



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 4, 2019

Ms. Emily Amps
Chief of Staff
State Representative Chris Turner
P.O. Box 2910
Austin, Texas 78768-2910

OR2019-27934

Dear Ms. Amps:

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# 787003.

The Office of State Representative Chris Turner (the "representative's office") received two requests from the same requestor for certain communications that include several specified search terms during a defined time period. The representative's office indicates the submitted information is excepted from disclosure under sections 552.101 and 552.111 of the Government Code.¹ We have considered the exceptions the representative's office claims and reviewed the submitted representative sample of information.²

The representative's office generally asserts the submitted information is subject to House Bill 4181. Several sections of House Bill 4181 revised laws relating to the confidentiality of certain legislative records under the Act. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section

¹ Although the representative's office does not cite to section 552.101 or section 552.111 of the Government Code in its brief, we understand the representative's office to raise these sections based on the substance of its comments.

² We 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.

encompasses information protected by other statutes, such as section 306.008 of the Government Code, which provides as follows:

(a) To protect the public's interest in the proper performance of the deliberative and policymaking responsibilities of the legislature and to preserve the legislative branch's independence under the fundamental principle of separation of powers, as guaranteed by Article II and Section 21, Article III, Texas Constitution, a communication is confidential and subject to legislative privilege if the communication:

(1) is given privately;

(2) concerns a legislative activity or function; and

(3) is among or between any of the following:

(A) a member of the house or senate;

(B) the lieutenant governor;

(C) an officer of the house or senate;

(D) a member of the governing body of a legislative agency;
or

(E) a legislative employee.

...

(c) A member of the house or senate, the lieutenant governor, or an officer of the house or senate may choose to disclose all or part of a communication to which Subsection (a) or (b) applies and to which the individual or a legislative employee acting on behalf of the individual was a party.

Gov't Code § 306.008(a), (c). The submitted information consists of communications that we understand were given privately involving members of the house and senate and legislative employees concerning legislative activities and functions. Therefore, upon review, we find section 306.008(a) is applicable to the submitted information. Accordingly, pursuant to section 552.101 of the Government Code in conjunction with section 306.008(a) of the Government Code, the representative's office is not required to release the submitted information in response to the request.³ However, as the decision to withhold or release the information at issue is within the discretion of the representative's office, the

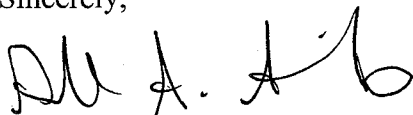
³ As our ruling is dispositive, we need not address the representative's office's remaining argument against disclosure of the submitted information.

representative's office may choose to disclose all or part of the submitted information pursuant to section 306.008(c) of the Government Code.⁴

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Gerald Arismendez
Assistant Attorney General
Open Records Division

GAA/gw

Ref: ID# 787003

Enc. Submitted documents

c: Requestor
(w/o enclosures)

⁴ We note the submitted information contains information subject to sections 552.117 and 552.137 of the Government Code. Section 552.117 of the Government Code excepts from disclosure the personal cellular telephone numbers of current or former officials or employees of a governmental body, provided the cellular telephone service is not paid for by a governmental body. *See* Gov't Code § 552.117(a)(1); Open Records Decision No. 506 at 5-6 (1988) (section 552.117 not applicable to cellular telephone numbers paid for by governmental body and intended for official use). Section 552.024 of the Government Code authorizes a governmental body to withhold information subject to section 552.117 without requesting a decision from this office if the current or former employee or official timely chooses not to allow public access to the information. *See id.* § 552.024(c). Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including personal e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision. *See* ORD 684; *but see Austin Bulldog v. Leffingwell*, 490 S.W.3d 240 (Tex. App.—Austin 2016, no pet.) (holding personal e-mail addresses of government officials used to conduct official government business are not e-mail addresses of “members of the public” for purposes of Gov't Code § 552.137(a)).