

By: Hughes

H.B. No. 2201

A BILL TO BE ENTITLED

AN ACT

relating to implementing a clean coal project in Texas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. LEGISLATIVE FINDINGS.

The legislature finds that:

(a) Texas is the largest producer and consumer of energy and the largest consumer of coal in the country. Currently the PUCT estimates that 37% of the electricity generated in Texas is produced with coal. Low cost coal-fueled generation is the foundation of affordable electricity in Texas. Texas must continue to have a significant component of its electricity provided through coal-fueled generation in order to maintain reliable and affordable energy into the future.

(b) Energy production will play a significant role in ensuring that Texas provides permanent, well-paid jobs for the growing state population and provides income and revenue to ensure Texas continues to provide a high standard of services to its residents and businesses.

(c) The U.S. Department of Energy has outlined an integrated carbon sequestration and hydrogen research (a.k.a. "FutureGen") proposal that provides for eight hundred million dollars in federal funding with the remaining two hundred million dollars to be funded by private industry and other nations. Securing the U.S. Department of Energy's FutureGen project for Texas is a top

1 priority. Securing the FutureGen project will assist Texas in
2 becoming a world leader in innovative energy technologies and is
3 expected to create over eleven thousand new jobs with labor
4 compensation of over 374.3 million dollars, generate 98 million
5 dollars in tax revenue and result in 1.2042 billion dollars in total
6 economic benefit to Texas.

7 (d) FutureGen will provide the opportunity for meeting
8 Texas' energy demands while further lowering emissions and these
9 technologies should be encouraged for use in existing in future
10 power generation.

11 (e) Texas is in a unique position to secure the FutureGen
12 project since it has a ready source of coal and lignite to fuel the
13 project, the right geology for storing the carbon dioxide, a market
14 for the energy that will be produced, and a transmission grid
15 capable of carrying the increased power load. Texas had 31 billion
16 barrels of oil in depleted oil fields that could be recovered
17 through carbon dioxide enhanced recovery. Carbon dioxide from
18 FutureGen would be used to recover 3 billion barrels of oil and
19 generate \$4 billion in taxes for the state, and hydrogen generated
20 by the facility would be used for fuel cells and the manufacture of
21 other products by the state's petrochemical industry.

22 (f) Facilitating the construction of one or more components
23 of the FutureGen project at a new or existing electric generating,
24 steam production, or industrial products facility is in the best
25 interest of all of the citizens of Texas.

26 (g) Agencies and departments of the state shall facilitate
27 the financing, construction and operation of one or more components

1 of the FutureGen project by streamlining regulatory and permitting
2 processes associated with such projects. Streamlining procedural
3 processes is necessary to ensure predictability in the regulatory
4 process to improve the state's position for federal funding while
5 preserving the environmental protectiveness of current substantive
6 standards.

7 SECTION 2. Subchapter A, Section 5.001, Water Code, is
8 amended to read as follows:

9 (1) "Board" means the Texas Water Development Board.

10 (2) "Clean coal project" means the construction of electric
11 generating, steam production, or industrial production facilities,
12 the modification of existing facilities, or other projects that
13 install one or more component of the coal-based integrated
14 sequestration and hydrogen research project to be built in
15 partnership with the United States Department of Energy, commonly
16 referred to as the FutureGen project.

17 (3) "Coal" means all forms of coal and includes lignite.

18 SECTION 3. Subchapter M, Water Code, is amended to add
19 section 5.558 to read as follows:

20 Sec. 5.558 CLEAN COAL PROJECT PERMITTING

21 (a) As authorized by federal law, the commission shall
22 implement streamlined processes for issuing permits required to
23 construct a clean coal project. Notwithstanding other provisions
24 of this Code or the Health and Safety Code, the permit processes
25 authorized by this section shall not be subject to Chapter 2001,
26 Government Code.

27 SECTION 4. Subchapter C, Section 16.053, Water Code, is

1 amended by adding Subsection (f-1) as follows:

2 (f-1) No later than September 1, 2006, the board shall adopt
3 rules to incorporate the maximum amount of flexibility possible to
4 allow for the timely amendment of regional water plans, the
5 approval of such amended regional water plans by the board, and the
6 amendment of the state water plan, so as to facilitate planning for
7 water supplies, including water supplies needed to meet the demands
8 of a clean coal project. In addition to other provisions allowing
9 for flexibility in amending such plans, the rules shall allow for
10 amendments to regional water plans without notice or public meeting
11 or hearing as otherwise required by Subsection (h) of this Section
12 if:

13 (1) the amendment does not represent a significant
14 change to the regional water plan, as determined by the board; or

15 (2) the amendment does not adversely affect other
16 water management strategies in the regional water plan.

17 SECTION 5. Subchapter C, Chapter 27, Texas Water Code, is
18 amended by adding Section 27.037 and Section 27.038 to read as
19 follows:

20 Sec. 27.037. JURISDICTION OVER INJECTION OF CARBON DIOXIDE
21 IN RESERVOIRS PRODUCTIVE OF OIL, GAS, OR GEOTHERMAL RESOURCES

22 (a) The railroad commission has jurisdiction over injection
23 of carbon dioxide produced by clean coal projects into reservoirs
24 productive of oil, gas, or geothermal resources in a Class II
25 injection well, or Class I injection well if required by federal
26 law, if the applicant for the permit meets all applicable statutory
27 and regulatory requirements.

1 Sec. 27.038. JURISDICTION OVER INJECTION OF CARBON DIOXIDE
2 INTO ZONES NOT PRODUCTIVE OF OIL, GAS, OR GEOTHERMAL RESOURCES.

