

- SUBJECT:** Providing incentives for advanced clean energy projects
- COMMITTEE:** Energy Resources — committee substitute recommended
- VOTE:** 6 ayes — Keffer, Crabb, Gonzalez Toureilles, Hardcastle, Rios Ybarra, Strama
- 0 nays
- 3 absent — Crownover, Craddick, Farabee
- SENATE VOTE:** On final passage, April 27 — 31-0
- WITNESSES:** (*On House companion bill, HB 2811:*)  
For — Gary Gibbs, Mike Nasi, Clean Coal Technology Foundation of Texas; Greg Kunkel, Tenaska, Inc.; David Power, Public Citizen;  
(*Registered, but did not testify:* Walt Baum, Association of Electric Companies of Texas; Darrick Eugene, Texas Carbon Capture and Storage Association; Brian Fahrenthold, Spectra Energy; Kinnan Golemon, Shell Oil; Shannon Lucas, Texas Mining and Reclamation Association; Bill Stevens, Texas Alliance of Energy Producers; Jerry Valdez, Greater Houston Partnership; Mance Zachary, Luminant)
- Against — Dick Lavine, Center for Public Policy Priorities; Cyrus Reed, Lone Star Chapter, Sierra Club; (*Registered, but did not testify:* Luke Metzger, Environment Texas)
- BACKGROUND:** In 2007, the 80th Legislature enacted HB 3732 by Hardcastle, which put incentives in place for advanced clean energy projects, including the development of clean coal electricity generation projects, and for projects that take man-made carbon dioxide (CO<sub>2</sub>) and use it for enhanced oil recovery, resulting in permanent underground storage of the CO<sub>2</sub>.
- DIGEST:** CSSB 2111 would amend Health and Safety Code, ch. 382, the Clean Air Act, by changing the definition of an advanced clean energy project to include projects that involved the modification of an existing facility and projects that involved a portion of the emissions stream from a facility. Advanced clean energy projects also would include projects that captured

at least 50 percent of CO<sub>2</sub> in the portion of the emissions stream that was associated with the project, and sequestered that captured CO<sub>2</sub> by geologic storage or other means.

CSSB 2111 also would provide an advanced clean energy project grant and loan program through the Texas Commission on Environmental Quality (TCEQ); a sales tax exemption; extension of the severance tax exemption; limitations on appraised value; Railroad Commission (RRC) jurisdiction over the injection and storage of CO<sub>2</sub>; extension of time-certain permitting to include wastewater permits; and implementation reports.

**TCEQ grant and loan program.** A grant and loan program would be established to encourage the development of advanced clean energy projects. TCEQ would be required to provide grants or other financial incentives for eligible projects to accelerate the commercialization of technologies for the control of air contaminant emissions by electrical power generating facilities, including technologies to capture, transport, and store CO<sub>2</sub> in an environmentally protective manner.

CSSB 2111 would establish an account in the General Revenue Fund to be appropriated only to TCEQ to award clean energy project grants and loans. Grants could be awarded to assist in the funding of the front-end engineering and design of a project. TCEQ could guarantee a loan to projects to be funded from proceeds of bonds.

The bill would not make an appropriation, and the grant program would take effect only if a specific appropriation was provided in the general appropriations act. The loan guarantee would take effect only if a constitutional amendment authorizing the issuance of general obligation bonds was approved by the voters.

**Sales tax exemption.** Components of tangible personal property used in connection with geologic sequestration of CO<sub>2</sub> would be exempted from sales taxes if:

- the components were installed to capture, transport, or inject CO<sub>2</sub> from a man-made source; and
- the CO<sub>2</sub> was geologically sequestered in Texas as part of an enhanced oil recovery (EOR) project or was sequestered in a manner that at least 99 percent of the injected CO<sub>2</sub> would remain sequestered for at least 1,000 years.

**Extension of severance tax.** CSSB 2111 would amend Tax Code, sec. 202.0545, to extend the severance tax exemption for EOR projects using man-made CO<sub>2</sub> from seven years to 30 years.

