *see also* Open Records Decision No. 429 at 5 (1985) (statutory predecessor to section 552.106 not applicable to information relating to governmental entity's efforts to persuade other governmental entities to enact particular ordinances).

You state the submitted information consists of an internal bill analysis prepared by a governor's office policy analyst for the purpose of evaluating proposed legislation. Upon review, we find the information at issue constitutes advice, opinion, analysis, and recommendations regarding proposed legislation. Therefore, the governor's office may withhold the submitted 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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kelly McWethy
Assistant Attorney General
Open Records Division

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²As our ruling is dispositive, we need not address your remaining argument against disclosure of the submitted information.

Ref: ID# 690981

Enc. Submitted documents

c: Requestor
(w/o enclosures)