

## **BILL ANALYSIS**

C.S.H.B. 2201  
By: Hughes  
Regulated Industries  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The U.S. Department of Energy has outlined an integrated carbon sequestration and hydrogen research (a.k.a. "FutureGen") proposal that provides for \$800 million in federal funding with the remaining \$200 million to be funded by private industry and other nations. Securing the FutureGen project is expected to create over 11,000 new jobs with labor compensation of over \$374.3 million dollars, generate \$98 million in tax revenue and result in over \$1.2 billion in total economic benefit to Texas. Securing the U.S. Department of Energy's FutureGen project in Texas is a top priority.

One of the critical selection criteria the Department of Energy has identified for the FutureGen project is the ability to ensure the predictable and timely permitting and construction of the components that will make up the FutureGen project. In Texas, there is not currently a predictable regulatory process that will enable the State to reliably estimate the time period for securing permits to construct all the components of the FutureGen project. An example of the uncertain regulatory process is the lengthy contested case hearing process for air, water quality, water rights, waste, and mine permits that may be necessary to build all the elements of the FutureGen project.

The purpose of this bill is to create a more predictable and streamlined permitting process for the key components of the FutureGen project to better position Texas in the competition for the project. The bill is also designed to create financial incentives to compete with the financial incentive packages being proposed by several other states competing for the FutureGen project

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 3 and to the Texas Water Development Board in SECTION 4 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Provides a list of legislative findings supporting a clean coal project.

SECTION 2. Amends Section 2305.037, Government Code, to change the renewable energy demonstration program to the innovative energy demonstration program. The energy office is directed to distribute grant money for demonstration projects that develop sustainable and innovative energy resources, including a clean coal project, as defined by Section 5.001, Water Code. This section also adds paragraph (b), which requires the energy office to distribute fifty cents of grant money from the innovative energy technology account for every dollar invested by private persons in a clean coal project. This section limits the matching amount to twenty million dollars and provides that the innovative energy technology account is an account in the general revenue fund that may be appropriated only for issuing and administering grants under this section, will be credited with any interest earned on money in the account, and is not subject to Section 403.095, Government Code.

SECTION 3. Amends Chapter 171, Tax Code, to add Section 171.108 (Regarding Deductions from the Taxable Capital or Earned Surplus), which would, under certain conditions, authorize a corporation to deduct the amortized cost of equipment used in a clean coal project, as defined by Section 5.001, Water Code, from its apportioned taxable earned surplus 10 percent of the amortized cost of the equipment.

SECTION 4. Amends Section 313.024, Tax Code, to allow a corporation or a limited liability company to be eligible for a limitation on appraised value, if the property is used for a clean coal project, as defined by Section 5.001, Water Code.

SECTION 5. Amends Section 5.001, Water Code to add a definition for clean coal project and definition of component of FutureGEN project.

SECTION 6. Amends Subchapter M, Water Code to add Section 5.558, "Clean Coal Project Permitting," which requires the Texas Commission on Environmental Quality to implement permit processes to facilitate the construction of clean coal projects in Texas.

SECTION 7. Amends Subchapter C, Section 16.503, Water Code by adding section 16.053(f-1), "Regional Water Plans," which provides more specific direction to the Texas Water Development Board to facilitate new demands that were not known or expected at the initiation of a five-year planning cycle.

SECTION 8. Amends the heading to Subchapter C, Chapter 27, Water Code to add the phrase "Injection Wells" to the current heading entitled "Oil and Gas Waste."

SECTION 9. Amends Subchapter C, Water Code by adding section 27.038, "Jurisdiction Over Carbon Dioxide Injection" which provides that the Railroad Commission of Texas has jurisdiction over injection of carbon dioxide into producing and non-producing zones by a Class II injection well or a Class I injection well if required by federal law).

SECTION 10. Requires rules to be adopted by September 1, 2006 by the Texas Commission on Environmental Quality, the Texas Water Development Board, and the Railroad Commission of Texas.

SECTION 11. Establishes the effective date of the Act.

#### **EFFECTIVE DATE**

If this Act receives a vote of two-thirds of all members elected to each house it will take effect immediately. However, if it does not receive the necessary votes it will take effect September 1, 2005.

#### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

Section 1: No substantive changes. The committee substitute conforms Section 1 to council drafting methods.

Section 2 of the filed version has been moved to Section 5 in the substitute version. Section 5 in the substitute version clarifies definitions of "clean coal project" and "component of the FutureGEN project."

Section 3 of the filed version has been moved to Section 6 in the substitute version with no substantive change in order to conform with council drafting methods.

Section 4 of the filed version has been moved to Section 7 in the substitute version with no substantive change in order to conform with council drafting methods.

Section 5 of the filed version has been moved to Section 9 and revised to clarify that the Railroad Commission of Texas has jurisdiction over enhanced oil recovery using carbon dioxide, as well as the sequestration of carbon dioxide through injection wells governed by Chapter 27, Water Code.

Section 6 of the filed version has been deleted.

Section 7 of the filed version has been deleted and replaced with a cross-reference in Section 2.

Section 8 of the filed version has been moved to Section 2 and revised to properly identify the name of the funding mechanism to the innovative technology account.

Section 9 of the filed version has been moved to Section 4 in the substitute version with no substantive change in order to conform with council drafting methods.

Section 10 of the filed version has been moved to Section 11 in the substitute version with no substantive change in order to conform with council drafting methods. A new Section 10 in the substitute version has been created to address rulemaking by the Texas Water Development Board, the Texas Commission on Environmental Quality, and the Railroad Commission of Texas.