

By: Cook of Navarro, West, Dunnam

H.B. No. 3112

Substitute the following for H.B. No. 3112:

By: Gonzalez Toureilles

C.S.H.B. No. 3112

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to certain matters regarding a clean coal project,  
3 including contracting authority and indemnification requirements,  
4 liability, representation of a state agency by the attorney  
5 general, and monitoring of sequestered carbon dioxide.

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

7 SECTION 1. Section 490.301, Government Code, as added by  
8 Chapter 1097, Acts of the 79th Legislature, Regular Session, 2005,  
9 is amended to read as follows:

10 Sec. 490.301. DEFINITION. In this subchapter [~~section~~],  
11 "clean coal project" has the meaning assigned by Section 5.001,  
12 Water Code.

13 SECTION 2. Subchapter G, Chapter 490, Government Code, as  
14 added by Chapter 1097, Acts of the 79th Legislature, Regular  
15 Session, 2005, is amended by adding Section 490.304 to read as  
16 follows:

17 Sec. 490.304. CONTRACTING AUTHORITY. (a) The governor may  
18 contract for the state with an organization exempt from federal  
19 income taxation under Section 501(a), Internal Revenue Code of  
20 1986, by being listed as an exempt entity under Section 501(c)(3) of  
21 that code, including the FutureGen Industrial Alliance, Inc., for a  
22 purpose related to implementing a clean coal project, including an  
23 innovative energy demonstration program described by Section  
24 2305.037.

1       (b) This section expires on the date the FutureGen  
2 Industrial Alliance, Inc., loses its qualification as being exempt  
3 from federal taxation under Section 501(a), Internal Revenue Code  
4 of 1986, by being listed as an exempt entity under Section 501(c)(3)  
5 of that code.

6       SECTION 3. Chapter 119, Natural Resources Code, is amended  
7 by adding Section 119.0025 to read as follows:

8       Sec. 119.0025. MONITORING OF SEQUESTERED CARBON DIOXIDE.  
9 The Bureau of Economic Geology of The University of Texas at Austin  
10 shall monitor, measure, and verify the permanent status of  
11 sequestered carbon dioxide in which the commission has acquired the  
12 right, title, and interest under Section 119.002.

13       SECTION 4. Section 119.004, Natural Resources Code, is  
14 amended to read as follows:

15       Sec. 119.004. LIABILITY. (a) The transfer of title to the  
16 state under Section 119.002 does not relieve an owner or operator of  
17 a clean coal project of liability for any act or omission regarding  
18 the generation of carbon dioxide performed before the carbon  
19 dioxide was captured.

20       (b) On the date the commission acquires the right, title,  
21 and interest in carbon dioxide captured by a clean coal project  
22 under Section 119.002, the owner or operator of the clean coal  
23 project is relieved from liability for any act or omission  
24 regarding the carbon dioxide injection location, and the method or  
25 means of performing carbon dioxide injection, if the injection  
26 location and method or means of injection comply with the terms of a  
27 license or permit issued by the state and applicable state law and

1 regulations.

2 (c) Notwithstanding subsection (b) of this section, no  
3 owner, operator or contractor of the clean coal project is immune  
4 from liability for personal injury or death that results from  
5 construction of the site, or drilling or operation of the injection  
6 wells.

7 SECTION 5. Section 119.006, Natural Resources Code, is  
8 amended to read as follows:

9 Sec. 119.006. INDEMNIFICATION. The University of Texas  
10 System, ~~and~~ the permanent university fund, and the Texas Board of  
11 Criminal Justice may enter into a lease with the commission~~]~~ or  
12 with an owner or operator of a clean coal project~~]~~ for the use of  
13 lands owned or controlled by the system, the ~~or~~ fund, or the board  
14 for permanent storage of carbon dioxide captured by a clean coal  
15 project, provided that such lease adequately indemnifies the  
16 system, the ~~and~~ fund, the board, and the Texas Department of  
17 Criminal Justice against liability for personal injury or property  
18 damage incurred by the system, the ~~or~~ fund, the board, or the  
19 department as a result of the escape or migration of the carbon  
20 dioxide after it is injected into a zone or reservoir. This section  
21 does not affect the application of Chapter 101, Civil Practice and  
22 Remedies Code, to any activity carried out by a governmental unit,  
23 as defined by that chapter.

24 SECTION 6. Chapter 119, Natural Resources Code, is amended  
25 by adding Section 119.007 to read as follows:

26 Sec. 119.007. REPRESENTATION BY ATTORNEY GENERAL. (a) In  
27 this section, "state agency" includes:

1           (1) a department, commission, board, office, or other  
2 agency in the legislative, executive, or judicial branch of state  
3 government; and

4           (2) a university system or institution of higher  
5 education as defined by Section 61.003, Education Code.

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

10          (c) If the attorney general declines to represent the state  
11 agency, the state agency may obtain outside counsel in accordance  
12 with Section 402.0212, Government Code, and for purposes of that  
13 section, the attorney general's declination to represent the agency  
14 constitutes the attorney general's approval of the outside counsel  
15 for the matter.

16           SECTION 7. This Act takes effect September 1, 2007.