

BILL ANALYSIS

Senate Research Center

S.B. 1468
By: Estes
Natural Resources
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, only clean energy projects or advanced clean energy projects that utilize certain types of fuel are eligible for a credit under the franchise tax. Additionally, present law does not allow a franchise tax credit for a clean energy project or advanced clean energy project to be assigned or carried forward at any period of time.

This bill extends the franchise tax credit for clean energy projects and advanced clean energy projects regardless of the type of fuel utilized, allows a franchise tax credit received by a clean energy project or advanced clean energy project to be assigned to other parties invested in the project, and allows a franchise tax credit received by a clean energy project or advanced clean energy project to be carried forward for any period of time.

As proposed, S.B. 1468 amends current law relating to the qualifications of certain electric generation projects for programs designed to encourage the capture and utilization of carbon dioxide for use in enhanced oil recovery.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the comptroller of public accounts of the State of Texas is modified in SECTION 3 (Section 490.352, Government Code) of this bill.

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 4.

Rulemaking authority is expressly granted to the Railroad Commission of Texas in SECTION 5.

Rulemaking authority is expressly granted to the comptroller of public accounts of the State of Texas in SECTION 6 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 382.003(1-a), Health and Safety Code, to redefine "advanced clean energy project."

SECTION 2. Amends Section 120.001(2), Natural Resources Code, to redefine "clean energy project."

SECTION 3. Amends Subchapter H, Chapter 490, Government Code, Section 490.352, as follows:

Sec. 490.352. FRANCHISE TAX CREDIT FOR CLEAN ENERGY PROJECT. (a)-(c)
Makes no change to these subsections.

(d) Authorizes the entity designated in the certificate of compliance for the project to assign the franchise tax credit to any other entity that has or acquires an interest in the income generated by the project in proportion to their ownership in the project. Prohibits the amount of the franchise tax credit claimed under this section for a report year from exceeding the amount of franchise tax due to the

state from an entity claiming the credit attributable to the clean energy project for that report year. Authorizes any unused credit to be carried forward for up to 20 years.

Deletes existing text providing that the amount of the franchise tax credit for each report year is calculated by determining the amount of franchise tax that is due based on the taxable margin generated by a clean energy project from the generation and sale of power and the sale of any products that are produced by the electric generation facility.

(e) Prohibits the comptroller of public accounts of the State of Texas (comptroller) from issuing a franchise tax credit under this section before September 1, 2018, rather than September 1, 2013, or while a valuation cap agreement under Chapter 313 (Texas Economic Development Act), Tax Code is in effect for the project. Deletes existing text providing that this subsection expires September 2, 2013.

SECTION 4. Requires the Texas Commission on Environmental Quality to adopt rules as necessary to implement Section 382.003, Health and Safety Code, as amended by this Act, not later than January 1, 2014.

SECTION 5. Authorizes the Railroad Commission of Texas to adopt rules as necessary to implement section 120.001(2), Natural Resources Code, as amended by this Act.

SECTION 6. Requires the comptroller to adopt rules under Section 490.352, Government Code, as added by this Act, not later than January 1, 2014.

SECTION 7. Effective date: upon passage or September 1, 2013.