

SUBJECT: Exempting lottery contract negotiations from open meetings requirements

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 8 ayes — Wolens, S. Turner, Brimer, Counts, Hunter, Longoria, McClendon, Merritt

2 nays — Danburg, McCall

5 absent — Bailey, Craddick, Hilbert, D. Jones, Marchant

SENATE VOTE: On final passage, March 20 — 23-7 (Bernsen, Gallegos, Jackson, Ogden, Shapleigh, Van de Putte, Zaffirini)

WITNESSES: For — None

Against — Donnis Baggett, Texas Daily Newspaper Association, Texas Press Association; *Registered but did not testify:* Michael Schneider, Texas Association of Broadcasters

On — *Registered but did not testify:* Kimberly Kiplin, Texas Lottery Commission

DIGEST: SB 390 would exempt from open meetings requirements a closed meeting of the Texas Lottery Commission on the negotiation of a lottery operator's contract if the commission determined, in writing, that an open meeting would have a negative effect on the commission's position in the negotiations.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

SUPPORTERS SAY: SB 390 would allow the lottery commission to plan its strategy in private before negotiating a contract. Because such planning sessions are subject to open meetings requirements, the commission currently is at a disadvantage at the bargaining table. The bill would level the playing field for the commission in contract negotiations. The commission could negotiate better

contract terms if it could plan its negotiating strategy without the terms being divulged in advance to the party with which it was negotiating.

Better contract terms would mean more money for the state. Lottery contracts involve significant sums of money. For example, the total value of the lottery contract since 1992 is nearly \$1 billion. Negotiating such large contracts requires detailed deliberations on negotiating strategy. Such deliberations should not be open to the other parties who were subject to the negotiations.

The bill would allow only meetings that could be detrimental to the commission's position in contract negotiations to be closed. The commission would have to make the determination in writing. No official action could be taken in a closed meeting.

**OPPONENTS
SAY:**

The bill would erode public oversight of an agency that has a history of entering into questionable contracts. The agency's contract with Gtech has been surrounded by controversy since 1996. Allowing the commission an exemption from open meetings requirements simply would set the stage for more controversy. It would not be prudent to exempt from any open meetings or open records requirements an agency that historically had been subject to considerable public scrutiny. It is in the agency's and the public's best interest to keep its activities in full view of the public.