

BILL ANALYSIS

Senate Research Center
84R7385 MAW-F

S.B. 529
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Natural Resources
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Labor Code, for purposes of determining unemployment benefits, defines a landman acting as an independent contractor as an individual who (1) is engaged in landman services; (2) is paid based on the completion of specific contracted tasks (rather than on hours worked); and (3) is paid pursuant to a written contract. Some ambiguity in interpretation of "completion of certain tasks" has resulted in challenges to the status of independent contractors working as landmen, defining them instead as employees of a business.

The definition of "landman" contained in Section 201.077 (Service by Landman) of the Labor Code should be reconciled with the definition of "landman" in Section 1702.324 (Certain Occupations) of the Occupations Code (Section 1702.324), to provide consistency and clarity of the term's application in the realms of both sales taxes and unemployment taxes. S.B. 529 applies the definition contained in the Occupations Code to the Labor Code, and clarifies that a landman hired pursuant to Section 201.007(1-3), Labor Code, is to be treated as an independent contractor under Texas law.

As proposed, S.B. 529 amends current law relating to the eligibility of a landman for unemployment compensation.

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 Section 201.077, Labor Code, as follows:

Sec. 201.077. SERVICE BY LANDMAN. Provides that, in this subtitle, "employment" does not include service performed for a private for-profit person by a landman, as defined by Section 1702.324 (Certain Occupations), Occupations Code, if:

- (1) the compensation paid to the landman directly relates only to the performance of the service; and
- (2) the service performed by the landman is performed under a written contract between the landman and the person for whom the service is performed that provides that the landman is to be treated as an independent contractor and not as an employee with respect to the service provided under the contract.

Deletes existing text providing that "employment" does not include service performed for a private for-profit person by an individual as a landman if:

- (1) the individual is engaged primarily in negotiating for the acquisition or divestiture of mineral rights or negotiating business agreements that provide for the exploration for or development of minerals,

(2) if substantially all remuneration, paid in cash or otherwise, for the performance of the service is related to the completion by the individual of the specific, contracted-for tasks, rather than to the number of hours worked by the individual; and

(3) the service performed by the individual is performed under a written contract between the individual and the person for whom the service is performed that provides that the individual is to be treated as an independent contractor and not as an employee with respect to the service provided under the contract. Makes nonsubstantive changes.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2015.