

SUBJECT: Regulation and promotion of "clean coal" projects

COMMITTEE: Regulated Industries — committee substitute recommended

VOTE: 5 ayes — P. King, Hunter, R. Cook, Crabb, Hartnett
0 nays
2 absent — Baxter, Turner

WITNESSES: For — Donna McDonald, Clean Coal Technology Foundation of Texas; Mike Nasi, Clean Coal Technology Foundation; Steve Smith, Texas Mining and Reclamation Association; Wade Stansell, Association of Electric Companies of Texas; Marty Walker, The North American Coal Corp. (*Registered, but did not testify*: Steve Hazlewood, The Dow Chemical Co.; Dennis Kearns, BNSF Railway; Laura Matz, Texas Railroad Association; Mary Miksa, Texas Association of Business; Ron Olson, Union Pacific Railroad; Joel Trouart, Texas Westmoreland Coal Co.; Bronwen Turner, Westmorland Coal Co. DBA Texas-Westmorland; Mike Williams, Texas Electric Cooperatives; Mark Zion, Texas Public Power Association)

Against — Alesia Call, for Tom Smith, Public Citizen; Karen Hadden, Sustainable Energy and Economic Development Coalition (*Registered, but did not testify*: Carol Biedrzycki, Texas Ratepayers Organization to Save Energy; Stephanie Carter, Luke Metzger, Texas Public Interest Research Group; Cyrus Reed, Lone Star Chapter of the Sierra Club)

On — Scott Anderson, Environmental Defense; Randy Eminger, Center for Energy and Economic Development; Michael Williams, Governor's Clean Coal Technology Council

BACKGROUND: FutureGen is a federal initiative of the U.S. Department of Energy to build a coal-based integrated sequestration and hydrogen project and eventually create a zero-emissions fossil fuel plant. The prototype plant would attempt to establish the technical and economic feasibility of producing electricity and hydrogen from coal, while capturing and sequestering the carbon dioxide produced in the process.

In 2001, the 77th Legislature enacted HB 1200 by Brimer, which authorized school districts to negotiate limitations on the appraised value of property for maintenance and operation property taxation with corporations and limited liability companies (LLCs) that would use the property for manufacturing or research and development.

DIGEST: CSHB 2201 would make several changes to state law regarding FutureGen and clean coal projects.

Definitions. A "clean coal project" would be defined as the installation of a coal-based integrated sequestration and hydrogen research project built under the FutureGen program. A "component of the FutureGen project" would be any process, technology, or piece of equipment that met a FutureGen request for proposal and was designed to:

- employ coal gasification technology to generate electricity, hydrogen, or steam;
- employ fuel cells to generate electricity;
- demonstrate the efficacy of carbon dioxide capture technology; or
- sequester carbon dioxide for injection and monitoring.

The definition also would include projects qualifying for FutureGen funds or that were required for a FutureGen project.

State matching funds. Contingent upon selection of Texas as the site for a FutureGen project, CSHB 2201 would require the comptroller's energy office to distribute 50 percent of the total amount invested in the project up to \$20 million to the entity managing the project.

Permitting. The Texas Commission on Environmental Quality (TCEQ) would implement a streamlined process for issuing permits for a clean coal project and make use of public meetings, conferences, and committees to obtain the opinions of interested parties. The streamlined process would not be subject to contested case hearing requirements.

Regional water plan amendments. The Texas Water Development Board (TWDB) would allow for timely approval of amendments to the state and regional water plans to facilitate water supply planning, including water demands for a clean coal project. TWDB would have to allow for amendments without public hearings if such amendments did not

significantly change or adversely affect a regional water plan or management strategies in a plan.

Carbon dioxide injection. The Texas Railroad Commission (RRC) would have jurisdiction over injection of carbon from a clean coal project into:

- an oil, gas, or geothermal resource production well; or
- a zone that was below the base of usable water that was not productive of oil, gas, or geothermal resource.

