

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**April 9, 2007**

**TO:** Honorable Kip Averitt, Chair, Senate Committee on Natural Resources

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

**IN RE: SB1461** by Seliger (Relating to contracting authority and indemnification requirements in relation to a clean coal project.), **As Introduced**

<b>No significant fiscal implication to the State is anticipated.</b>
---

This bill would amend statute and grant the Governor contracting authority on behalf of the state with an organization, including the FutureGen Industrial Alliance, Inc., that qualifies under Section 501(a) of the Internal Revenue Code of 1986 to implement a clean-coal project or a clean-coal demonstration program. It is assumed that any additional costs associated with implementing this provision of the bill could be absorbed within existing state resources.

The bill would also provide that the Texas Department of Criminal Justice may enter into a lease contract with the Texas Railroad Commission or an owner or operator of a clean coal project. It is assumed that any additional costs associated with implementing the lease contracts could be absorbed within existing resources.

The bill would also provide that the Office of the Attorney General (OAG) represent, in a civil proceeding, the owner or operator of a clean coal project in a lawsuit arising from an escape or migration of carbon dioxide sequestered by the project. The bill would require the state to pay the court costs and litigation expenses of defending the action.

The bill would require the state to pay the owner or operator's court costs, litigation expenses, and attorney's fees if the OAG declines to represent due to an actual or potential conflict of interest; and would require the state to pay the owner or operator's court costs, litigation expenses, and attorney's fees if the Attorney General declined representation based on a concern that the conduct was intentional, willful, or wanton, and the court or jury later found the act or omission was not intentional, willful, or wanton.

The Office of the Attorney General indicates that any clean coal project will not be completed until 2013 and the agency does not anticipate that any claim based on escaping or migrating carbon dioxide would be made before or during 2012. However, if a relevant lawsuit is filed prior to the end of 2012, it is anticipated that any costs associated with the litigation could be absorbed within existing resources. Lawsuits that might arise after FY 2012 would likely require some indeterminate amount of additional resources given the highly technical aspects of the project.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 580 Water Development Board, 582 Commission on Environmental Quality, 302 Office of the Attorney General

**LBB Staff:** JOB, WK, JM