

BILL ANALYSIS

C.S.H.B. 1475
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Current law establishes exclusions from total revenue, for purposes of the franchise tax, for certain flow-through payments made to subcontractors. There is concern that state law limits the types of payments or costs associated with subcontractors that can be deducted from an entity's total taxable revenue, while a corporation is permitted to deduct all costs associated with the use of subcontractors on its federal income tax return. Interested parties note that there is no provision specifying an exclusion from total revenue or other franchise tax deduction for entities that employ landmen on a contract basis to perform the same functions, work under the same conditions, and maintain the same hours as employees. C.S.H.B. 1475 seeks to allow the deduction of certain subcontracting payments for franchise tax purposes.

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

C.S.H.B. 1475 amends the Tax Code to require a taxable entity that is primarily engaged in the business of performing landman services to exclude from its total revenue, for the purposes of computing the entity's taxable margin for the franchise tax and to the extent authorized by law, subcontracting payments made by the taxable entity to nonemployees for the performance of landman services on behalf of the taxable entity. The bill establishes the services related to mineral or petroleum interests that constitute landman services.

EFFECTIVE DATE

January 1, 2014.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1475 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 171.1011(g), Tax Code, is amended to read as follows:

(g) A taxable entity shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3),

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 171.1011, Tax Code, is amended by adding Subsection (g-11) to read as follows:

(g-11) A taxable entity that is primarily engaged in the business of performing landman services shall exclude from its total

only the following flow-through funds that are mandated by contract to be distributed to other entities:

(1) sales commissions to nonemployees, including split-fee real estate commissions;

(2) the tax basis as determined under the Internal Revenue Code of securities underwritten; ~~and~~

(3) subcontracting payments handled by the taxable entity to provide services, labor, or materials in connection with the actual or proposed design, construction, remodeling, or repair of improvements on real property or the location of the boundaries of real property; and

(4) subcontracting payments made to individuals for services related to the acquisition or management of petroleum interests or the performance of title or contract functions related to the exploration, exploitation, or disposition of petroleum or mineral interests.

revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3).

subcontracting payments made by the taxable entity to nonemployees for the performance of landman services on behalf of the taxable entity. In this subsection, "landman services" means:

(1) performing title searches for the purpose of determining ownership of or curing title defects related to oil, gas, or other related mineral or petroleum interests;

(2) negotiating the acquisition or divestiture of mineral rights for the purpose of the exploration, development, or production of oil, gas, or other related mineral or petroleum interests; or

(3) negotiating or managing the negotiation of contracts or other agreements related to the ownership of mineral interests for the exploration, exploitation, disposition, development, or production of oil, gas, or other related mineral or petroleum interests.

SECTION 2. This Act applies only to a report originally due on or after the effective date of this Act.

SECTION 2. Same as introduced version.

SECTION 3. This Act takes effect January 1, 2014.

SECTION 3. Same as introduced version.