

BILL ANALYSIS

C.S.H.B. 2689
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Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, landmen perform professional services with regard to oil and gas and minerals including, researching county records to determine ownership, negotiating and preparing leases for execution by mineral owners, negotiating and preparing well trade, joint venture and operating agreements among oil and mineral operators (working interest owners), negotiating and preparing damage agreements, rights-of-way agreements related to oil and gas and mineral exploration and operations, and other business matters with regard to oil and gas and mineral operations.

Landmen duties have come to be included under the evolving definition of the practice of law. This practice has long been recognized and operated under what is know as the "mineral exemption" or the "landman's exemption" to the current definition of the practice of law under the Texas Government Code.

CSHB 2689 seeks to define the practice of law to include the duties of landman under current practice.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

Amends Subtitle B, Title 5, Occupations Code by adding Chapter 953 which creates an exception to the practice of law for petroleum and mineral land services. Section 953.001 outlines that the definition of the practice of law does not include acts relating to the lease, purchase, sale, or transfer of a mineral or mining interest in real property if: (1) the acts are performed by a person who does not hold the person out to be an attorney; and (2) is not a licensed attorney.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The original bill amended Section 81.101 of the Government Code and outlined definitions of "acting in a professional capacity," "legal advice," "legal representation," and "practice of law."

The substitute creates a new Chapter (953) to Subtitle B, Title 5, Occupations Code by creating a petroleum and mineral land services section, then defining an exception to the practice of law. The substitute removes the civil liability of persons found to be engaging in the unauthorized practice of law. The substitute also removes language that allows real estate brokers and their functions from the definition of the practice of law.