

BILL ANALYSIS

C.S.S.B. 1240
By: Duncan
Energy Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that many charitable organizations, such as colleges, universities, hospitals, and museums, have portfolios of mineral interests and that, while some of these interests may be large, most are very small. The parties note, however, that collectively the interests account for significant annual revenue used to further educational and charitable missions and that the loss of this income over time due to involuntary divestiture through forced partitioning would be devastating, particularly in a time when endowment earnings are down.

C.S.S.B. 1240 seeks to limit the practice of compulsory partition of a mineral interest owned or claimed by a charitable trust in order to provide charities with long-term certainty that they can rely on the assets in their endowment portfolios.

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.S.B. 1240 amends the Property Code to prohibit the ordering of an action in a judicial proceeding the object or effect of which is to compel the partition of a mineral interest owned or claimed by a charitable trust that would divest the trust of its ownership of a mineral interest unless the trust has refused to execute a mineral lease, with fair and reasonable terms, to the plaintiff or petitioner in the proceeding. The bill defines, among other terms, "mineral interest" as an interest in oil, gas, or other mineral substance in place or that otherwise constitutes real property without regard to the depth at which such mineral substance is found.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.S.B. 1240 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

SENATE ENGROSSED

SECTION 1. Subtitle C, Title 9, Property Code, is amended by adding Chapter 124 to read as follows:
CHAPTER 124. PARTITION OF

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subtitle C, Title 9, Property Code, is amended by adding Chapter 124 to read as follows:
CHAPTER 124. PARTITION OF

83R 28490

13.129.600

Substitute Document Number: 83R 27217

MINERAL INTERESTS OF CHARITABLE TRUST

Sec. 124.001. DEFINITIONS. In this chapter:

(1) "Charitable entity" means a corporation, trust, community chest, fund, foundation, or other entity organized for scientific, educational, philanthropic, or environmental purposes, social welfare, the arts and humanities, or another civic or public purpose described by Section 501(c)(3), Internal Revenue Code of 1986.

(2) "Charitable trust" means a charitable entity, a trust the stated purpose of which is to benefit a charitable entity, or an inter vivos or testamentary gift to a charitable entity.

(3) "Mineral interest" means an interest in oil, gas, or other mineral substance in place or that otherwise constitutes real property without regard to the depth at which such mineral substance is found.

Sec. 124.002. COMPULSORY PARTITION PROHIBITED. A partition of any mineral interest owned or claimed by a charitable trust may not be compelled by a joint owner or claimant.

SECTION 2. The change in law made by this Act applies only to an action to compel a partition of a mineral interest commenced on or after the effective date of this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

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(2) "Charitable trust" means a charitable entity, a trust the stated purpose of which is to benefit a charitable entity, or an inter vivos or testamentary gift to a charitable entity.

(3) "Mineral interest" means an interest in oil, gas, or other mineral substance in place or that otherwise constitutes real property without regard to the depth at which such mineral substance is found.

Sec. 124.002. COMPULSORY DIVESTMENT PROHIBITED. In a suit or other judicial proceeding the object or effect of which is to compel the partition of a mineral interest owned or claimed by a charitable trust, a sale or other action that would divest the charitable trust of the trust's ownership of a mineral interest may not be ordered unless the trust has refused to execute a mineral lease, the terms of which are fair and reasonable, to the plaintiff or petitioner in the proceeding.

SECTION 2. The change in law made by this Act applies only to a proceeding commenced on or after the effective date of this Act.

SECTION 3. Same as engrossed version.

13.129.600