

BILL ANALYSIS

Senate Research Center

H.B. 3416
By: Darby (Lucio)
Natural Resources & Economic Development
5/18/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Most oil and gas operators do not directly employ uniquely skilled workers and instead opt to contract with professional placement companies who then contract with operators to fill that operator's skilled worker need.

The placement companies generally provide logistic support for the workers, including purchasing liability insurance to protect the worker. In some cases, the worker is unaware that they actually possess liability insurance coverage. In these instances, they have likely signed a contract with the placement companies that do not provide the oilfield standard of liability insurance and, instead, require that the worker indemnify both the operator and the contractor.

H.B. 3416 requires that a contractor provide a document—written in plain English—which enables a worker to understand whether they have liability insurance coverage or not. In addition, H.B. 3416 obliges a contractor to give a subcontractor a 30-day notice if there are changes related to the cancellation or nonrenewal of the worker's insurance policy.

H.B. 3416 amends current law relating to disclosures regarding indemnification obligations and insurance coverage in connection with provision of services pertaining to wells or mines by certain subcontractors.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 6, Civil Practice and Remedies Code, by adding Chapter 127A, as follows:

CHAPTER 127A. DISCLOSURES REGARDING INDEMNIFICATION OBLIGATIONS AND INSURANCE COVERAGE REGARDING WELL OR MINE SERVICES PROVIDED BY CERTAIN SUBCONTRACTORS

Sec. 127A.001. DEFINITIONS. Defines "temporary placement service," "temporary subcontractor," and "well or mine service."

Sec. 127.002. DISCLOSURE REGARDING TEMPORARY SUBCONTRACTOR INDEMNIFICATION OBLIGATIONS AND INSURANCE COVERAGE REQUIREMENTS. (a) Requires the placement service, before a temporary placement service refers or assigns a temporary subcontractor to the placement service's client to perform well or mine services, to provide a written disclosure to the subcontractor that:

(1) describes the subcontractor's indemnification obligations, if any, to the placement service and to the placement service's client in connection with the services the subcontractor will provide to the client;

(2) describes any insurance policy, including the amount of coverage and any limits on coverage, that is provided for the benefit of the subcontractor by the placement service or the placement service's client, or both, in connection with the services the subcontractor will provide to the client; and

(3) expressly states whether and to what extent any insurance policy described by Subdivision (2) will cover the subcontractor's tort liability and contractual indemnity obligations arising out of the performance of the services by the subcontractor for the placement service's client or clients.

(b) Provides that the disclosure required under Subsection (a) may state that the disclosure does not alter, amend, or otherwise modify the terms of any agreement governing services provided by the temporary subcontractor or any insurance policy described by Subsection (a)(2), provided that the temporary placement service is responsible for the content of the disclosure.

(c) Requires a temporary placement service to:

(1) provide the disclosure required under Subsection (a) to a temporary subcontractor as a separate document from any agreement entered into with the subcontractor by the placement service or the placement service's client; and

(2) ensure that the disclosure is written in plain English and in a manner that is clear, concise, and designed to enable the temporary subcontractor to understand the subcontractor's contractual indemnity obligations, if any, and any insurance policy provided for the benefit of the subcontractor in connection with well or mine services to be performed by the subcontractor.

(d) Authorizes a temporary placement service to satisfy the requirement to describe an insurance policy under Subsection (a)(2) by providing to the temporary subcontractor a certificate of insurance evidencing applicable coverage and limits.

Sec. 127A.003. DISCLOSURE REQUIREMENTS FOR ONGOING INSURANCE POLICY. Provides that a temporary placement service that provides a disclosure to a temporary subcontractor under Section 127A.002 that states that an insurance policy described in that disclosure that is provided for the benefit of the temporary subcontractor remains in effect for a specified time period and with respect to a specified client or clients is not required to provide that subcontractor with an additional disclosure under Section 127A.002 for future services provided by the subcontractor to that client or those clients until:

(1) the insurance policy is no longer in effect; or

(2) the placement service is required to provide the subcontractor a new disclosure because of a change concerning the insurance policy as provided under Section 127A.004.

Sec. 127A.004. NOTICE REQUIRED FOR CERTAIN CHANGES RELATED TO INSURANCE POLICY. Requires a temporary placement service to provide a temporary subcontractor who is provided a disclosure of a provided insurance policy under Section 127A.002 a separate written notice of a cancellation or nonrenewal of the policy or a material reduction in coverage under the insurance policy not later than the 30th day before the date the cancellation or nonrenewal of the policy or the material reduction in insurance coverage takes effect.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2021.