By: Darby H.B. No. 1158

A BILL TO BE ENTITLED

AN ACT

relating to advanced clean energy projects and certain other projects that reduce or eliminate emissions of carbon dioxide or other pollutants.

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

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

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

(A) involves the use of coal, biomass, petroleum coke, solid waste, natural gas, 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;

(B) with regard to the portion of the emissions stream from the facility that is associated with the project, is

capable of achieving:

(i) on an annual basis:

(a) a 99 percent or greater reduction of sulfur dioxide emissions;

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

(c) if the project is designed for the use of one or more combustion turbines that burn natural gas, a sulfur dioxide emission rate that meets best available control technology requirements as determined by the commission;

(ii) on an annual basis:

(a) a 95 percent or greater reduction of mercury emissions; or

(b) if the project is designed for the use of one or more combustion turbines that burn natural gas, a mercury emission rate that complies with applicable federal requirements;

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

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

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

(c) if the project is designed for the

use of one or more combustion turbines that burn natural gas, two parts per million by volume or an emission rate that meets best available control technology requirements as determined by the commission; and

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

(C) captures not less than 75 [~~50~~] percent of the carbon dioxide in the portion of the emissions stream from the facility that is associated with the project and utilizes or sequesters, in whole or in part, that captured carbon dioxide by geologic storage or other means.

SECTION 2. Section 391.002(b), Health and Safety Code, is amended to read as follows:

(b) Projects that may be considered for a grant under the program include:

(1) advanced clean energy projects, as defined by Section 382.003;

(2) new technology projects that reduce emissions of regulated pollutants from stationary sources;

(3) new technology projects that reduce emissions from upstream and midstream oil and gas production, completions, gathering, storage, processing, and transmission activities through:

(A) the replacement, repower, or retrofit of stationary compressor engines;

(B) the installation of systems to reduce or

eliminate the loss of gas, flaring of gas, or burning of gas using other combustion control devices; or

(C) the installation of systems that reduce flaring emissions and other site emissions; [~~and~~]

(4) electricity storage projects related to renewable energy, including projects to store electricity produced from wind and solar generation that provide efficient means of making the stored energy available during periods of peak energy use;

(5) projects that utilize technology to capture, use, reuse, store, gather, transport, or sequester carbon dioxide emissions from a new or existing cement plant, petrochemical plant, or electric generation facility, including a facility powered by coal, petroleum coke, natural gas, hydrogen, or ammonia, for the principal purpose of preventing carbon dioxide from entering or remaining in the atmosphere; and

(6) 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.

SECTION 3. Section 151.334, Tax Code, is amended to read as follows:

Sec. 151.334. COMPONENTS OF TANGIBLE PERSONAL PROPERTY USED IN CONNECTION WITH CERTAIN CLEAN ENERGY PROJECTS OR BY CARBON CAPTURE FACILITIES [~~SEQUESTRATION OF CARBON DIOXIDE~~]. Components of tangible personal property used in connection with an advanced clean energy project, as defined by Section 382.003, Health and Safety Code, or a clean energy project, as defined by Section

120.001, Natural Resources Code, or purchased and installed by a carbon capture facility are exempted from the taxes imposed by this chapter if[~~:~~

[~~(1)~~] the components are installed to capture carbon dioxide from the atmosphere or an anthropogenic emission source, transport or inject carbon dioxide from the atmosphere or an anthropogenic emission [~~such a~~] source, or prepare carbon dioxide from the atmosphere or an anthropogenic emission [~~such a~~] source for transportation, utilization, or injection[~~,~~] and:

(1) [~~(2)~~] the carbon dioxide is sequestered in this state[~~:~~

[~~(A)~~] as part of an enhanced oil recovery project that qualifies for a tax rate reduction under Section 202.0545, as provided by Subsection (c) of that section; [~~or~~]

(2) the components are used in connection with the capture, use, reuse, storage, transportation, or injection of carbon dioxide emissions to prevent carbon dioxide from entering or remaining in the atmosphere; or

(3) the components are used in connection with the sequestration of carbon dioxide emissions [~~(B)~~] 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.

SECTION 4. The change in law made by this Act to Section 151.334, Tax Code, does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued

in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 5. This Act takes effect September 1, 2023.