



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

July 31, 2019

Mr. Jake Robinson  
Chief of Staff  
Texas House of Representatives  
Office of State Representative Tony Tinderholt  
P.O. Box 2910, E2.508  
Austin, Texas 78768-2910

OR2019-21063

Dear Mr. Robinson:

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# 778682.

The Office of State Representative Tony Tinderholt (the "representative's office") received a request for information pertaining to House Bill 948 and communications between the representative and any of five named entities during a specified time period. The representative's office states it has released most of the requested information. The representative's office states it has withheld some information pursuant to section 306.004 of the Government Code.<sup>1</sup> The representative's office claims some of the submitted information is excepted from disclosure under sections 552.106 and 552.111 of the Government Code. We have considered the exceptions the representative's office claims 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(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

---

<sup>1</sup>Release of information subject to section 306.004(a) of the Government Code is governed by chapter 306, not the Act, and it is within the discretion of a legislator to either withhold or release such information. *See* Gov't Code § 306.004(a); *see also* Open Records Decision No. 648 at 3-7 (1996).

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 representative's office states the information at issue contains communications and legislative working papers created by legislators and legislative staff for the purpose of enacting legislation. The representative's office asserts the information at issue reveals advice, opinions, recommendations, and policy judgments made in the preparation of the proposed legislation. The representative's office further states the information at issue has not been made public and all parties to the communications have a privity of interest with regard to enactment of the legislation. Upon review, we find the representative's office has established the information it marked constitutes advice, opinion, analysis, and recommendation regarding proposed legislation. Accordingly, the representative's office may withhold the information it marked under section 552.106 of the Government Code.<sup>2</sup> The representative's office must release the remaining information.

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,



Lecelle Clarke  
Attorney  
Open Records Division

LC/eb

---

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

Ref: ID# 778682

Enc. Submitted documents

c: Requestor  
(w/o enclosures)