

BILL ANALYSIS

Senate Research Center

C.S.S.B. 445
By: Haywood
Economic Development
4-4-97
Committee Report (Substituted)

DIGEST

Currently, Workers' Compensation Insurance Coverage, codified in Chapter 406 of the Labor Code, does not provide the conditions under which certain oil and gas well workers or service providers are independent contractors. In the oil and gas production business, it is common for an operator of an oil or natural gas well to hire an individual to perform certain services on the well. The hired individual is usually an independent contractor who is in business as a sole proprietor and does not have any employees. Under recent interpretations of the Labor Code, the operator is being required to provide workers' compensation insurance coverage for the hired individual. The operator does not pay employment taxes or withhold FICA or federal income taxes for that individual since that individual is not the operator's employee. This bill would clarify that an oil or gas well worker or service provider who is an independent contractor with no employees shall be treated the same as independent contractors with employees, and is not entitled to coverage under the operator's workers' compensation policy, unless agreed to by both parties.

PURPOSE

As proposed, C.S.S.B. 445 clarifies that an oil or gas well worker or service provider who is an independent contractor with no employees shall be treated the same as independent contractors with employees, and is not entitled to coverage under the operator's workers' compensation policy, unless agreed to by both parties.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 406.123, Labor Code, by adding Subsection (h), to require that a person who performs work or provides a service for an oil or gas well operator, and who is an independent contractor that has no employees, be treated in the same manner as an independent contractor with employees and is not entitled to coverage under the general contractor's workers' compensation insurance policy unless the independent contractor and the general contractor enter into an agreement under this section, notwithstanding Subsection (b).

SECTION 2. Effective date: September 1, 1997.

SECTION 3. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 406.123, Labor Code, by adding Subsection (h) to clarify that an oil or gas well worker or service provider who is an independent contractor with no employees is not entitled to coverage under the operator's workers' compensation policy, unless agreed to by both parties, rather than amending Section 406.122, Labor Code, by adding Subsection (d), which would have set the conditions under which a person who performs work or provides a service for an oil and gas well operator is an independent contractor for purposes of

workers' compensation insurance coverage.