



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 15, 2012

Honorable Larry Taylor
State Representative, District 24
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768-2910

Mr. Jeff Archer
Chief Legislative Counsel
Texas Legislative Council
P.O. Box 12128
Austin, Texas 78711-2128

OR2012-03849

Dear Representative Taylor and Mr. Archer:

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# 448198.

The Office of Representative Larry Taylor (the "representative's office") received a request for all documents, including e-mails, regarding the topic of voter photo identification or new laws or proposals to require photo identification of voters. You state the representative's office has released some of the information. You also state the representative's office has withheld some of the information pursuant to chapter 306 of the Government Code.¹ *See* Gov't Code §§ 306.003(a), 306.004(a); *see also* Open Records Decision No. 648 at 3-7 (1996). You claim the submitted information is excepted from disclosure under

¹Release of information subject to section 306.003(a) or 306.004(a) of the Government Code is governed by chapter 306, not the Act, and it is within the discretion of a legislator to either withhold or release such information.

sections 552.101, 552.103, 552.106, and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you inform us some of the submitted information pertains to legislative bills that deal with subjects other than voter identification, and this information is not responsive to the request. This ruling does not address the public availability of information that is not responsive to the request, and the representative's office is not required to release information that is not responsive.

Next, we turn to your claimed exceptions for the remaining responsive information. Section 552.106 of the Government Code excepts from disclosure "[a] draft or working paper involved in the preparation of proposed legislation." Gov't Code § 552.106(a). Section 552.106 protects advice, opinion, and recommendation on policy matters in order to encourage frank discussion on policy matters between the subordinates or advisors of a legislative body and the members of the legislative body. *See* Open Records Decision No. 460 at 3 (1987). Therefore, section 552.106 is applicable only to the policy judgments, recommendations, and proposals of persons who are involved in the preparation of proposed legislation and who have an official responsibility to provide such information to members of the legislative body. *Id.* at 1. Section 552.106 does not protect purely factual information from public disclosure. *See id.* 460 at 2; *see also* Open Records Decision No. 344 at 3–4 (1982) (for purposes of statutory predecessor, factual information prepared by State Property Tax Board did not reflect policy judgments, recommendations, or proposals concerning drafting of legislation). However, a comparison or analysis of factual information prepared to support proposed legislation is within the scope of section 552.106. ORD 460 at 2.

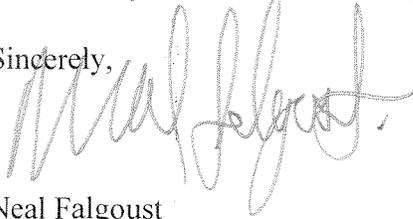
You state the remaining responsive information, which consists of floor reports, bill analyses, and e-mail communications, was "prepared directly and entirely for the legislative purpose of developing, considering, and enacting [proposed] legislation." You explain this information consists of policy judgments, recommendations, or proposals related to the proposed legislation. Based on these representations and our review of the information at issue, we agree the representative's office may withhold the remaining responsive information under section 552.106 of the Government Code. As our ruling is dispositive, we do not address your remaining arguments against disclosure.

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

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 "Neal Falgoust", written over a light gray grid background.

Neal Falgoust
Assistant Attorney General
Open Records Division

NF/ag

Ref: ID# 448198

Enc. Submitted documents

c: Requestor
(w/o enclosures)