



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 25, 2020

Ms. Kimberly Ashby
Public Information Office
County of Blanco
P.O. Box 471
Johnson City, Texas 78636

OR2020-09269

Dear Ms. Ashby:

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# 817765.

The County of Blanco (the "county") received two requests from the same requestor for handwritten notes pertaining to two specified county commissioner court meetings. You claim some of the submitted information is not subject to the Act. Alternatively, you claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the submitted arguments and reviewed the submitted information. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, you argue the submitted information is not subject to the Act. The Act applies to "public information," which is defined in section 552.002 of the Government Code as:

(a) . . . information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

(1) by a governmental body; or

(2) for a governmental body and the governmental body:

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

Gov't Code § 552.002(a). Thus, virtually all of the information in a governmental body's physical possession constitutes public information and thus is subject to the Act. *Id.* § 552.002(a)(1); *see* Open Records Decision Nos. 549 at 4 (1990), 514 at 1-2 (1988). The Act also encompasses information that a governmental body does not physically possess. Information that is written, produced, collected, assembled, or maintained by a third party, including an individual officer or employee of a governmental body in his or her official capacity, may be subject to disclosure under the Act if a governmental body owns, has a right of access, or spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information. Gov't Code § 552.002(a); *see* Open Records Decision No. 462 at 4 (1987). Information is "in connection with the transaction of official business" if the information is created by, transmitted to, received by, or maintained by a person or entity performing official business or a government function on behalf of a governmental body and the information pertains to official business of the governmental body. *See* Gov't Code § 552.002(a-1). Moreover, section 552.001 of the Act provides that it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. *See id.* § 552.001(a).

Based on a provision of section 201.003 of the Local Government Code, you contend the handwritten notes are not subject to the Act. Section 201.003 is part of the Local Government Records Act, subtitle C of title 6 of the Local Government Code. *See* Local Gov't Code § 201.001. Section 201.003(8) provides that the term "local government record" does not include "notes, journals, diaries, and similar documents created by an officer or employee of the local government for the officer's or employee's personal convenience[.]" *Id.* § 201.003(8)(B). You inform us that the handwritten notes were taken to assist the notetaker throughout the county commissioner's court meeting to assist in preparing the draft of the official meeting minutes. You contend that pursuant to section 201.003(8)(B) the notes are not "public records" subject to the Public Information Act.

We disagree. "[T]he Act is intended to apply to all records kept by governmental bodies[.]" *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 677 (Tex. 1976); *see also* Gov't Code § 552.001(a). The definition of "local government record" found at section 201.003(8) of the Local Government Records Act does not affect the scope of the Act. As this office explained in Attorney General Opinion JM-1250 at 1 (1990), the purpose of the Local Government Records Act is "to establish uniform procedures on the maintenance, preservation, and disposition of local government records and to clarify and expand the

authority of the Texas State Library and Archives Commission . . . regarding them.” *Id.* at 1; *see also* Open Records Decision No. 607 at 2-3 (1992). Thus, although section 201.009(a) of the Local Government Code provides that “local government records are subject to Chapter 552, Government Code,” the fact that information falls *outside* the definition of “local government record” found at section 201.003(8) of the Local Government Code does not preclude a finding that such information still constitutes “public information” for the purposes of the Act. *See* Local Gov’t Code §§ 201.002 (stating purpose of Local Government Records Act), 202.002(b) (local government record subject to request under Act may not be destroyed until request is resolved).

The county further argues, because the portions of the submitted information consist of the county clerk’s notes, taken during the meeting for her own convenience, they are not public records. However, this office has issued numerous rulings concluding information collected, assembled, or maintained in connection with the transaction of official business, including “personal” notes, is subject to the Act. *See, e.g.*, Open Records Decision Nos. 626 (1994) (handwritten notes taken during oral interview by Texas Department of Public Safety promotion board members are public information), 327 (1982) (notes made by school principal and athletic director relating to teacher “were made in their capacities as supervisors of the employee” and constitute public information), 120 (1976) (faculty members’ written evaluations of doctoral student’s qualifying exam subject to predecessor of Act). Upon review, we find the submitted notes were created by a county employee during county meetings and relate to county matters. Thus, the county created and maintained the information in connection with the transaction of its official business. Therefore, having considered your arguments, we find that the submitted information is public information and must be released.

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,

Pearlie Gault
Attorney
Open Records Division

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Enc. Submitted documents

c: Requestor
(w/o enclosures)