ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 17, 2007

Ms. Chelsea Thornton
Assistant General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2007-10626

Dear Ms. Thornton:

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# 289039.

The Office of the Governor (the "governor") received a request for information pertaining to the Texas Youth Commission and related matters. You state that some of the requested information has been released. You have submitted information that the governor seeks to withhold under sections 552.106 and 552.111 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information.

Section 552.106(b) of the Government Code excepts from disclosure "[a]n internal bill analysis or working paper prepared by the governor's office for the purpose of evaluating proposed legislation[.]" Gov't Code § 552.106(b). Section 552.106 resembles section 552.111 of the Government Code in that both exceptions protect advice, opinion, and recommendation on policy matters in order to encourage frank discussion during the policymaking process.[1] *See* Open Records Decision No. 460 at 3 (1987). However, section 552.106 applies specifically to the legislative process and thus is narrower than section 552.111. *Id.* You state that the submitted information consists of internal bill analysis, working papers, and a communication relating to Senate Bill 103. You contend that

[1]Section 552.111 excepts from disclosure "[a]n interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency[.]" Gov't Code § 552.111.

the submitted information reveals advice, opinions, and recommendations regarding the governor's policy with respect to the legislation. Having considered your arguments and reviewed the information at issue, we conclude that the governor may withhold the submitted information under section 552.106 of the Government Code. As we are able to make this determination, we need not address your claim under section 552.111.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

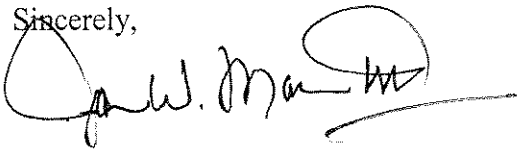
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/ma

Ref: ID# 289039

Enc: Submitted documents

c: Mr. Dan L. Hargrove
Hargrove & Rea
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(w/o enclosures)