

1-1 By: Seliger S.B. No. 1459
1-2 (In the Senate - Filed March 8, 2007; March 20, 2007, read
1-3 first time and referred to Committee on Natural Resources;
1-4 April 17, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 10, Nays 0; April 17, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1459 By: Eltife

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to indemnification requirements and other matters
1-11 relating to a clean coal project.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Chapter 119, Natural Resources Code, is amended
1-14 by adding Section 119.0025 to read as follows:

1-15 Sec. 119.0025. MONITORING OF SEQUESTERED CARBON DIOXIDE.
1-16 The Bureau of Economic Geology of The University of Texas at Austin
1-17 shall monitor, measure, and verify the permanent status of
1-18 sequestered carbon dioxide in which the commission has acquired the
1-19 right, title, and interest under Section 119.002.

1-20 SECTION 2. Section 119.004, Natural Resources Code, is
1-21 amended to read as follows:

1-22 Sec. 119.004. LIABILITY. (a) The transfer of title to the
1-23 state under Section 119.002 does not relieve an owner or operator of
1-24 a clean coal project of liability for any act or omission regarding
1-25 the generation of carbon dioxide performed before the carbon
1-26 dioxide was captured.

1-27 (b) On the date the commission acquires the right, title,
1-28 and interest in carbon dioxide captured by a clean coal project
1-29 under Section 119.002, the owner or operator of the clean coal
1-30 project is relieved from liability for any act or omission
1-31 regarding the carbon dioxide injection location, and the method or
1-32 means of performing carbon dioxide injection, if the injection
1-33 location and method or means of injection comply with the terms of a
1-34 license or permit issued by the state and applicable state law and
1-35 regulation.

1-36 (c) Notwithstanding Subsection (b), no owner, operator or
1-37 contractor of the clean coal project is immune from liability for
1-38 personal injury or death that results from construction of the
1-39 site, or drilling or operation of the injection wells.

1-40 SECTION 3. Section 119.006, Natural Resources Code, is
1-41 amended to read as follows:

1-42 Sec. 119.006. INDEMNIFICATION. The University of Texas
1-43 System, ~~and~~ the permanent university fund, and the Texas Board of
1-44 Criminal Justice may enter into a lease with the commission^[7] or
1-45 with an owner or operator of a clean coal project^[7] for the use of
1-46 lands owned or controlled by the system, the ~~or~~ fund, or the board
1-47 for permanent storage of carbon dioxide captured by a clean coal
1-48 project, provided that such lease adequately indemnifies the
1-49 system, the ~~and~~ fund, the board, and the Texas Department of
1-50 Criminal Justice against liability for personal injury or property
1-51 damage incurred by the system, the ~~or~~ fund, the board, or the
1-52 department as a result of the escape or migration of the carbon
1-53 dioxide after it is injected into a zone or reservoir. This section
1-54 does not affect the application of Chapter 101, Civil Practice and
1-55 Remedies Code, to any activity carried out by a governmental unit,
1-56 as defined by that chapter.

1-57 SECTION 4. Chapter 119, Natural Resources Code, is amended
1-58 by adding Section 119.007 to read as follows:

1-59 Sec. 119.007. REPRESENTATION BY ATTORNEY GENERAL. (a) In
1-60 this section, "state agency" includes:

1-61 (1) a department, commission, board, office, or other
1-62 agency in the legislative, executive, or judicial branch of state
1-63 government; and

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

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

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

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