BILL ANALYSIS

Senate Research Center
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S.B. 483
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas has an opportunity to become the first state in the United States with fully-operational large-scale clean coal power plants that capture at least 60 percent of the carbon dioxide (CO2) they produce. In many cases, the captured CO2 could be used for valuable enhanced oil recovery (EOR) projects, thus creating additional economic benefit to the state.

Integrated gasification combined-cycle (IGCC) facilities are best-suited for carbon capture; however, there are currently no IGCC plants in the United States that capture carbon. All key processes and equipment required for carbon capture in an IGCC plant have been demonstrated in chemical and refinery applications. The capture of 60 percent of CO2 will meet some of the most stringent the emission standards in the country. The capital cost of building an IGCC plant is, generally speaking, 20 to 25 percent higher than a conventional coal plant, not including additional costs related to carbon capture technology.

Texas is well-suited to become a major repository for CO2 capture. The Texas Bureau of Economic Geology at The University of Texas (BEG) estimates that as much as three to five billion barrels of additional Texas oil is available across the state to be recovered using CO2 for EOR. For the past 30 years, Texas oil producers in the Permian Basin have successfully piped CO2 from naturally occurring underground domes in New Mexico and Colorado for EOR. This specific piping of CO2 into depleted wells in the Permian Basin means an increase of the oilfield's original crude oil volume, often yielding an additional 15 percent or more.

Furthermore, Texas offers the nation many industrial and geological opportunities to use and store the vast amounts of CO2 produced from burning coal for needed electric generation. The pipeline and CO2 compression infrastructure needed for EOR can provide the backbone of the larger carbon sequestration effort, which involves deep geologic injection, primarily in salty, non-drinkable water that is thousands of feet below any freshwater aquifers. Texas has the potential to become the low-cost provider of carbon sequestration services to the entire Southeastern United States.

As proposed, S.B. 483 directs the Texas comptroller of public accounts to issue franchise tax credits of up to $100 million per qualifying clean coal project. Only the first three completed qualifying projects would be eligible, and the credits may not be claimed until each project is fully operational. S.B. 483 requires the BEG to monitor, measure, and verify the permanent status of sequestered CO2 generated by the first three qualifying projects.

S.B. 483 authorizes the current reduced severance tax rate for manmade CO2 used in enhanced oil recovery to apply to the use of CO2 from clean energy project for 30 years

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 4 (Section 490.305, Government Code) of this code.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Subchapter G, Chapter 490, Government Code, to read as follows:

SUBCHAPTER G. CLEAN COAL PROJECTS AND CLEAN ENERGY PROJECTS

SECTION 2. Amends Section 490.301, Government Code, as follows:

Sec. 490.301. New heading: DEFINITIONS. Provides that, in this chapter, "clean coal project" has the meaning assigned by Section 5.001 (Definitions), Water Code and "clean energy project" has the meaning assigned by Section 120.001, Natural Resources Code.

SECTION 3. Amends the heading to Section 490.304, Government Code, to read as follows:

Sec. 490.304. CONTRACTING AUTHORITY RELATED TO IMPLEMENTING CLEAN COAL PROJECT; FRANCHISE TAX CREDIT.

SECTION 4. Amends Subchapter G, Chapter 490, Government Code, by adding Section 490.305, as follows:

Sec. 490.305. FRANCHISE TAX CREDIT FOR CLEAN ENERGY PROJECT. (a) Requires the comptroller of public accounts (comptroller) to adopt rules for issuing to an entity implementing a clean energy project in this state a franchise tax credit to promote research and development activities related to the project.

(b) Prohibits a franchise tax credit from being issued to an entity implementing a clean energy project until the construction of the project has been completed and the project is fully operational. Authorizes franchise tax credits to be issued only for the first three clean energy projects that qualify for a tax credit. Prohibits the total amount of franchise tax credits issued for each clean energy project from exceeding $100 million.

(c) Authorizes a franchise tax credit to be issued, in accordance with the comptroller's rules, to an entity, irrespective of whether the entity owes or pays a franchise tax under Chapter 171 (Franchise Tax), Tax Code. Authorizes the entity to assign the franchise tax credits to a taxable entity, as defined by Section 171.0002 (Definition of Taxable Entity), Tax Code, in accordance with the comptroller's rules.

SECTION 5. Amends Subtitle D, Title 3, Natural Resources Code, by adding Chapter 120, as follows:

CHAPTER 120. MONITORING OF CARBON DIOXIDE CAPTURED BY CLEAN ENERGY PROJECT

Sec. 120.001. DEFINITION. Defines "clean energy project."

Sec. 120.002. MONITORING OF SEQUESTERED CARBON DIOXIDE. Requires the Bureau of Economic Geology of The University of Texas at Austin to monitor, measure, and verify the permanent status of sequestered carbon dioxide generated by the first three clean energy projects that qualify for a franchise tax credit under Section 490.305, Government Code.

SECTION 6. Amends Section 202.0545, Tax Code, by adding Subsection (i), to entitle the producer of oil recovered through an enhanced oil recovery project that uses carbon dioxide that is generated by a clean energy project as defined by Section 120.001, Natural Resources Code, notwithstanding Subsection (a), to a tax rate reduction under this section until the 30th anniversary of the date the comptroller first approves an application for a tax rate reduction under this section if the producer otherwise qualifies for the tax rate reduction.

SECTION 7. Requires the comptroller to adopt rules under Section 490.305, Government Code, as added by this Act, not later than December 31, 2010.

SECTION 8. Effective date: September 1, 2009.