

By: Averitt

S.B. No. 1785

A BILL TO BE ENTITLED

AN ACT

relating to implementing ultraclean energy projects in this state.

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

SECTION 1. Section 382.003, Health and Safety Code, is amended by adding Subdivisions (4-a), (4-b), and (12-a) to read as follows:

(4-a) "Clean coal technology" means any technology or processes, including technologies or processes applied at the precombustion, combustion, or postcombustion stage, at a new or existing facility that will achieve a 97 percent reduction of sulfur dioxide emissions, an emission rate for oxides of nitrogen of 0.08 pounds per million British thermal units, and significant reductions in mercury emissions, associated with the utilization of coal in the generation of electricity, process steam, or industrial products, including the creation of liquid fuels, hydrogen for fuel cells, and other coproducts. The technology used must comply with applicable federal law regarding mercury emissions and must render carbon dioxide capable of capture, sequestration, or abatement. Examples of clean coal technology include atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, and integrated gasification fuel cells.

(4-b) "Coal" has the meaning assigned by Section 134.004, Natural Resources Code.

1 (12-a) "Ultraclean energy project" means a project,
2 for which an application for a permit under this chapter is received
3 by the commission on or after September 1, 2008, and before
4 September 1, 2020, which involves the utilization of coal in the
5 generation of electricity, process steam, or industrial products,
6 including gasification and the creation of liquid fuels, hydrogen
7 for fuel cells, and other coproducts, and which is capable of
8 achieving a 99 percent reduction of sulfur dioxide emissions, a 95
9 percent reduction of mercury emissions, and an emission rate for
10 oxides of nitrogen of 0.05 pounds per million British thermal units
11 and renders carbon dioxide capable of capture, sequestration, or
12 abatement.

13 SECTION 2. Subchapter C, Chapter 382, Health and Safety
14 Code, is amended by adding Section 382.0566 to read as follows:

15 Sec. 382.0566. ULTRACLEAN ENERGY PROJECT PERMITTING
16 PROCEDURE. (a) As authorized by federal law, not later than one
17 year after declaring administratively complete an application for a
18 permit under this chapter for an ultraclean energy project, the
19 commission shall issue a final order issuing or denying the permit.

20 (b) The permit process authorized by this section is subject
21 to the requirements relating to a contested case hearing under this
22 chapter, Chapter 5, Water Code, or Subchapters C-G, Chapter 2001,
23 Government Code, as applicable.

24 (c) Nothing in this chapter shall be interpreted as
25 requiring an applicant for an air quality permit to prove, as part
26 of a best available control technology analysis, that clean coal
27 technology or ultraclean energy technology being proposed has

1 already been demonstrated to be feasible in a commercial operation.

2 SECTION 3. Section 26.045, Tax Code, is amended to read as
3 follows:

4 Sec. 26.045. ROLLBACK RELIEF FOR POLLUTION CONTROL
5 REQUIREMENTS. (a) The rollback tax rate for a political
6 subdivision of this state is increased by the rate that, if applied
7 to the total current value, would impose an amount of taxes equal to
8 the amount the political subdivision will spend out of its
9 maintenance and operation funds under Section 26.012(16), Tax Code,
10 to pay for a facility, device, or method for the control of air,
11 water, or land pollution that is necessary to meet the requirements
12 of a permit issued by the Texas [~~Natural Resource Conservation~~]
13 Commission on Environmental Quality.

14 (b) In this section, "facility, device, or method for
15 control of air, water, or land pollution" means any land,
16 structure, building, installation, excavation, machinery,
17 equipment, or device, and any attachment or addition to or
18 reconstruction, replacement, or improvement of that property, that
19 is used, constructed, acquired, or installed wholly or partly to
20 meet or exceed rules or regulations adopted by any environmental
21 protection agency of the United States or this state for the
22 prevention, monitoring, control, or reduction of air, water, or
23 land pollution.

24 (c) To receive an adjustment to the rollback tax rate under
25 this section, a political subdivision shall present information to
26 the executive director of the Texas [~~Natural Resource Conservation~~]
27 Commission on Environmental Quality in a permit application or in a

1 request for any exemption from a permit that would otherwise be
2 required detailing:

3 (1) the anticipated environmental benefits from the
4 installation of the facility, device, or method for the control of
5 air, water, or land pollution;

6 (2) the estimated cost of the pollution control
7 facility, device, or method; and

8 (3) the purpose of the installation of the facility,
9 device, or method, and the proportion of the installation that is
10 pollution control property.

