

By: Hughes

H.B. No. 3337

A BILL TO BE ENTITLED

AN ACT

relating to implementing clean coal projects in the state.

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

SECTION 1. (a) The legislature finds that Texas is the largest producer and consumer of energy and the largest consumer of coal in the country. Currently the Public Utility Commission of Texas estimates that 37 percent 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) The legislature also finds that coal-fueled generation will play a significant role in ensuring that Texas provides permanent, well-paid jobs for the growing state population and will provide income and revenue to ensure that Texas continues to provide a high standard of services to its residents and businesses.

(c) The legislature also finds that federal government has developed several grant programs designed to facilitate the installation of innovative clean coal technologies to ensure that coal can continue to be utilized in a manner that is economically sound and that protects the environment. Clean coal technologies provide the opportunity for meeting Texas' energy demands while

1 further lowering emissions, and these technologies should be
2 encouraged for use in existing and future power generation.

3 (d) The legislature also finds that facilitating the
4 construction of clean coal projects at a new or existing electric
5 generating, steam production, or industrial products facility is in
6 the best interest of all of the citizens of Texas. Financial and
7 regulatory incentives for the installation of clean coal technology
8 will better position the state to receive federal funding for such
9 projects.

10 (e) The legislature also finds that agencies of the state
11 should facilitate the construction and operation of clean coal
12 projects by streamlining regulatory processes associated with such
13 projects to ensure predictability and to improve the state's
14 position for federal funding while preserving the environmental
15 protection provided by current standards.

16 SECTION 2. Section 5.001, Water Code, is amended by adding
17 Subdivision (1-a) to read as follows:

18 (1-a) "Clean coal project" means the construction of
19 electric generating, steam production, or industrial production
20 facilities, the modification of existing facilities, or other
21 projects that install technology, including gasification, designed
22 to utilize coal while reducing emissions of air contaminants.

23 SECTION 3. Subchapter M, Chapter 5, Water Code, is amended
24 by adding Section 5.558 to read as follows:

25 Sec. 5.558. CLEAN COAL PROJECT PERMITTING. As authorized
26 by federal law, the commission shall implement permit processes
27 that facilitate the construction of clean coal projects in the

1 state.

2 SECTION 4. Section 134.004, Natural Resources Code, is
3 amended by adding Subdivision (4-a) to read as follows:

4 (4-a) "Clean coal project" means the construction of
5 electric generating, steam production, or industrial production
6 facilities, the modification of existing facilities, or other
7 projects that install technology, including gasification, designed
8 to utilize coal while reducing emissions of air contaminants.

9 SECTION 5. Section 134.013, Natural Resources Code, is
10 amended by adding Subsection (d) to read as follows:

11 (d) As authorized by federal law, the commission shall
12 implement permit processes that facilitate the construction of
13 clean coal projects in the state.

14 SECTION 6. Section 2305.002, Government Code, is amended by
15 adding Subdivision (2-a) to read as follows:

16 (2-a) "Clean coal project" means the construction of
17 electric generating, steam production, or industrial production
18 facilities, the modification of existing facilities, or other
19 projects that install technology, including gasification, designed
20 to utilize existing solid fossil fuel coal resources while reducing
21 emissions of air contaminants associated with the use of such
22 resources.

23 SECTION 7. Section 2305.037, Government Code, is amended to
24 read as follows:

25 Sec. 2305.037. CLEAN [~~RENEWABLE~~] ENERGY DEMONSTRATION
26 PROGRAM. (a) The energy office is the supervising state agency of
27 the clean [~~renewable~~] energy demonstration program and shall

1 distribute grant money under the program for demonstration projects
2 that develop clean [~~sustainable and renewable~~] energy resources,
3 including sustainable, renewable, and low-emission energy
4 resources including:

5 (1) photovoltaic, biomass, wind, and solar
6 applications; [~~and~~]

7 (2) gasification; and

8 (3) other appropriate low-emission, renewable, and
9 sustainable energy applications.

10 (b) The energy office shall distribute 50 cents of grant
11 money out of the Innovative Technology Fund for every dollar
12 invested by individuals or companies for the promotion and
13 development in Texas of clean coal projects. The energy office
14 shall not distribute grant funds under this subsection in excess of
15 \$20 million.

