

By: Crownover

H.B. No. 2446

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the qualifications of certain electric generation
3 projects for programs designed to encourage the capture and
4 utilization of carbon dioxide for use in enhanced oil recovery.

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

6 SECTION 1. Section 382.003(1-a), Health and Safety Code, is
7 amended to read as follows:

8 (1-a) "Advanced clean energy project" means a project
9 for which an application for a permit or for an authorization to use
10 a standard permit under this chapter is received by the commission
11 on or after January 1, 2008, and before January 1, 2020, and that:

12 (A) ~~involves the use of coal, biomass, petroleum~~
13 ~~coke, solid waste, or fuel cells using hydrogen derived from such~~
14 ~~fuels, in~~ the generation of electricity, or the creation of liquid
15 fuels outside of the existing fuel production infrastructure while
16 co-generating electricity, whether the project is implemented in
17 connection with the construction of a new facility or in connection
18 with the modification of an existing facility and whether the
19 project involves the entire emissions stream from the facility or
20 only a portion of the emissions stream from the facility;

21 (B) with regard to the portion of the emissions
22 stream from the facility that is associated with the project, is
23 capable of achieving:

24 (i) on an annual basis, a 99 percent or

1 greater reduction of sulfur dioxide emissions, or:

2 (a) if the project is designed for the
3 use of one or more combustion turbines, an emission rate that meets
4 best available control technology requirements as determined by the
5 commission; or

6 (b) if the project is designed for the
7 use of feedstock substantially all of which is subbituminous coal,
8 an emission rate of 0.04 pounds or less of sulfur dioxide per
9 million British thermal units as determined by a 30-day average;

10 (ii) on an annual basis a 95 percent or
11 greater reduction of mercury emissions, if applicable;

12 (iii) an annual average emission rate for
13 nitrogen oxides of:

14 (a) 0.05 pounds or less per million
15 British thermal units; or

16 (b) if the project uses gasification
17 technology, 0.034 pounds or less per million British thermal units;
18 and

19 (iv) an annual average emission rate for
20 filterable particulate matter of 0.015 pounds or less per million
21 British thermal units; and

22 (C) captures not less than 50 percent of the
23 carbon dioxide in the portion of the emissions stream from the
24 facility that is associated with the project and sequesters that
25 captured carbon dioxide by geologic storage or other means.

26 SECTION 2. Section 120.001(2), Natural Resources Code, is
27 amended to read as follows:

1 (2) "Clean energy project" means a project to
2 construct an ~~coal-fueled or petroleum-coke-fueled~~ electric
3 generating facility, including a facility in which the fuel is
4 gasified before combustion, that will:

5 (A) have a capacity of at least 200 megawatts;

6 (B) meet the emissions profile for an advanced
7 clean energy project under Section 382.003(1-a)(B), Health and
8 Safety Code;

9 (C) capture at least 70 percent of the carbon
10 dioxide resulting from or associated with the generation of
11 electricity by the facility;

12 (D) be capable of permanently sequestering in a
13 geological formation the carbon dioxide captured; and

14 (E) be capable of supplying the carbon dioxide
15 captured for purposes of an enhanced oil recovery project.

16 SECTION 3. Subchapter H, Chapter 490, Government Code,
17 section 490.352 is amended to read as follows:

18 Sec. 490.352. FRANCHISE TAX CREDIT FOR CLEAN ENERGY
19 PROJECT. (a) The comptroller shall adopt rules for issuing to an
20 entity implementing a clean energy project in this state a
21 franchise tax credit. A clean energy project is eligible for a
22 franchise tax credit only if the project is implemented in
23 connection with the construction of a new facility.

24 (b) The comptroller shall issue a franchise tax credit to an
25 entity operating a clean energy project after:

26 (1) the Railroad Commission of Texas has issued a
27 certificate of compliance for the project to the entity as provided

1 by Section 120.004, Natural Resources Code;

2 (2) the construction of the project has been
3 completed;

4 (3) the electric generating facility associated with
5 the project is fully operational;

6 (4) the Bureau of Economic Geology of The University
7 of Texas at Austin verifies to the comptroller that the electric
8 generating facility associated with the project is sequestering at
9 least 70 percent of the carbon dioxide resulting from or associated
10 with the generation of electricity by the facility; and

11 (5) the owner or operator of the project has entered
12 into an interconnection agreement relating to the project with the
13 Electric Reliability Council of Texas.

14 (c) The total amount of the franchise tax credit that may be
15 issued to the entity designated in the certificate of compliance
16 for a clean energy project is equal to the lesser of:

17 (1) 10 percent of the total capital cost of the
18 project, including the cost of designing, engineering, permitting,
19 constructing, and commissioning the project, the cost of procuring
20 land, water, and equipment for the project, and all fees, taxes, and
21 commissions paid and other payments made in connection with the
22 project but excluding the cost of financing the capital cost of the
23 project; or

24 (2) \$100 million.

25 (d) The entity designated in the certificate of compliance
26 for the project may assign the franchise tax credit to any other
27 entity that has or acquires an interest in the income generated by

1 ~~the project in proportion to their ownership in the project. The~~
2 ~~amount of the franchise tax credit for each report year is~~
3 ~~calculated by determining the amount of franchise tax that is due~~
4 ~~based on the taxable margin generated by a clean energy project from~~
5 ~~the generation and sale of power and the sale of any products that~~
6 ~~are produced by the electric generation facility.~~ The amount of the
7 franchise tax credit claimed under this section for a report year
8 may not exceed the amount of franchise tax due to the state from an
9 entity claiming the credit. ~~attributable to the clean energy~~
10 ~~project for that report year.~~ Any unused credit may be carried
11 forward for up to 20 years.

12 (e) The comptroller may not issue a franchise tax credit
13 under this section before September 1, 2018~~3~~ or while a valuation
14 cap agreement under Chapter 313, Tax Code is in effect for the
15 project. ~~This subsection expires September 2, 2013.~~

16 SECTION 4. The Texas Commission on Environmental Quality
17 shall adopt rules as necessary to implement Section 382.003, Health
18 and Safety Code, as amended by this Act, not later than January 1,
19 2014.

20 SECTION 5. The Railroad Commission of Texas may adopt rules
21 as necessary to implement section 120.001(2), Natural Resources
22 Code, as amended by this Act.

23 SECTION 6. The comptroller shall adopt rules under Section
24 490.352, Government Code, as added by this Act, not later than
25 January 1, 2014.

26 SECTION 7. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2013.