

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1459

By: Seliger

Natural Resources

4/16/2007

Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There is no current law designating land for the disposal of sequestered carbon dioxide (CO₂) by a FutureGen plant or establishing legal representation for the FutureGen Industrial Alliance (alliance) if a FutureGen plant is established in this state.

FutureGen is a public-private partnership between the United States Department of Energy and the alliance to build an electric generation facility that is also capable of producing hydrogen and sequestering carbon dioxide (CO₂). This \$1 billion research project is intended to create the world's first near-zero-emissions fossil-fuel power plant. The prototype facility will be designed to allow testing of various components and fuel types in all phases of the process, as well as to allow for full measurement, monitoring, and verification of CO₂ sequestration. The alliance will build the plant on a site selected through an open, competitive site-selection process. A request for proposals to host the site was issued in March 2006. A total of twelve proposals from seven different states responded to the request. From these, the alliance selected four final sites to consider: Matton, Illinois, Tuscola, Illinois, Heart of Brazos near Jewett, Texas, and Odessa, Texas. A final decision is expected by September 2007.

C.S.S.B. 1459 adds real property owned by the Texas Board of Criminal Justice (board) to the possible locations for the clean coal project. Similar to existing law relating to The University of Texas System and the Permanent University Fund, this bill indemnifies the board and the Texas Department of Criminal Justice by the owner or operator of the FutureGen project against liability for personal injury or property damage resulting from the escape or migration of CO₂ after it is injected into a zone or reservoir if board property is used for the sequestration of CO₂ as part of the FutureGen project. This bill also provides representation by the attorney general in certain situations for an owner or operator of the FutureGen project that is the subject of a civil lawsuit arising from an escape or migration of CO₂ captured or sequestered by the project.

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 Chapter 119, Natural Resources Code, by adding Section 119.0025, as follows:

Sec. 119.0025. MONITORING OF SEQUESTERED CARBON DIOXIDE. Requires the Bureau of Economic Geology of The University of Texas at Austin to monitor, measure, and verify the permanent status of sequestered carbon dioxide in which the Railroad Commission of Texas (commission) has acquired the right, title, and interest under Section 119.002 (Acquisition of Carbon Dioxide)

SECTION 2. Amends Section 119.004, Natural Resources Code, as follows:

Sec. 119.004. LIABILITY. (a) Creates this subsection from existing text.

(b) Provides that on the date the commission acquires the right, title, and interest in carbon dioxide captured by a clean coal project under Section 119.002, the owner or operator of the clean coal project is relieved from liability for any act or

omission regarding the carbon dioxide injection location, and the method or means of performing carbon dioxide under certain conditions.

(c) Provides that, notwithstanding Subsection (b) of this section, no owner, operator, or contractor of the clean coal project is immune from liability for personal injury or death that results from construction of the site, or drilling or operation of the injection wells.

SECTION 3. Amends Section 119.006, Natural Resources Code, as follows:

Sec. 119.006. Authorizes The University of Texas System, the permanent university fund, and the Texas Board of Criminal Justice (board) to enter into a lease with the commission or with an owner or operator of a clean coal project for the use of lands owned or controlled by the system, the fund, or the board for permanent storage of carbon dioxide captured by a clean coal project, provided that such lease adequately indemnifies the system, the fund, the board, and the Texas Department of Criminal Justice (TDCJ) against liability for personal injury or property damage incurred by the system, the fund, the board or TDCJ as a result of the escape or migration of the carbon dioxide after it is injected into a zone or reservoir.

SECTION 4. Amends Chapter 119, Natural Resources Code, by adding Section 119.007, as follows:

Sec. 119.007. REPRESENTATION BY ATTORNEY GENERAL. (a) Defines "state agency."

(b) Authorizes a state agency to request the attorney general to represent the state agency in a legal proceeding that arises from an escape or migration of carbon dioxide captured or sequestered in connection with a clean coal project.

(c) Authorizes the state agency, if the attorney general declines to represent the state agency, to obtain outside counsel in accordance with Section 402.0212 (Provisions of Legal Services--Outside Counsel), Government Code, and for purposes of this section, provides that the attorney general's declination to represent the agency constitutes the attorney general's approval of the outside counsel for the matter.

SECTION 5. Effective date: September 1, 2007.