



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 22, 2020

Mr. Dushyanth Reddivari
Assistant Legal Counsel
Legislative Budget Board
P.O. Box 12666
Austin, Texas 78711-2666

OR2020-26602

Dear Mr. Reddivari:

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# 850274.

The Legislative Budget Board (the "board") received three requests from different requestors for information pertaining to a specified document. You claim the submitted information is excepted from disclosure under section 552.106 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹

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 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

¹ 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.

comparison or analysis of factual information prepared to support proposed legislation is within the ambit of section 552.106. *Id.*

The board states Exhibit 5 consists of working papers created by board staff with the assistance of state agencies and institutions pertaining to the state budget reductions for the 2022-23 biennium. We understand the information at issue has not been made public and all parties to them have a privity of interest with regard to enactment of the legislation. Upon review, we find the board has established Exhibit 5 constitutes advice, opinion, analysis, and recommendation regarding proposed legislation. Therefore, the board may withhold Exhibit 5 under section 552.106 of the Government Code.

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,

Paige Lay
Assistant Attorney General
Open Records Division

PL/be

Ref: ID# 850274

Enc. Submitted documents

c: Requestor
(w/o enclosures)

2 Third Party
(w/o enclosures)