HOUSE RESEARCH ORGANIZATION bill analysis | 5/4/2013 | HB 2446 Crownover (CSHB 2446 by Dale)

SUBJECT: Clean energy tax credits for $CO_2$ capture

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 10 ayes — Keffer, Crownover, Canales, Craddick, Dale, P. King, Lozano, Paddie, R. Sheffield, Wu

0 nays

1 absent — Burnam

WITNESSES: For — Gary Gibbs, American Electric Power Company; Charles McConnell; Mike Nasi, Clean Carbon Technology Foundation of Texas; Mark Walker, Clean Carbon Technology Foundation of Texas (*Registered but did not testify*: Walt Baum, AECT; Grace Chimene, Texas League of Woman Voters; Lisa McCurley, Sargas Texas; Stephen Minick, Texas Association of Business; John Orr, Exelon Corporation; Trey Powers, Texas Mining and Reclamation Association; Tom Sellers, ConocoPhillips; Chris Shields, Tenaska)

Against — Tom “Smitty” Smith, Public Citizen (*Registered, but did not testify*: Rita Beving; Karen Hadden, SEED Coalition; Dick Lavine, Center for Public Policy Priorities)

On — Laura Miller, Summit Power; Cyrus Reed, Lone Star Chapter - Sierra Club

BACKGROUND: Natural Resources Code, sec. 120.001 defines a clean energy project as a project to construct a coal-fueled or petroleum coke-fueled electric generating facility, including a facility in which the fuel is gasified before combustion, that will:

- have a capacity of at least 200 megawatts;
- meet the emissions Health and Safety Code profile for an advanced clean energy project;
- capture at least 70 percent of the carbon dioxide ($CO_2$) resulting from generated electricity;
- be capable of permanently sequestering $CO_2$ captured in a geological formation, and

- be able to supply captured carbon dioxide for an enhanced oil recovery project.

DIGEST: CSHB 2446 would transfer Government Code, ch. 490, subch. H to Tax Code, ch. 171 with the designation subch. L.

The bill would authorize a franchise tax credit for an entity that implemented a clean energy project and received a certificate of compliance from the Railroad Commission of Texas (RRC).

The total amount a taxable entity could claim, including any carryforward credit, could not exceed the amount of franchise tax due for the report after any applicable tax credits. If the entity was eligible to claim credits exceeding that limitation, it could carry unused credits forward for up to 20 consecutive reports. The entity designated in a clean energy project certificate of compliance could assign the credit to another entity to claim as a credit against its franchise tax.

The comptroller could not issue a credit before the later of September 1, 2018 or the expiration of the Tax Code's Economic Development Act (ch. 313) provisions for a clean energy project for which the credit was issued.

The bill would amend the Health and Safety Code's definition of an "advanced clean energy project" to include specifying natural gas among the types of fuel that could be used to generate electricity and setting standards for the annual sulfur dioxide emissions rate from an associated facility designed for the use of combustion turbines that burn natural gas.

CSHB 2446 would amend the Natural Resources Code's definition of a "clean energy project" to include a natural gas-fueled facility that met the current standards in sec. 120.001.

The bill would allow an entity to apply for the RRC's certification of a clean energy project on or after September 1, 2018. Only one of an entity's three allowable clean energy projects could be a natural gas project.

This 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, 2013.

SUPPORTERS CSHB 2446 would provide the proper incentives to encourage $CO_2$

SAY: capture from natural gas-fueled electricity plants, which would encourage enhanced oil recovery (EOR) using $CO_2$, help to meet stricter Environmental Protection Agency (EPA) standards and encourage capital investment and electricity generation to meet the growing demand of Texas' population.

The dearth of anthropogenic (man-made) $CO_2$ is the primary barrier to expanding EOR. CSHB 2446 would provide the proper incentives for the construction of natural gas electricity plants and the retrofit of existing ones that would capture $CO_2$. It is estimated that as many as 30 billion barrels of petroleum could be recovered using EOR technology with sufficient $CO_2$.

Capturing $CO_2$ for use in EOR would allow $CO_2$ to be injected in geologic formations rather than being released into the atmosphere, which would help Texas prepare to meet potential EPA clean air guidelines.

The 81st Legislature in 2009 enacted HB 469 by P. King to incentivize carbon sequestration for coal-burning electricity plants, which led to significant investment in Texas, electricity production, and $CO_2$ sequestration. In recent years, lower natural gas prices have made construction of gas-powered electricity plants more feasible, and CSHB 2446 would provide the same incentives to pave the way for private companies to invest in $CO_2$-capturing electricity plants powered with natural gas.

To address the concerns of critics, the author intends to offer a floor amendment that would provide stringent nitrogen oxide emissions standards for natural gas-powered electricity plants and ensure that gas and coal-powered electricity plants continued to operate at the same elevated mercury emissions standard.

OPPONENTS SAY: CSHB 2446's language regarding sulfur dioxide and nitrogen oxide emissions should be stronger. The bill would not require natural gas plants to meet the lowest achievable standards using today's technology.

NOTES: The author intends to offer a floor amendment that would revise nitrogen oxide emissions standards for natural gas-powered electricity plants and specify that gas and coal-powered electricity plants would continue to operate at the same elevated mercury emissions standard.

According to the fiscal note, CSHB 2446 would result in a negative impact to general revenue related funds of $4 million in fiscal 2017, rising to about $9 million annually by fiscal 2019.