

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 9, 2023

TO: Honorable Dan Patrick, Lieutenant Governor, Senate

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB604 by King (Relating to land services performed by a landman.), **As Passed 2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 954 of the Occupations Code to define “land services,” “mineral” and “other energy source” for purposes of that chapter. It would amend the section of the Tax Code that concerns landman services to include other energy services. “Other energy source” is defined in the Occupations Code as a natural resource other than a mineral that is necessary to produce energy, including geothermal, hydroelectric, nuclear, solar, and wind energy.

The bill would amend Section 1702.324(a) of the Occupations Code and add that landman includes individuals who, in the course and scope of their business engage in land services.

The bill would amend the Tax Code to exclude subcontracting payments made to individuals for landman services from total revenue for purposes of calculating the franchise tax. Subparagraph (1) excludes subcontracting payments made for performing title searches for the purposes of determining ownership of or curing title defects related to oil, gas, other energy sources, or other related mineral or petroleum interests. Subparagraph (2) excludes subcontracting payments made for negotiating the acquisition or divestiture of mineral rights for the purpose of the exploration, development, or production of oil, gas, other energy source, or other related mineral or petroleum interests. Subparagraph (3) excludes subcontracting payments made for negotiating or managing the negotiation of contracts or other agreements related to the ownership of mineral interests for the purpose of the exploration, development, or production of oil, gas, other energy source, or other related mineral or petroleum interests.

Current law limits the exclusion of payments for subcontracting of landman services to such services performed in relation to oil, gas, or other related mineral or petroleum interests. But industry financial accounting practices do not distinguish landman service payments on the basis of type of property interest involved. As there have been no notable franchise tax audit assessments based on lack of observance of the distinction between oil, gas, or other mineral or petroleum interests and other energy sources, the amendment will have no significant revenue implication.

The bill would take effect immediately upon enactment, assuming the bill received the requisite two-thirds majority votes in both houses of the Legislature, except the amendment to Tax Code Section 171.1011(g-11) would take effect January 1, 2024. Otherwise, it would take effect September 1, 2023.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JMc, CMA, SD, KK, MOc