



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 15, 2008

Mr. Milton Rister
Executive Director
Texas Legislative Council
P.O. Box 12128, Capitol Station
Austin, Texas 78711-2128

OR2008-02128

Dear Mr. Rister:

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# 301309.

The Texas Legislative Council (the "council") received a request for specified categories of information pertaining to House Bill 3367. You state that some of the requested information has been delivered to the requestor, but claim that the submitted information is not subject to the Act. Alternatively, you assert the information at issue is excepted from disclosure under sections 552.101, 552.106, and 552.107 of the Government Code. We have considered your arguments and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

The Act applies only to public information. *See* Gov't Code §§ 552.021, 552.221. Section 552.002 of the Act defines "public information" as information "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 owns the information or has a right of access to it." *Id.* § 552.002(a). You argue that, pursuant to section 323.018 of the Government Code, records relating to a request by a state senator for the drafting of proposed legislation are not public information for the purposes of section 552.002. Section 323.018 provides that "[r]ecords relating to requests of council staff for the drafting of proposed legislation or for assistance,

information, advice, or opinion are not public information.” After review of your arguments, we find you have failed to demonstrate how section 323.018 removes the information covered by this section from the scope of the Act’s provision defining public information. *See id.* § 552.002(a). You inform us that “[a]ll of the documents sought by the requestor are records relating to a request by a state senator for the drafting of proposed legislation.” Based on this representation, we conclude that the submitted records are collected, assembled, and maintained by the council in connection with the transaction of its official business. *See id.* Therefore, the submitted information constitutes public information that is subject to the Act and may only be withheld if an exception to disclosure under the Act applies.

You assert the submitted information is excepted under section 552.101 of the Government Code, which excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” This section encompasses information protected by other statutes, including section 323.018. As noted above, you inform us that the submitted information relates to a request by a state senator to the council for the drafting of proposed legislation. Based on this representation, we agree that the submitted information is confidential under section 323.018 of the Government Code, and the council must withhold the information under section 552.101 of the Government Code.¹

Although you request a previous determination regarding the requested categories of information, we decline to issue one at this time. Accordingly, 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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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

¹As our ruling is dispositive, we do not address your other arguments to withhold the submitted information under the Act.

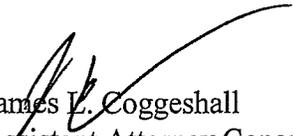
will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to 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 challenge 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 L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/jh

Ref: ID# 301309

Enc. Submitted documents

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(w/o enclosures)