

SUBJECT: Excepting the names of certain city manager applicants from open records

COMMITTEE: State Affairs — favorable, as amended

VOTE: 5 ayes — Swinford, Miller, B. Cook, J. Keffer, Wong

0 nays

4 absent — Farrar, Gattis, Martinez Fischer, Villarreal

SENATE VOTE: On final passage, March 17 — 29-1 (Eltime)

WITNESSES: No public hearing

BACKGROUND: The Public Information Act (Government Code, ch. 552) provides for public access to records maintained by state and local governments. Under secs. 552.123 and 552.126, the name of an applicant for the position of chief executive officer of an institution of higher education or for the position of superintendent of a public school district is excepted from public disclosure. However, the names of finalists for the position must be disclosed at least 21 days before the date of the meeting at which a final action or vote on the person's employment is to be taken.

DIGEST: SB 299 would except from public disclosure the names of city manager applicants in cities with populations greater than 500,000 that operate under a council-manager form of government. The city council would be required to give public notice of the names of any finalists for the position before the 21st day before the date at which a final action or vote on the person's employment was to be taken.

The bill would take effect September 1, 2005.

SUPPORTERS SAY: SB 299 would help increase the quality of applicant pools for open city manager positions and thus enable cities to obtain the best qualified person possible for these positions. Because the names of candidates for city manager currently are a matter of public record, many potential candidates choose not to submit applications for fear that their current employers will discover that they are considering leaving their jobs. Both the city and the

public lose when outstanding potential candidates choose not to apply. By making the names of applicants confidential, SB 299 would encourage more people to apply for the position of city manager and ensure that the city was able to select the best person for the job. The public's ability to evaluate candidates would be maintained through the requirement that the names of finalists be made public three weeks before any final decision.

**OPPONENTS
SAY:**

By excepting from public disclosure the names of candidates for the position of city manager, SB 299 would prevent members of the public from determining whether the city had selected the best candidate and whether personal connections had unduly influenced the selection. In some cases, cities select only one finalist for the position, so that under this bill the required notice would become no more than notice of the person who would receive the position. Citizens should have a full opportunity to examine the applicant pool and comment on candidates for the position.

NOTES:

The committee amendment would broaden the application of the bill to a city with a population greater than 500,000, rather than 1 million as in the Senate-passed version. The Senate version would apply to Houston, Dallas, and San Antonio; the House committee amendment would add Austin, El Paso, and Fort Worth.