

By: Seliger

S.B. No. 1461

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

1 (b) This section expires on the date the FutureGen
2 Industrial Alliance, Incorporated, loses its qualification as
3 being exempt from federal taxation under Section 501(a), Internal
4 Revenue Code of 1986, by being listed as an exempt entity under
5 Section 501(c)(3) 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), no owner, operator or
3 contractor of the clean coal project is immune from liability for
4 personal injury or death that results from construction of the
5 site, or drilling or operation of the injection wells.

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

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

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

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

27 (1) a department, commission, board, office, or other

1 agency in the legislative, executive, or judicial branch of state
2 government; and

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

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

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

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