

BILL ANALYSIS

C.S.H.B. 1158
By: Darby
Energy Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Carbon capture, utilization, and storage technology is an emerging technology that reduces carbon emissions by capturing carbon dioxide and storing it permanently underground. Additionally, direct air capture technology is a new technology designed to directly remove atmospheric carbon dioxide. Currently, facilities capturing and injecting carbon dioxide operate in five main industry sectors: chemical production, hydrogen production, natural gas processing, fertilizer production, and power generation. Making projects that implement these technologies eligible for funding under the Texas emissions reduction plan would benefit the state both economically and environmentally. C.S.H.B. 1158 seeks to address this issue by revising the qualifications for an advanced clean energy project and expanding the projects eligible for consideration for a grant under the new technology implementation grant program under the plan.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

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

ANALYSIS

C.S.H.B. 1158 amends the Health and Safety Code to remove as a qualification for an advanced clean energy project the receipt by the Texas Commission on Environmental Quality (TCEQ) on or after January 1, 2008, and before January 1, 2020, of an application for a permit or for an authorization to use a standard permit under the Texas Clean Air Act. The bill, with regard to the portion of the emissions stream from a facility that is associated with an advanced clean energy project that is designed for the use of one or more combustion turbines that burn natural gas, allows for the project to be capable of achieving an emission rate that meets best available control technology requirements as determined by the TCEQ as an alternative to the project having to be capable of achieving an annual average emission rate for nitrogen oxides of two parts per million by volume. The bill increases the minimum percentage of the carbon dioxide in the portion of the emissions stream from an applicable facility that must be captured and sequestered by an advanced clean energy project from 50 percent to 75 percent.

C.S.H.B. 1158 includes the following projects as projects that may be considered for a grant under the new technology implementation grant program:

- projects that utilize technology to capture, use, reuse, store, gather, transport, or sequester carbon dioxide emissions from a new or existing petrochemical plant or electric generation facility, including a facility powered by coal, natural gas, hydrogen,

or ammonia, for the principal purpose of preventing carbon dioxide from entering or remaining in the atmosphere; and

- projects that involve the use of renewable energy to produce hydrogen fuel for use in transportation, agricultural, or industrial processes and result in a reduction of pollutants entering the atmosphere.

C.S.H.B. 1158 amends the Tax Code to revise the conditions under which components of tangible personal property used in connection with an advanced clean energy project or applicable clean energy projects are exempted from the sales and use tax by doing the following:

- including the following as exempt components:
 - applicable components of tangible personal property purchased and installed by a carbon capture facility that are not otherwise used in connection with an applicable clean energy project; and
 - applicable components relating to the capture, transportation, injection, or preparation for transportation or injection of carbon dioxide from the atmosphere; and
- replacing as a qualification for the exemption that the applicable carbon dioxide be sequestered in Texas in a manner and under conditions that create a reasonable expectation that at least 99 percent of the carbon dioxide will remain sequestered from the atmosphere for at least 1,000 years with the qualification that the components instead be used in connection with the capture, use, reuse, storage, injection, or sequestration of carbon dioxide emissions to prevent carbon dioxide from entering or remaining in the atmosphere.

These provisions of the bill do not affect tax liability accruing before the bill's effective date.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1158 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a provision absent from the introduced that, with regard to the portion of the emissions stream from a facility that is associated with an advanced clean energy project that is designed for the use of one or more combustion turbines that burn natural gas, allows for the project to be capable of achieving an emission rate that meets best available control technology requirements as determined by the TCEQ as an alternative to the project having to be capable of achieving an annual average emission rate for nitrogen oxides of two parts per million by volume. With regard to the minimum percentage of the carbon dioxide in the portion of the emissions stream from an applicable facility that must be captured and sequestered by an advanced clean energy project, the substitute increases that percentage to 75 percent, whereas the introduced increased it to 90 percent.

The substitute omits a provision in the introduced that included as projects that may be considered for a grant under the new technology implementation grant program new technology projects that reduce emissions from upstream and midstream oil and gas production, completions, gathering, storage, processing, and transmission activities through the installation of systems to reduce or eliminate carbon dioxide emissions using other combustion control devices. Whereas the introduced included as projects that may be considered for a grant under the program projects that utilize technology to capture, use, reuse, store, or sequester carbon dioxide emissions for the principal purpose of preventing carbon dioxide from entering the atmosphere and that are constructed integral or adjacent to a petrochemical plant or an electric generation facility, including a facility powered by coal, natural gas, hydrogen, or ammonia, the

substitute does not include projects specified exactly as such but instead includes the following projects:

- projects that utilize technology to capture, use, reuse, store, gather, transport, or sequester carbon dioxide emissions from a new or existing petrochemical plant or electric generation facility, including a facility powered by coal, natural gas, hydrogen, or ammonia, for the principal purpose of preventing carbon dioxide from entering or remaining in the atmosphere; and
- projects that involve the use of renewable energy to produce hydrogen fuel for use in transportation, agricultural, or industrial processes and result in a reduction of pollutants entering the atmosphere.

The substitute includes provisions absent from the introduced that provide for the exemption from the sales and use tax of the following:

- applicable components of tangible personal property purchased and installed by a carbon capture facility that are not otherwise used in connection with an applicable clean energy project; and
- applicable components relating to the capture, transportation, injection, or preparation for transportation or injection of carbon dioxide from the atmosphere.

With regard to the replacement of the exemption qualification that the applicable carbon dioxide be sequestered in Texas in a manner and under conditions that create a reasonable expectation that at least 99 percent of the carbon dioxide will remain sequestered from the atmosphere for at least 1,000 years, the substitute differs from the introduced by providing for the use of the components for the injection of carbon dioxide emissions and by including as a purpose of the use of the components the prevention of carbon dioxide remaining in the atmosphere.