

By: King of Parker, Anchia, Hughes, Lewis,
et al.

H.B. No. 469

Substitute the following for H.B. No. 469:

By: Farabee

C.S.H.B. No. 469

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the establishment of incentives by this state for the
3 implementation of certain projects to capture and sequester in
4 geological formations carbon dioxide that would otherwise be
5 emitted into the atmosphere.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. The heading to Subchapter G, Chapter 490,
8 Government Code, is amended to read as follows:

9 SUBCHAPTER G. CLEAN COAL PROJECTS AND CLEAN ENERGY PROJECTS

10 SECTION 2. Section 490.301, Government Code, is amended to
11 read as follows:

12 Sec. 490.301. DEFINITIONS [~~DEFINITION~~]. In this
13 subchapter:

14 (1) "Clean [,"clean] coal project" has the meaning
15 assigned by Section 5.001, Water Code.

16 (2) "Clean energy project" has the meaning assigned by
17 Section 120.001, Natural Resources Code.

18 SECTION 3. The heading to Section 490.304, Government Code,
19 is amended to read as follows:

20 Sec. 490.304. CONTRACTING AUTHORITY RELATED TO
21 IMPLEMENTING CLEAN COAL PROJECT; FRANCHISE TAX CREDIT.

22 SECTION 4. Subchapter G, Chapter 490, Government Code, is
23 amended by adding Section 490.305 to read as follows:

24 Sec. 490.305. FRANCHISE TAX CREDIT FOR CLEAN ENERGY

1 PROJECT. (a) The comptroller shall adopt rules for issuing to an
2 entity implementing a clean energy project in this state a
3 franchise tax credit.

4 (b) The comptroller shall issue a franchise tax credit to an
5 entity operating a clean energy project after:

6 (1) the Railroad Commission of Texas has issued a
7 certificate of compliance for the project to the entity as provided
8 by Section 120.004, Natural Resources Code;

9 (2) the construction of the project has been
10 completed;

11 (3) the carbon-fueled electric generating facility
12 associated with the project is fully operational; and

13 (4) the Bureau of Economic Geology of The University
14 of Texas at Austin verifies to the comptroller that the
15 carbon-fueled electric generating facility associated with the
16 project is sequestering at least 70 percent of the carbon dioxide
17 resulting from the generation of electricity by the facility.

18 (c) The total amount of the franchise tax credit that may be
19 issued to the entity designated in the certificate of compliance
20 for a clean energy project is equal to the lesser of:

21 (1) 10 percent of the total capital cost of the
22 project, including the cost of designing, engineering, permitting,
23 constructing, and commissioning the project, the cost of procuring
24 land, water, and equipment for the project, and all fees, taxes, and
25 commissions paid and other payments made in connection with the
26 project but excluding the cost of financing the capital cost of the
27 project; or

1 captured for purposes of an enhanced oil recovery project.

2 (3) "Commission" means the Railroad Commission of
3 Texas.

4 (4) "Sequester" means the injection of carbon dioxide
5 into a geological formation in a manner and under conditions that
6 create a reasonable expectation that at least 99 percent of the
7 carbon dioxide injected will remain sequestered from the atmosphere
8 for at least 1,000 years.

9 Sec. 120.002. CERTIFICATION OF CLEAN ENERGY PROJECT. (a)
10 The commission is the authority responsible for certifying whether
11 a project has met the requirements for a clean energy project.

12 (b) An entity may apply to the commission for a
13 certification that a project operated by the entity meets the
14 requirements for a clean energy project. The application must be
15 accompanied by:

16 (1) a certificate from a qualified independent
17 engineer that the project is operational and meets the standards
18 provided by Sections 120.001(2)(A), (B), and (C); and

19 (2) a fee payable to the commission.

20 (c) The amount of the fee prescribed by Subsection (b)(2) is
21 \$50,000 unless the commission by rule determines that a fee in a
22 greater amount is necessary to cover the commission's costs of
23 processing an application.

24 Sec. 120.003. MONITORING OF SEQUESTERED CARBON DIOXIDE. (a)
25 An entity operating a facility seeking a certification from the
26 Railroad Commission of Texas pursuant to Section 120.002 above
27 shall be responsible for conducting a monitoring, measuring, and

1 verification process that demonstrates that the project has
2 complied with the requirements of Section 490.305(b)(4),
3 Government Code. The entity shall contract for the Bureau of
4 Economic Geology of The University of Texas at Austin to: design
5 initial protocols and standards for such a process; review the
6 conduct of the process in order to make any necessary changes in the
7 design of protocols and standards; evaluate the results of the
8 process; provide an evaluation of such results to the Railroad
9 Commission of Texas; and determine whether to transmit to the
10 comptroller the verification described in Section 490.305(b)(4),
11 Government Code.

12 (b) Unless otherwise agreed by the applying entity and the
13 Bureau of Economic Geology of The University of Texas at Austin, the
14 contract required by Subsection (a) of this section shall provide
15 that the entity shall compensate the Bureau of Economic Geology at
16 The University of Texas at Austin by paying eight annual fees, the
17 first of which shall be due at least 24 months prior to the date that
18 the entity first supplies carbon dioxide to an enhanced oil
19 recovery project, according to the following schedule: a fee of
20 \$700,000 in year one; a fee of \$1,300,000 in year two; a fee of
21 \$1,800,000 in year three; a fee of \$1,500,000 in year four; a fee of
22 \$1,200,000 in year five; a fee of \$900,000 in year six; a fee of
23 \$500,000 in year seven; and a fee of \$200,000 in year eight.

24 Sec. 120.004. ISSUANCE OF CERTIFICATE OF COMPLIANCE. (a)
25 On verification that a project meets the requirements for
26 certification as a clean energy project, the commission shall issue
27 a certificate of compliance for the project to the entity operating

1 the project and shall provide a copy of the certificate to the
2 comptroller.

3 (b) The commission may not issue a certificate of compliance
4 for more than three clean energy projects.

5 SECTION 6. Section 202.0545, Tax Code, is amended by adding
6 Subsection (i) to read as follows:

7 (i) Notwithstanding Subsection (a), the producer of oil
8 recovered through an enhanced oil recovery project that uses carbon
9 dioxide that is generated by a clean energy project as defined by
10 Section 120.001, Natural Resources Code, is entitled to a tax rate
11 reduction under this section until the 30th anniversary of the date
12 the comptroller first approves an application for a tax rate
13 reduction under this section if the producer otherwise qualifies
14 for the tax rate reduction.

15 SECTION 7. The comptroller shall adopt rules under Section
16 490.305, Government Code, as added by this Act, not later than
17 December 31, 2010.

18 SECTION 8. This Act takes effect September 1, 2009.