

## **BILL ANALYSIS**

C.S.H.J.R. 123  
By: Hancock  
Energy Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Given the rising demand for electric power, the abundance of coal, petroleum coke, biomass, and solid waste in the United States and Texas, and the reliability and cost effectiveness of these carbon-based sources of electric generation, it is critical that such generation continue to be a viable component of Texas' power supply. Advanced clean energy projects have the potential to significantly reduce air emissions, including carbon dioxide, while ensuring that reliable and affordable electricity is available for Texas. Because utility-scale advanced clean energy projects have not yet been commercialized due to financial and technological risks associated with such projects, financial incentives and regulatory clarity are necessary to ensure that clean carbon projects are attracted to Texas.

C.S.H.J.R. 123 proposes an amendment to the Texas Constitution to authorize the legislature by general law, in order to provide and guarantee loans to encourage advanced clean energy projects, new technology projects, and electricity storage projects related to renewable energy in Texas, to authorize the Texas Public Finance Authority or its successor to issue general obligation bonds of the State of Texas and to establish provisions relating to such bonds.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this resolution does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.J.R. 123 proposes an amendment to the Texas Constitution to authorize the legislature by general law to authorize the Texas Public Finance Authority or its successor to issue general obligation bonds of the State of Texas in an amount not to exceed \$300 million and to enter into related credit enhancement agreements for the purpose of providing and guaranteeing loans to encourage advanced clean energy projects in Texas. The resolution establishes that the proceeds from the sale of the bonds may be used only to make and guarantee loans to business entities for the following types of clean energy projects in Texas: advanced clean energy projects, new technology projects, and electricity storage projects related to renewable energy. The bill specifies that the bonds authorized under the resolution constitute a general obligation of the state and establishes, while any of the bonds or interest on the bonds are outstanding or unpaid, that there is appropriated out of the first money coming into the treasury in each fiscal year not otherwise appropriated by the constitution an amount sufficient to pay the principal of and interest on the bonds that mature or become due during the fiscal year, including an amount sufficient to make payments under a related bond enhancement agreement.

C.S.H.J.R. 123 defines "advanced clean energy project" to mean a project for which an application for a permit or for an authorization to use a standard permit to emit air contaminants is received by the Texas Commission on Environmental Quality or its successor on or after January 1, 2008, and before January 1, 2020, and that involves the use of coal, biomass, petroleum coke, solid waste, or fuel cells using hydrogen derived from such fuels, in the

generation of electricity, or the creation of liquid fuels outside of the existing fuel production infrastructure while co-generating electricity, whether the project is implemented in connection with the construction of a new facility or in connection with the modification of an existing facility and whether the project involves the entire emissions stream from the facility or only a portion of the emissions stream from the facility; with regard to the portion of the emissions stream from the facility that is associated with the project, is capable of achieving on an annual basis a 99 percent or greater reduction of sulfur dioxide emissions and a 95 percent or greater reduction of mercury emissions and achieving an annual average emission rate for nitrogen oxides of 0.05 pounds or less per million British thermal units; and captures not less than 50 percent of the carbon dioxide in the portion of the emissions stream from the facility that is associated with the project and sequesters that captured carbon dioxide by geologic storage or other means. The resolution defines "new technology" to mean emissions control technology that results in emissions reductions that exceed federal requirements. The resolution defines "new technology project" to mean a project based on new technology that reduces emissions of regulated pollutants from point sources and that involves capital expenditures that exceed \$500 million. The resolution sets forth the required language for the ballot.

### **ELECTION DATE**

The constitutional amendment proposed by this joint resolution will be submitted to the voters at an election to be held November 3, 2009.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.J.R. 123 differs from the original by redefining "advanced clean energy" to include a project for which an application for an authorization to use a standard permit, instead of only an application for a permit, as in the original; by requiring an application for a project be received on or after January, 1, 2008, rather than after that date as in the original; by adding that the term refers to a project whether it is implemented in connection with the construction of a new facility or in connection with the modification of an existing facility and whether the project involves the entire emissions stream from the facility or only a portion of the emissions stream from the facility; by clarifying that reductions specified in the definition refer to the portion of the emissions stream from the facility that is associated with the project; by requiring the project be capable of achieving an annual reduction of sulfur dioxide emissions of 99 percent or greater, rather than just 99 percent as in the original, and an annual reduction of mercury emissions of 95 percent or greater, rather than just 95 percent as in the original; and by requiring the project to capture not less than 50 percent of the carbon dioxide in the portion of the emissions stream from the facility that is associated with the project, rather than requiring the project to capture not less than 50 percent of any carbon dioxide produced by the combustion of fuel.

C.S.H.J.R. 123 differs from the original by authorizing proceeds from the sale of bonds to be used to make and guarantee loans for new technology projects and electricity storage projects related to renewable energy, in addition to advanced clean energy projects as in the original, and by including this difference in the ballot language.

C.S.H.J.R. 123 differs from the original by removing the definition in the original for "geologic storage" and adding definitions not in the original for "new technology" and "new technology project."