



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 30, 2019

Mr. John Heining
General Counsel
Texas Legislative Council
P.O. Box 12128
Austin, Texas 78711-2128

OR2019-30584

Dear Mr. Heining:

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# 794173.

The Texas Legislative Council (the "council") received a request for records pertaining to a specified bill that was passed in the 86th legislative session. You claim the requested information is excepted from disclosure under sections 552.101, 552.106, 552.107, and 552.111 of the Government Code and privileged under Texas Rule of Evidence 503. We have considered your arguments and reviewed the submitted representative sample of information.¹

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. Section 552.101 encompasses section 323.018 of the Government Code, which relates to interactions between the council and legislative offices. Section 323.018, provides as follows:

Records relating to requests of council staff for the drafting of proposed legislation or for assistance, information, advice, or opinion are:

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 that those records contain substantially different types of information than that submitted to this office.

...

(2) not public information and not subject to [the Act].

Act of May 27, 2019, 86th Leg., R.S., H.B. 4181, § 22 (to be codified at Gov't Code § 323.018). You inform us the submitted information consists of working files created by the council specifically for the purpose of assisting the legislature in preparing proposed legislation. You further state the working files contain the advice, opinions, and recommendations of the council to legislators regarding the proposed legislation. Based on your representations and our review, we find the submitted information is confidential under section 323.018. Accordingly, the council must withhold the submitted information under section 552.101 of the Government Code in conjunction with section 323.018 of the Government Code.²

Finally, you ask this office to issue a previous determination that would allow the council to withhold information under sections 323.017 and 323.018 of the Government Code without seeking a ruling from this office. We decline to issue such a previous determination at this time. However, we note the 86th Texas Legislature amended section 323.018 in House Bill 4181. Section 31 of House Bill 4181 provides as follows:

Records described by Section 301.041(b) or 301.043, Government Code, as added by this Act, or Section 323.018, Government Code, as amended by this Act, are not subject to request, inspection, or duplication under Chapter 552, Government Code. A governmental body may withhold the records without the necessity of requesting a decision from the attorney general under Subchapter G, Chapter 552, Government Code.

Act of May 27, 2019, 86th Leg., R.S., H.B. 4181, § 31. 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 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

²As our ruling is dispositive, we need not address your remaining arguments against the disclosure of this information

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,

A handwritten signature in black ink, appearing to read "Patrick P. Mehaffy". The signature is written in a cursive style with a prominent flourish at the end.

Patrick P. Mehaffy
Assistant Attorney General
Open Records Division

PPM/mo

Ref: ID# 794173

Enc. Submitted documents

c: Requestor
(w/o enclosures)