

SUBJECT: Allowing the governor to contract with the FutureGen Alliance

COMMITTEE: Energy Resources — favorable, without amendment

VOTE: 7 ayes — Hardcastle, Farabee, Crownover, Chisum, Corte, Crabb, Gonzalez Toureilles

0 nays

WITNESSES: For — Scott Anderson, Environmental Defense; Donna McDonald, Clean Coal Technology Foundation of Texas; Jay Stewart, FutureGen Texas; Joel Trouart, Westmoreland Coal Co.; Michael Williams, Governor's Clean Coal Technology Council; (*Registered, but did not testify*: Bill Hammond, Texas Association of Business; Tom "Smitty" Smith, Public Citizen)

Against — Karen Hadden, Sustainable Energy and Economic Development Coalition

On — Dr. Scott Tinker, Bureau of Economic Geology - University of Texas

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 (CO₂) produced in the process. Two of the finalists for the project are sites near Jewett in East Texas and near Odessa in West Texas, along with two sites in Illinois.

HB 2201 by Hughes, enacted by the 79th Legislature during the 2005 regular session, provided up to \$20 million in state matching funds to the entity managing the FutureGen project, contingent on the selection of a Texas site for the project. The bill required the Texas Commission on Environmental Quality (TCEQ) to implement a streamlined process for issuing permits for a clean coal project. The Texas Water Development Board must allow for timely approval of amendments to the state and regional water plans to meet water demands for a clean coal project. The

bill also granted a franchise tax deduction for equipment used by a corporation in a clean coal project and tax credits on property used in connection with such a project.

HB 149 by Chisum, enacted in 2006 during the third called session of the 79th Legislature, granted to the Texas Railroad Commission (RRC) title to CO₂ produced by a clean coal project. The bill also allowed the commission to sell CO₂ captured by a clean coal project for enhanced oil recovery or another beneficial use, with proceeds accruing to the general revenue fund. HB 149 also authorized the University of Texas (UT) System and Permanent University Fund (PUF) to allow the use of UT System or PUF lands for permanent storage of CO₂ captured by a clean coal project.

DIGEST: CSHB 3109 would allow the governor to contract with a tax-exempt 501(c)(3) organization, including the FutureGen Industrial Alliance, Inc., for implementation of a clean coal project, including the FutureGen project. This provision would expire when the FutureGen Industrial Alliance lost its qualification as a tax exempt organization.

The bill would take effect September 1, 2007.

SUPPORTERS SAY: CSHB 3109 would strengthen Texas' bid to host the FutureGen demonstration project. By allowing the governor to enter into an agreement on behalf of the state with the FutureGen Alliance, CSHB 3109 would implement a key proposal recommended by the FutureGen Alliance that would help ensure that the project was successful in the event that Texas was chosen to host it.

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. Along with Illinois, Texas has been named as one of the two finalists for the project, the location of which will be announced this summer. CSHB 3109 would be one more strong indicator of legislative support for the project.

OPPONENTS SAY: The FutureGen project is a risky and expensive proposition in which the state should not participate. Although the promise of a zero-emission fossil fuel is enticing, not enough is known about clean coal procedures to justify Texas' participation in the project. In order to address its pressing

energy needs, Texas instead should be focusing on energy conservation and renewable energy sources such as wind and solar power.

NOTES: SB 1461 by Seliger, which contains a provision identical to HB 3109, passed the Senate on April 26 and the House, as amended, on May 4.