



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 8, 2012

Ms. Patsy Spaw
Secretary of the Senate
Texas Senate
P.O. Box 12068
Austin, Texas 78711

OR2012-03559

Dear Ms. Spaw:

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# 447770.

The Office of Senator Troy Fraser (the "Senator's Office") received a request for all documents related to "the topic of voter photo[graph] identification and/or new laws or proposals to require photo[graph] identification of voters" from January 1, 2010 to the date of the request.¹ You state the Senator's Office has released some of the requested information. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.106, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

¹We note that the Senator's Office sought and received a clarification of the information requested. See Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

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

You state the information at issue was prepared directly and entirely for the purpose of enacting legislation, including communicating a senator’s policy judgments and analysis regarding his legislation between the senator and his staff and employees of the Texas Legislative Council. You state that at the time these documents were created and used, the bills to which they relate were still “proposed legislation” within the legislative process, and subject to amendment or revision before consideration by the committee. You state the information at issue was never made public or distributed to any person beyond the authoring senator and his staff and employees of the Texas Legislative Council. However, we note that among the documents submitted to this office as responsive to the request is a string of e-mails generated by an outside party that were forwarded to the Senator’s Office. Upon review, we find that the outside party and the Senator’s Office shared a privity of interest with regard to the matters discussed in the information at issue. *Cf.* Open Records Decision No. 561 at 9 (1990) (stating that for section 552.111 to apply, agencies between which memorandum is passed must share privity of interest or common deliberative process with regard to policy matter at issue). Accordingly, we find the submitted information in its entirety constitutes drafts and working papers involved in the preparation of proposed legislation. Therefore, the Senator’s Office may withhold the submitted information under section 552.106 of the Government Code.²

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 http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'V. Burgess', followed by a horizontal line extending to the right.

Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 447770

Enc. Submitted documents

c: Requestor
(w/o enclosures)