

1-1 By: Seliger S.B. No. 1461  
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. 1461 By: Deuell

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

1-10 relating to certain matters regarding a clean coal project,  
1-11 including contracting authority and indemnification requirements,  
1-12 liability, representation of a state agency by the attorney  
1-13 general, and monitoring of sequestered carbon dioxide.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Section 490.301, Government Code, as added by  
1-16 Chapter 1097, Acts of the 79th Legislature, Regular Session, 2005,  
1-17 is amended to read as follows:

1-18 Sec. 490.301. DEFINITION. In this subchapter [~~section~~],  
1-19 "clean coal project" has the meaning assigned by Section 5.001,  
1-20 Water Code.

1-21 SECTION 2. Subchapter G, Chapter 490, Government Code, as  
1-22 added by Chapter 1097, Acts of the 79th Legislature, Regular  
1-23 Session, 2005, is amended by adding Section 490.304 to read as  
1-24 follows:

1-25 Sec. 490.304. CONTRACTING AUTHORITY. (a) The governor may  
1-26 contract for the state with an organization exempt from federal  
1-27 income taxation under Section 501(a), Internal Revenue Code of  
1-28 1986, by being listed as an exempt entity under Section 501(c)(3) of  
1-29 that code, including the FutureGen Industrial Alliance,  
1-30 Incorporated, for a purpose related to implementing a clean coal  
1-31 project, including an innovative energy demonstration program  
1-32 described by Section 2305.037.

1-33 (b) This section expires on the date the FutureGen  
1-34 Industrial Alliance, Incorporated, loses its qualification as  
1-35 being exempt from federal taxation under Section 501(a), Internal  
1-36 Revenue Code of 1986, by being listed as an exempt entity under  
1-37 Section 501(c)(3) of that code.

1-38 SECTION 3. Chapter 119, Natural Resources Code, is amended  
1-39 by adding section 119.0025 to read as follows:

1-40 Sec. 119.0025. MONITORING OF SEQUESTERED CARBON DIOXIDE.  
1-41 The Bureau of Economic Geology of The University of Texas at Austin  
1-42 shall monitor, measure, and verify the permanent status of  
1-43 sequestered carbon dioxide in which the commission has acquired the  
1-44 right, title, and interest under Section 119.002.

1-45 SECTION 4. Section 119.004, Natural Resources Code, is  
1-46 amended to read as follows:

1-47 Sec. 119.004. LIABILITY. (a) The transfer of title to the  
1-48 state under Section 119.002 does not relieve an owner or operator of  
1-49 a clean coal project of liability for any act or omission regarding  
1-50 the generation of carbon dioxide performed before the carbon  
1-51 dioxide was captured.

1-52 (b) On the date the commission acquires the right, title,  
1-53 and interest in carbon dioxide captured by a clean coal project  
1-54 under Section 119.002, the owner or operator of the clean coal  
1-55 project is relieved from liability for any act or omission  
1-56 regarding the carbon dioxide injection location, and the method or  
1-57 means of performing carbon dioxide injection, if the injection  
1-58 location and method or means of injection comply with the terms of a  
1-59 license or permit issued by the state and applicable state law and  
1-60 regulations.

1-61 (c) Notwithstanding Subsection (b), no owner, operator or  
1-62 contractor of the clean coal project is immune from liability for  
1-63 personal injury or death that results from construction of the

2-1 site, or drilling or operation of the injection wells.

2-2 SECTION 5. Section 119.006, Natural Resources Code, is  
2-3 amended to read as follows:

2-4 Sec. 119.006. INDEMNIFICATION. The University of Texas  
2-5 System, ~~and~~ the permanent university fund, and the Texas Board of  
2-6 Criminal Justice may enter into a lease with the commission~~]~~ or  
2-7 with an owner or operator of a clean coal project~~]~~ for the use of  
2-8 lands owned or controlled by the system, the ~~or~~ fund, or the board  
2-9 for permanent storage of carbon dioxide captured by a clean coal  
2-10 project, provided that such lease adequately indemnifies the  
2-11 system, the ~~and~~ fund, the board, and the Texas Department of  
2-12 Criminal Justice against liability for personal injury or property  
2-13 damage incurred by the system, the ~~or~~ fund, the board, or the  
2-14 department as a result of the escape or migration of the carbon  
2-15 dioxide after it is injected into a zone or reservoir. This section  
2-16 does not affect the application of Chapter 101, Civil Practice and  
2-17 Remedies Code, to any activity carried out by a governmental unit,  
2-18 as defined by that chapter.

2-19 SECTION 6. Chapter 119, Natural Resources Code, is amended  
2-20 by adding Section 119.007 to read as follows:

2-21 Sec. 119.007. REPRESENTATION BY ATTORNEY GENERAL. (a) In  
2-22 this section, "state agency" includes:

2-23 (1) a department, commission, board, office, or other  
2-24 agency in the legislative, executive, or judicial branch of state  
2-25 government; and

2-26 (2) a university system or institution of higher  
2-27 education as defined by Section 61.003, Education Code.

2-28 (b) A state agency may request the attorney general to  
2-29 represent the state agency in a legal proceeding that arises from an  
2-30 escape or migration of carbon dioxide captured or sequestered in  
2-31 connection with a clean coal project.

2-32 (c) If the attorney general declines to represent the state  
2-33 agency, the state agency may obtain outside counsel in accordance  
2-34 with Section 402.0212, Government Code, and for purposes of that  
2-35 section, the attorney general's declination to represent the agency  
2-36 constitutes the attorney general's approval of the outside counsel  
2-37 for the matter.

2-38 SECTION 7. This Act takes effect September 1, 2007.

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