16 (c) The energy office may require a grant recipient to match
17 a grant in a ratio determined by the energy office.

18 SECTION 8. Subsections (b) and (e), Section 313.024, Tax
19 Code, are amended to read as follows:

20 (b) To be eligible for a limitation on appraised value under
21 this subchapter, the corporation or limited liability company must
22 use the property in connection with:

23 (1) manufacturing;

24 (2) research and development; [~~or~~]

25 (3) renewable energy electric generation; or

26 (4) clean coal projects.

27 (e) In this section:

1 (1) "Clean coal project" means the construction of
2 electric generating, steam production, or industrial production
3 facilities, the modification of existing facilities, or other
4 projects that install technology, including gasification, designed
5 to utilize coal while reducing emissions of air contaminants.

6 (2) "Manufacturing" and "research and development"
7 have the meanings assigned by Section 171.751.

8 (3) [~~2~~] "Renewable energy electric generation"
9 means an establishment primarily engaged in activities described in
10 category 221119 of the 1997 North American Industry Classification
11 System.

12 SECTION 9. Subchapter C, Chapter 171, Tax Code, is amended
13 by adding Section 171.108 to read as follows:

14 Sec. 171.108. DEDUCTION OF COST OF A CLEAN COAL PROJECT FROM
15 TAXABLE CAPITAL OR TAXABLE EARNED SURPLUS APPORTIONED TO THIS
16 STATE. (a) In this section, "clean coal project" means the
17 construction of electric generating, steam production, or
18 industrial production facilities, the modification of existing
19 facilities, or other projects that install technology, including
20 gasification, designed to utilize coal while reducing emissions of
21 air contaminants.

22 (b) A corporation may deduct from its apportioned taxable
23 capital the amortized cost of equipment used in a clean coal project
24 or from its apportioned taxable earned surplus 10 percent of the
25 amortized cost of the equipment if:

26 (1) the equipment is acquired by the corporation for
27 use in the generation of electricity, the production of process

1 steam, or industrial production;

2 (2) the equipment is used in this state by the
3 corporation; and

4 (3) the cost of the equipment is amortized in
5 accordance with Subsection (c).

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

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

9 (2) provide for equal monthly amounts;

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

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

14 (d) A corporation that makes a deduction under this section
15 shall file with the comptroller an amortization schedule showing
16 the period in which a deduction is to be made. On the request of the
17 comptroller, the corporation shall file with the comptroller proof
18 of the cost of the equipment used in a clean coal project or proof of
19 the equipment's operation in this state.

20 (e) A corporation may elect to make the deduction authorized
21 by this section either from apportioned taxable capital or
22 apportioned taxable earned surplus for each separate regular annual
23 period. An election for an initial period applies to the second tax
24 period and to the first regular annual period.

25 SECTION 10. The Texas Commission on Environmental Quality
26 shall adopt rules as necessary to implement Section 5.558, Water
27 Code, as added by this Act, not later than September 1, 2006.

1 SECTION 11. The Railroad Commission of Texas shall adopt
2 rules as necessary to implement Subsection (d), Section 134.013,
3 Natural Resources Code, as added by this Act, not later than
4 September 1, 2006.

5 SECTION 12. The comptroller of public accounts shall adopt
6 rules as necessary to implement Section 2305.037, Government Code,
7 as amended by this Act, not later than September 1, 2006.

8 SECTION 13. Section 171.108, Tax Code, as added by this Act,
9 applies only to a franchise tax report originally due on or after
10 January 1, 2006. A franchise tax report originally due before
11 January 1, 2006, is governed by the law in effect on the date the
12 report was originally due, and that law is continued in effect for
13 the purposes of the liability for and collection of those taxes.

14 SECTION 14. This Act takes effect immediately if it
15 receives a vote of two-thirds of all the members elected to each
16 house, as provided by Section 39, Article III, Texas Constitution.
17 If this Act does not receive the vote necessary for immediate
18 effect, this Act takes effect September 1, 2005.