

BILL ANALYSIS

C.S.H.B. 1915
By: Hefner
Energy Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Statutory provisions relating to the services provided by a landman do not accurately reflect current industry practices and need to be updated in order to ensure that statutory protections and benefits for landmen apply equitably. C.S.H.B. 1915 seeks to address this issue by providing for a definition of "land services" and revising provisions relating to landmen in order to more closely align statute with American Association of Professional Landmen standards.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 1915 amends the Occupations Code to expand the scope of the provision establishing that a person who is not licensed as an attorney does not engage in the practice of law under the State Bar Act on the basis of performing acts relating to the lease, purchase, sale, or transfer of a mineral or mining interest in real property or an easement or other interest associated with a mineral or mining interest in real property if the person does not hold out that they are a licensed attorney. The bill makes that provision applicable instead with respect to any act that constitutes engaging in land services by a person under those same conditions. For this purpose, the bill defines "land services" as the performance or supervision of one or more of the following activities:

- negotiating the acquisition or divestiture of mineral rights or rights associated with other energy sources;
- negotiating business agreements or easements that provide for the exploration for or development of minerals or other energy sources;
- ascertaining ownership in mineral rights or rights associated with other energy sources and related real property through the research of public and private records;
- reviewing the status of title, curing title defects, providing title due diligence, and otherwise reducing title risk associated with the ownership, acquisition, or divestiture of mineral rights, property associated with minerals, or rights associated with other energy sources, excluding administrative functions, division order functions, and lease analyst functions;
- managing rights or obligations derived from ownership of interests in minerals or rights associated with other energy sources; or
- using or pooling mineral interests or rights associated with other energy sources.

The bill defines "mineral" by reference as oil, gas, uranium, sulphur, lignite, coal, and any other substance that is ordinarily and naturally considered a mineral in Texas, regardless of the depth at which the substance is found, and specifies that the term also includes related hydrocarbons and substances classified as base, industrial, precious, or strategic minerals.

C.S.H.B. 1915 defines "other energy source" as a natural resource other than a mineral that is necessary to produce energy, including geothermal, hydroelectric, nuclear, solar, and wind energy. The bill exempts from The Real Estate License Act a transaction involving the sale, lease, or transfer of an interest in real property relating to such a natural resource.

C.S.H.B. 1915 includes among the individuals classified as a landman for purposes of the landman exemption from the Private Security Act an individual who, in the course and scope of the individual's business, engages in land services that do not otherwise classify the individual as such.

C.S.H.B. 1915 amends the Tax Code to expand the services classified as "landman services" for purposes of the provision authorizing a taxable entity that is primarily engaged in the business of performing such services, when determining total revenue for franchise tax purposes, to exclude from its total revenue subcontracting payments made to nonemployees for the performance of landman services on the entity's behalf. The bill does so by including services related to other energy sources aside from oil and gas in that classification on the same basis as services related to oil and gas currently classified as such. These provisions take effect January 1, 2024, and apply only to a franchise tax report originally due on or after that date.

EFFECTIVE DATE

Except as otherwise provided, on passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1915 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes as an activity the performance or supervision of which constitutes a land service the negotiating of easements that provide for the exploration for or development of minerals or other energy sources, whereas the introduced did not include this activity.

The substitute includes a provision absent from the introduced that exempts from The Real Estate License Act a transaction involving the sale, lease, or transfer of an interest in real property relating to a natural resource other than a mineral that is necessary to produce energy, including geothermal, hydroelectric, nuclear, solar, and wind energy.