3 (a) The commission has jurisdiction over injection of
4 carbon dioxide produced by clean coal projects into zones not
5 productive of oil, gas, or geothermal resources and below the base
6 of usable quality water in a Class I or Class II injection well, as
7 authorized by federal law, if the applicant for the permit meets all
8 the statutory and regulatory requirements.

9 SECTION 6. Section 134.004, Natural Resources Code, is
10 amended to read as follows:

11 (5) "Clean coal project" means the construction of
12 electric generating, steam production, or industrial production
13 facilities, the modification of existing facilities, or other
14 projects that install one or more component of the coal-based
15 integrated sequestration and hydrogen research project to be built
16 in partnership with the United States Department of Energy,
17 commonly referred to as the FutureGen project.

18 SECTION 7. Subchapter A, Section 2305.002, Government Code,
19 is amended to read as follows:

20 (4) "Clean coal project" means the construction of electric
21 generating, steam production, or industrial production facilities,
22 the modification of existing facilities, or other projects that
23 install one or more component of the coal-based integrated
24 sequestration and hydrogen research project to be built in
25 partnership with the United States Department of Energy, commonly
26 referred to as the FutureGen project.

27 (5) "Coal" means all forms of coal and includes lignite.

1 SECTION 8. Subchapter D, Section 2305.037, Government Code,
2 is amended to read as follows:

3 Sec. 2305.037. INNOVATIVE ~~RENEWABLE~~ ENERGY DEMONSTRATION
4 PROGRAM.

5 (a) The energy office is the supervising state agency of the
6 innovative ~~renewable~~ energy demonstration program and shall
7 distribute grant money under the program for demonstration projects
8 that develop innovative ~~sustainable and renewable~~ energy
9 resources, including sustainable, renewable, and low-emission
10 energy resources, including:

11 (1) photovoltaic, biomass, wind, and solar
12 applications; ~~and~~

13 (2) a clean coal project; and

14 (3) ~~(2)~~ other appropriate low-emission, renewable and
15 sustainable energy applications.

16 (b) The energy office shall distribute fifty cents of grant
17 money out of the Innovative Technology Fund [INSERT CITE TO
18 APPROPRIATIONS RIDER, WHEN AVAILABLE] for every dollar invested by
19 individuals or companies for the promotion and development in Texas
20 of the coal-based integrated sequestration and hydrogen research
21 project to be built in partnership with the United States
22 Department of Energy, commonly referred to as the FutureGen
23 project. The energy office shall not distribute grant funds under
24 this subsection in excess of twenty million dollars.

25 SECTION 9. Subchapter B, Section 313.024, Tax Code, is
26 amended to read as follows:

27 (b) To be eligible for a limitation on appraised value under

1 this subchapter, the corporation or limited liability company must
2 use the property in connection with:

- 3 (1) manufacturing;
- 4 (2) research and development; ~~or~~
- 5 (3) renewable energy electric generation~~;~~ or
- 6 (4) a clean coal project.

7 (e) In this section:

8 (4) "Clean coal project" means the construction of
9 electric generating, steam production, or industrial production
10 facilities, the modification of existing facilities, or other
11 projects that install one or more component of the coal-based
12 integrated sequestration and hydrogen research project to be built
13 in partnership with the United States Department of Energy,
14 commonly referred to as the FutureGen project.

15 SECTION 10. Chapter 171, Tax Code, is amended to add Section
16 171.108 to read as follows:

17 Sec. 171.108. DEDUCTION OF COST OF A CLEAN COAL PROJECT FROM
18 TAXABLE CAPITAL OR TAXABLE EARNED SURPLUS APPORTIONED TO THIS
19 STATE.

20 (a) In this section, "clean coal project" means the
21 construction of electric generating, steam production, or
22 industrial production facilities, the modification of existing
23 facilities, or other projects that install one or more component of
24 the coal-based integrated sequestration and hydrogen research
25 project to be built in partnership with the United States
26 Department of Energy, commonly referred to as the FutureGen
27 project.

1 (b) A corporation may deduct from its apportioned taxable
2 capital the amortized cost of equipment used in a clean coal project
3 or from its apportioned taxable earned surplus 10 percent of the
4 amortized cost of the equipment if:

5 (1) the equipment is acquired by the corporation for
6 use in the generation of electricity, the production of process
7 steam, or industrial production;

8 (2) the equipment is used in this state by the
9 corporation;

10 (3) the cost of the equipment is amortized in
11 accordance with Subsection (c) of this section;

12 (c) The amortization of the cost of equipment used in a
13 clean coal project must:

14 (1) be for a period of at least 60 months;

15 (2) provide for equal monthly amounts;

16 (3) begin on the month in which the equipment is placed
17 in service in this state; and

18 (4) cover only a period in which the equipment is in
19 use in this state.

20 (d) A corporation that makes a deduction under this section
21 shall file with the comptroller an amortization schedule showing
22 the period in which a deduction is to be made. On the request of the
23 comptroller, the corporation shall file with the comptroller proof
24 of the cost of the equipment used in a clean coal project or proof of
25 the equipment's operation in this state.

26 (e) A corporation may elect to make the deduction authorized
27 by this section either from apportioned taxable capital or

1 apportioned taxable earned surplus for each separate regular annual
2 period. An election for an initial period applies to the second tax
3 period and to the first regular annual period.

4 SECTION 11. APPLICABILITY

5 This Act takes effect immediately if it receives a vote of
6 two-thirds of all the members elected to each house, as provided by
7 Section 39, Article III, Texas Constitution. If this Act does not
8 receive the vote necessary for immediate effect, this Act takes
9 effect September 1, 2005.