

By: Seliger

S.B. No. 1459

A BILL TO BE ENTITLED

AN ACT

relating to indemnification requirements and other matters
relating to a clean coal project.

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

SECTION 1. Chapter 119, Natural Resources Code, is amended
by adding Section 119.0025 to read as follows:

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

SECTION 2. Section 119.004, Natural Resources Code, is
amended to read as follows:

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

(b) 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 injection, if the injection

1 location and method or means of injection comply with the terms of a
2 license or permit issued by the state and applicable state law and
3 regulation.

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

8 SECTION 3. Section 119.006, Natural Resources Code, is
9 amended to read as follows:

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

25 SECTION 4. Chapter 119, Natural Resources Code, is amended
26 by adding Section 119.007 to read as follows:

27 Sec. 119.007. REPRESENTATION BY ATTORNEY GENERAL. (a) In

1 this section, "state agency" includes:

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

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

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

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

17 SECTION 5. This Act takes effect September 1, 2007.