**Limitations on appraised value by a school district.** CSSB 2111 would amend Tax Code, ch. 313, the Texas Economic Development Act, by amending the definition of a qualified investment to include tangible personal property used in connection with operating an advanced clean energy project. The qualifying time period would be the first five years beginning at least three years after the school district approved the application for limitation on appraised value, unless a shorter time period was agreed to.

**RRC jurisdiction over injection and storage of CO<sub>2</sub>.** The RRC would have jurisdiction over the geologic storage and injection of CO<sub>2</sub>. This jurisdiction would be reviewed by the Legislature based on recommendations made in a joint preliminary report to be prepared by TCEQ and the RRC, in consultation with the Bureau of Economic Geology of the University of Texas at Austin.

**TCEQ report.** CSSB 921 would remove the requirement that the State Energy Conservation Office work with TCEQ to issue a report on September 1, 2012 and September 1, 2016 providing an update on the implementation of the advanced clean energy program. TCEQ would be required to include an assessment of whether the emissions profile should be adjusted to increase or decrease the percentage of CO<sub>2</sub> in the portion of the emissions stream that would be required to be captured.

**Effective date.** 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, 2009.

**SUPPORTERS  
SAY:**

CSSB 2111 would continue the focus of HB 3732, enacted last session to promote and support the development of new advanced clean energy projects and technology.

As the demand for electric power grows and the externalities of carbon-based fuels become more apparent, Texans increasingly have called for more environmentally clean technologies. CSSB 2111 would provide improvements to HB 3732 with a mix of financial and tax incentives to encourage businesses to develop advanced clean energy projects in the

state, which ultimately would result in cleaner air and would spawn the creation of an entirely new generation of energy solutions.

Advanced clean energy projects would ensure that Texas would be positioned to attract the cleanest carbon-fueled power plants in the nation and would position Texas to receive its share of the Department of Energy stimulus funding for these types of plants, currently proposed to be at least \$3.4 billion. Advanced clean energy has the potential to lessen the impact of federal carbon regulation by advancing technology to enable Texas to use the lowest cost and most reliable fuel available.

OPPONENTS  
SAY:

It is not good state policy to subsidize the coal industry when there are cheaper and cleaner energy sources available, such as renewables and energy efficiency. It is important to look at the full life-cycle of a coal plant before determining whether these coal plants actually would be clean. Mining for coal has significant negative environmental effects and transporting coal requires a lot of energy. Also, coal plants require a large amount of water.

The review criteria for determined whether an incentive could be received should be tightened. The criteria could be strengthened every few years in order to continue to improve emission standards as new technology became available. Incentives should be given for going beyond what has been achieved. Also, this bill would not provide any verification or enforcement provisions to ensure that CO<sub>2</sub> actually would be sequestered.

CSSB 2111 would extend Tax Code, ch. 313 school district property value limitations to include tangible personal property used in connection with operating an advanced clean energy project. Incentives such as limitations on appraised values are an unnecessary loss of revenue to the state. School districts are guaranteed a certain amount of property tax revenue from the state. If a school district abates those taxes, the state will have to absorb the cost through the school finance system and make up the difference with general revenue.

NOTES:

SB 1387 by Seliger, which has similar provisions regarding jurisdiction of the RRC over the geologic sequestration of CO<sub>2</sub>, was sent to the governor on May 20.

SJR 39 by Averitt, proposing a constitutional amendment authorizing the issuance of general obligation bonds for clean energy projects, was left

pending in the Senate Finance Committee on April 23, and its companion, HJR 123 by Hancock, died in the Calendars Committee.

Rep. Hardcastle plans to offer floor amendments that would eliminate the bonding program and provide a ratchet provision to increase criteria to qualify for incentives as technology advances.

The RRC estimated administrative costs associated with jurisdiction over the injection of CO<sub>2</sub> into reservoirs. The agency estimated a need for an additional FTE in fiscal 2010 and fiscal 2011, and two FTEs in subsequent years. The estimated costs would be \$126,206 in fiscal 2010, \$91,448 in fiscal 2011, and \$138,769 for subsequent years.