

## **BILL ANALYSIS**

C.S.H.B. 3732  
By: Hardcastle  
Energy Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Given the rising demand for electric power, the abundance of coal in the U.S. and Texas, and the reliability and cost-effectiveness of coal-based electric generation, it is critical that such generation continue to be a viable component of Texas' power supply. Clean coal and ultra clean energy utilizing coal, biomass, petroleum coke, and solid waste have the potential to significantly reduce air emissions while ensuring that reliable and affordable electricity is available for Texas.

Because ultra clean energy, including but not limited to gasification, is currently more expensive and less demonstrated than other clean energy technologies, financial incentives are necessary to ensure that ultra clean energy projects are built and maintained in Texas. Also, certain components of the regulatory permitting process add unnecessary complexity and time to the process for authorizing the installation of ultra clean energy in Texas.

This bill creates a more predictable permitting process for the installation of ultra clean energy while maintaining the public's right to notice and hearing. The bill establishes an ultraclean energy grant and loan program that will provide the State Energy Conservation Office significant resources to encourage the development of ultraclean energy technology. The bill also creates financial incentives for ultra clean energy projects by allowing limitations on the appraised value of the property used for such purposes, enhancing pollution control property tax exemptions, and exempting ultraclean energy sales from gross receipts taxation.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Environmental Quality (formerly known as the Texas Natural Resource Conservation Commission) in SECTIONS 3, 4, 5, & 11 of this bill.

### **ANALYSIS**

This bill amends the Government Code to create the Ultraclean Energy Project Grant and Loan Program to be administered by the State Energy Conservation Office (SECO). This bill creates the ultraclean energy project account in the general revenue fund to fund the Ultraclean Energy Project Grant and Loan Program. This bill sets out the parameters of what the account will consist of, how the funds are appropriated, and how the grants are awarded.

This bill sets out definitions for the following terms; "Account," "Program," "Ultraclean energy project," "Clean coal technology," "Coal," and "Solid Waste."

This bill outlines the parameters and procedures and specifies the timeline for the air permitting of an ultraclean energy project. This bill clarifies existing law by stating that "an applicant for a permit under this chapter for an ultraclean energy project is not required to prove, as part of an analysis of whether the project will use the best available control technology or reduce emissions to the lowest achievable rate, that the clean coal technology or ultraclean energy technology proposed to be used in connection with the project has been demonstrated to be feasible in a commercial operation."

This bill states that for purposes of pollution control property tax relief for private entities, the Texas Commission on Environmental Quality (TCEQ) shall adopt rules establishing a nonexclusive list of facilities, devices, or methods for the control of air, water, or land pollution,

and describes what this list must include. This bill sets parameters dealing with the updating of this list. This bill further sets parameters regarding the determination of certain qualifications described in the application for permit.

This bill makes changes, where necessary to reflect the agency name change from Texas Natural Resource Conservation Commission to the Texas Commission on Environmental Quality.

This bill states that for the purposes of pollution control property tax relief for public entities, the TCEQ shall adopt rules establishing a nonexclusive list of facilities, devices, or methods for the control of air, water, or land pollution, and describes what this list must include. This bill sets parameters dealing with the updating of this list. This bill further sets parameters regarding the determination of certain qualifications described in the application for permit.

The bill provides that a tax may not be imposed on gross receipts from the sale of electricity generated by an ultraclean energy project. This bill also provides for apportionment of gross receipts tax revenue to be transferred to the ultraclean energy project.

This bill specifies that the State Energy Conservation Office shall establish the ultraclean energy grant and loan program not later than January 1, 2008. The bill also specifies that the TCEQ shall adopt rules required by this act not later than January 1, 2008. This bill states that Section 447.013 (j), Government Code, as added by this Act, takes effect only if the constitutional amendment proposed by the 80th Legislature, Regular Session, 2007, authorizing the issuance of general obligation bonds to provide and guarantee loans to encourage the use of carbon-free hydrogen energy is approved by the voters.

#### **EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

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

The original was not a Legislative Council draft, the substitute is. Therefore, there were certain technical or conforming changes made by Legislative Council which have been incorporated throughout the substitute.

The following sections of the substitute are new and were added; Section 1, Section 4, Section 6, Section 10, Section 12.

The substitute adds methanation technology and undiluted high-flame temperature oxygen combustion technology that excludes air to the definition of "clean coal technology." The substitute adds a definition for "solid waste."

The substitute adds biomass, petroleum coke, or solid waste to the definition of "ultraclean energy project."

In the section dealing with the permitting of an ultraclean energy project, the substitute adds that "The commission shall adopt rules to implement this section."

In the section dealing with rollback relief for pollution control requirements, the original stated that the Texas Commission on Environmental Quality shall adopt rules establishing a "predetermined list of pollution control equipment," the substitute states that the Texas Commission on Environmental Quality shall adopt rules establishing a "nonexclusive list of facilities, devices, or methods for the control of air, water, or land pollution." In this same list, the substitute adds methanation to the list.