11 (d) Following submission of the information required by
12 Subsection (c), the executive director of the Texas [~~Natural~~
13 ~~Resource Conservation~~] Commission on Environmental Quality shall
14 determine whether [~~if~~] the facility, device, or method is used
15 wholly or partly as a facility, device, or method for the control of
16 air, water, or land pollution. If the executive director
17 determines that the facility, device, or method is used wholly or
18 partly to control pollution, the director shall issue a letter to
19 the political subdivision stating that determination and the
20 portion of the cost of the installation that is pollution control
21 property.

22 (e) The Texas [~~Natural Resource Conservation~~] Commission on
23 Environmental Quality may charge a political subdivision seeking a
24 determination that property is pollution control property an
25 additional fee not to exceed its administrative costs for
26 processing the information, making the determination, and issuing
27 the letter required by this section. The commission may adopt rules

1 to implement this section.

2 (f) The Texas Commission on Environmental Quality shall
3 adopt rules establishing a predetermined list of pollution control
4 equipment, which must include:

5 (1) coal cleaning facilities;

6 (2) atmospheric or pressurized and bubbling or
7 circulating fluidized bed combustion systems and gasification
8 fluidized bed combustion combined cycle systems;

9 (3) ultra-supercritical pulverized coal systems;

10 (4) flue gas recirculation components;

11 (5) syngas purification systems and gas-cleanup
12 units;

13 (6) enhanced heat recovery systems;

14 (7) exhaust heat recovery boilers;

15 (8) heat recovery steam generators;

16 (9) superheaters and evaporators;

17 (10) enhanced steam turbine systems;

18 (11) coal combustion or gasification byproduct and
19 coproduct handling, storage, or treatment facilities;

20 (12) biomass cofiring storage, distribution, and
21 firing systems;

22 (13) coal cleaning or drying processes such as coal
23 drying/moisture reduction, air jigging, precombustion
24 decarbonization, and coal flow balancing technology;

25 (14) oxy-fuel combustion technology, amine or chilled
26 ammonia scrubbing, fuel or emission conversion through the use of
27 catalysts, enhanced scrubbing technology modified combustion

1 technology such as chemical looping, and cryogenic technology; and
2 (15) any other equipment designed to capture, abate,
3 or monitor oxides of nitrogen, volatile organic compounds,
4 particulate matter, mercury, carbon monoxide, carbon dioxide, or
5 any criteria pollutant.

6 (g) The Texas Commission on Environmental Quality shall
7 update the predetermined list of pollution control equipment by
8 rule at least once every three years. An item may not be removed
9 from the list unless the commission finds compelling evidence to
10 support the conclusion that the item does not render pollution
11 control benefits.

12 (h) Not later than the 30th day after receiving the
13 information required by Subsections (c)(2) and (3) and without
14 requiring information described under Subsection (c)(1), the
15 executive director of the Texas Commission on Environmental Quality
16 shall make a determination that equipment matching the description
17 of equipment listed in Subsection (f) is being used wholly to
18 control pollution and shall issue a letter to the political
19 subdivision stating that determination.

20 (i) A political subdivision of the state seeking an
21 adjustment in its rollback tax rate under this section shall
22 provide to its tax assessor a copy of the letter issued by the
23 executive director of the Texas [~~Natural Resource Conservation~~
24 Commission on Environmental Quality under Subsection (d) or (h).
25 The tax assessor shall accept the copy of the letter from the
26 executive director as conclusive evidence that the facility,
27 device, or method is used wholly or partly as pollution control

1 property and shall adjust the rollback tax rate for the political
2 subdivision as provided for by Subsection (a).

3 SECTION 4. Subsection (b), Section 313.024, Tax Code, as
4 effective January 1, 2008, is amended to read as follows:

5 (b) To be eligible for a limitation on appraised value under
6 this subchapter, the entity must use the property in connection
7 with:

8 (1) manufacturing;

9 (2) research and development;

10 (3) a clean coal project, as defined by Section 5.001,
11 Water Code;

12 (4) an ultraclean energy [~~a gasification~~] project, as
13 defined by Section 382.003, Health and Safety Code [~~for a coal and~~
14 ~~biomass mixture~~]; or

15 (5) renewable energy electric generation.

16 SECTION 5. Not later than January 1, 2008, the Texas
17 Commission on Environmental Quality shall adopt rules required
18 under Section 382.0566, Health and Safety Code, as added by this
19 Act, and Subsection (f), Section 26.045, Tax Code, as amended by
20 this Act.

21 SECTION 6. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2007.