

## **BILL ANALYSIS**

Senate Research Center  
80R9859 CBH-F

S.B. 1460  
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Finance  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

FutureGen is a public-private partnership between the United States Department of Energy and the FutureGen Industrial Alliance (alliance) to build an electric generation facility that is also capable of producing hydrogen and sequestering carbon dioxide. The \$1 billion research project is intended to create the world's first near-zero emissions fossil fuel power plant. The prototype facility will be designed to allow testing of various components and fuel types in all phases of the process, as well as full measurement, monitoring, and verification of carbon dioxide sequestration.

The alliance will build the FutureGen plant on a site selected through an open, competitive site-selection process. A request for proposals to host the site was issued in March 2006, and a total of 12 proposals from seven different states responded. From these, the alliance selected four final sites to consider: Mattoon, Illinois; Tuscola, Illinois; Heart of Brazos near Jewett, Texas; and Odessa, Texas. A final decision is expected by September 2007.

As proposed, S.B. 1460 ensures that FutureGen is awarded to Texas using financial and other legislative incentives. This bill creates a franchise tax credit for the purchaser of electricity generated by FutureGen, amounting to 10 percent of the cost of the electricity that only applies to power generated at the FutureGen site. S.B. 1460 provides that the tax credit is conveyed, assigned, or transferred to another entity so long as proper notice is given to the comptroller of public accounts at least 30 days in advance.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 1 (Section 171.907, Tax Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 171, Tax Code, by adding Subchapter V, as follows:

#### **SUBCHAPTER V. TAX CREDIT FOR PURCHASING POWER FROM CLEAN COAL PROJECT IN THIS STATE**

Sec. 171.901. DEFINITION. Defines "clean coal project."

Sec. 171.902. ENTITLEMENT TO CREDIT. Entitles a taxable entity to a credit in the amount and under the conditions and limitations provided by this subchapter against the tax imposed under this chapter.

Sec. 171.903. QUALIFICATION. Provides that a taxable entity qualifies for a credit under this subchapter if the entity is an electric utility or retail electric provider and if the entity purchases electricity generated by a clean coal project in this state for resale to retail customers.

Sec. 171.904. AMOUNT; LIMITATIONS. (a) Provides that the amount of the credit is equal to 10 percent of the amount paid to the operator of a clean coal project for the electricity described by Section 171.903(2).

(b) Authorizes a taxable entity to claim a credit under this subchapter for an expenditure made during an accounting period only against the tax owed for the corresponding privilege period.

(c) Prohibits a taxable entity from carrying over an expenditure made during a privilege period to a subsequent privilege period.

Sec. 171.905. APPLICATION FOR CREDIT. (a) Requires a taxable entity to apply for a credit under this subchapter on or with the tax report for the period for which the credit is claimed.

(b) Requires the comptroller of public accounts (comptroller) to adopt a form for the application for a credit, and requires a taxable entity to use that form in applying for the credit.

Sec. 171.906. ASSIGNMENT. (a) Authorizes a taxable entity to convey, assign, or transfer a credit under this subchapter to another entity.

(b) Requires a taxable entity that intends to convey, assign, or transfer a credit under this subchapter to deliver notice of that intention to the comptroller at least 30 days before the conveyance, assignment, or transfer occurs.

Sec. 171.907. RULES. Requires the comptroller to adopt rules necessary to implement this subchapter.

Sec. 171.908. EXPIRATION OF SUBCHAPTER. Provides that this subchapter expires on the date the FutureGen Industrial Alliance, Inc., loses its qualification as being exempt from federal taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt entity under Section 501(c)(3) of that code.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: January 1, 2008.