Franchise tax deduction. For equipment used in a clean coal project in the state, a corporation subject to the franchise tax could deduct:

- the cost of the equipment from its taxable capital; or
- 10 percent of the cost of the equipment from its taxable earned surplus.

Deductions would have to be amortized for a period of at least 60 months and cover only the period during which the equipment was used in the state.

Tax credits. A corporation or LLC would be eligible for a limitation on its appraised value for property used in connection with a clean coal project.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

**SUPPORTERS
SAY:**

Clean coal technology stands to revolutionize the energy industry by unlocking an emissions-free source of power. Recognizing this potential, President Bush has proposed a \$1 billion investment by the federal government for a public-private FutureGen clean coal project. CSHB 2201 would provide Texas with a regulatory framework that would position the state strongly to compete for the Department of Energy project. If Texas were chosen for FutureGen, the project could be expected to generate more than 11,000 direct jobs and contribute more than \$1.2 billion to the state economy.

Clean coal represents an important technological advance by which sulfur, mercury, nitrous oxide, and particulate emissions commonly associated with coal-related energy production are greatly reduced. This technology

proposes to minimize the environmental impact of coal, one of the most inexpensive and abundant energy sources on the planet. Clean coal holds immense promise as the country searches for sustainable and readily available energy sources.

Texas is uniquely positioned in its pursuit of the FutureGen project, and CSHB 2201 could put the state over the top in the selection process. Texas is a major coal producer, has an abundance of lignite, and is ideally situated to receive other types of coal on rail from across the nation. Many of the geologic formations most appropriate for sequestration abound throughout the state. Over one-third of the state's energy production comes from coal and the state would immensely benefit from more environmentally sensitive coal production.

CSHB 2201 would include provisions necessary to convince the Department of Energy that Texas is the ideal location for the FutureGen project. A streamlined permitting process would be necessary so that approval of the project could occur on a hastened timeline; otherwise, permitting could take up to five years. Gov. Perry has proposed funding the \$20 million grant in the bill through the Texas Enterprise Fund, since the project would be an important economic development opportunity. In addition, the tax incentives included in the bill would be an important signal that Texas stands decisively in favor of ensuring the success of the FutureGen project.

**OPPONENTS
SAY:**

The so-called "clean coal" initiative is an experimental, expensive, and risky proposition because not enough is known about the potential harm such a project could have on the environment. Although the promise of a zero-emission fossil fuel is enticing, the fact remains that coal is one of the most polluting sources of energy. Clean coal techniques can not alter this basic fact, relying upon injection of carbon dioxide byproduct into underground wells. If injection did not work, byproduct could leak into the atmosphere or contaminate water supplies. At this point, not enough is known about clean coal procedures to justify the significant investments under CSHB 2201.

CSHB 2201 would not specify allowable emissions under a clean coal project, potentially opening the door to environmental contamination if the project were unsuccessful. It is important that the legislation contain benchmark requirements so that any project met the minimum environmental standards expected by Texas citizens. At the very least, the

bill should require that any component eligible under the bill at least meet whatever federal guidelines are established for FutureGen projects.

If Texas went forward with pursuit of a clean coal project, public participation in the permitting of the project should not be weakened, as proposed by CSHB 2201. Contested case hearings are vital to protect the interests of those who would live near a FutureGen site, for otherwise the concerns of local citizens could be ignored. Given all of the uncertainties surrounding clean coal technology and its associated environmental consequences, input into the permitting process by the public and scientific community should be protected.

OTHER
OPPONENTS
SAY:

As currently written, CSHB 2201 could be interpreted to allow streamlined permitting for any project related to FutureGen, no matter how tenuous the link. The bill more explicitly should link this process with components directly tied to federal funding.

NOTES:

The committee substitute added the definition for a component of a FutureGen project.

According to the fiscal note, the bill could cost \$20 million from the Oil Overcharge Account.