



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 9, 2022

Ms. Jennifer Jones
Executive Director
Sunset Advisory Commission
P.O. Box 13066
Austin, Texas 78711-3066

OR2022-07076

Dear Ms. Jones:

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# 934282.

The Sunset Advisory Commission (the "commission") received a request for records related to a specified letter and any records associated with a specified senate bill. You state you have released some information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.106, and 552.107 of the Government Code. We have considered the exceptions you claim 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. This section encompasses 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

¹ We assume that 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.

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.

Id. § 306.008(a). You state the submitted information consists of communications that were given privately among members of the commission and legislative employees concerning legislative activities and functions. *See id.* §§ 306.008(e)(1) (providing “Legislative agency” means a board, commission, committee, council, department, office, or any other agency in the legislative branch of state government), 325.003 (commission is a legislative agency). Therefore, upon review, we find the submitted information is confidential under section 306.008(a) and the commission must withhold it under section 552.101 of the Government Code on this basis.²

The commission also asks this office to issue a previous determination that would authorize it to withhold information under section 552.101 of the Government Code in conjunction with section 306.008(a) of the Government Code. *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). We decline to issue such a previous determination at this time. Accordingly, 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

² As our ruling is dispositive, we need not address the remaining arguments against 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,

Michelle Garza
Assistant Attorney General
Open Records Division

MRG/be

Ref: ID# 934282

Enc. Submitted documents

c: Requestor
(w/o enclosures)