

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 1, 2007

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: SB1460 by Seliger (Relating to a franchise tax credit for purchasing electricity from a clean coal project.), **As Introduced**

Since there are currently no clean coal projects generating electricity in this state, future development of such facilities would depend on a numerous factors and cannot be predicted with any degree of certainty. As such, the amount of future purchases of electricity from clean coal projects in Texas is unknown, and the revenue implications of this bill cannot be determined.

The bill would add Subchapter V to Chapter 171 of the Tax Code to provide a franchise tax credit for purchasing power from a clean coal project in this state.

The bill would add a definition of "clean coal project" by reference to the Water Code. To be eligible for the credit, a taxable entity would have to be an electric utility or a retail electric provider as defined in the Utilities Code and would have to purchase electricity from a clean coal project in this state for resale to retail customers. The amount of the credit would be equal to 10 percent of the amount paid to the operator of the clean coal project for the electricity. A taxable entity could claim the credit only for purchases made during the accounting period, upon which the franchise tax report is based. Carry over of the credit would not be allowed. The Comptroller would be required to adopt a form for claiming the credit.

A taxable entity would be allowed to convey, assign, or transfer a credit to another taxable entity if the entity provided notice to the Comptroller at least 30 days before the conveyance, assignment, or transfer occurred. The Comptroller would be required to adopt rules necessary to implement the credit's provisions.

The credit provisions would expire on the date the FutureGen Industrial Alliance, Inc. lost its qualification as exempt from federal taxation under Section 501(a) of the Internal Revenue Code.

The bill would take effect January 1, 2008, and it would apply to a report due on or after that date.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, CT, WK, SD