



Sub. H.B. 440

126th General Assembly
(As Passed by the General Assembly)

Reps. Stewart, J., Martin, McGregor, J., Ujvagi, Yuko, Reinhard, Seitz, Uecker, Blasdel, Evans, C., Garrison, Hood, Reidelbach, Hagan, Brinkman, Blessing, Sayre, Bulp, Collier, Aslanides, Brown, Cassell, Chandler, Combs, DeBose, Domenick, Fende, Harwood, Hughes, Law, Otterman, Raussen, Schaffer, Strahorn, Taylor, Trakas, Wagner, Wolpert, Barrett, Boccieri, Book, Buehrer, Calvert, Carano, Carmichael, Coley, Core, Daniels, Distel, Dolan, Driehaus, Evans, D., Faber, Flowers, Gibbs, Gilb, Hartnett, Healy, Key, Latta, Mason, McGregor, R., Miller, Mitchell, Oelslager, Patton, S., Patton, T., Perry, Peterson, Raga, Schlichter, Setzer, Smith, G., Stewart, D., Wagoner, Webster, White, Widener, Willamowski, Williams, Woodard, Yates, Beatty

Sens. Carey, Spada, Hottinger, Niehaus, Hagan, Fedor, Mumper, Amstutz, Armbruster, Dann, Fingerhut, Harris, Kearney, Miller, R., Padgett, Roberts, Schuring, Schuler, Wilson, Zurz, Coughlin, Cates, Goodman

Effective date: *

ACT SUMMARY

- Expands the definition of "air quality facility" in the Air Quality Development Authority Law, includes in the definition any property that is part of the FutureGen project or related to the siting of that project, and defines "FutureGen project."
- States that the General Assembly's intent in amending the definition is to secure the United States Department of Energy's FutureGen program.
- Creates the FutureGen Initiative Fund consisting of money appropriated to it and money from private donations, grants, gifts, bequests, and other

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

sources, requires money in the Fund to be used to make grants for the drilling of a test well to assist the state's efforts to secure the FutureGen initiative, and makes an appropriation for that purpose.

CONTENT AND OPERATION

Definition of "air quality facility"

The Air Quality Development Authority Law defines "air quality facility" to include specified types of facilities and properties. One of the specified types of property is any property or portion of it used for the collection, storage, treatment, utilization, processing, or final disposal of solid waste resulting from any method, process, device, structure, or equipment that removes, reduces, prevents, contains, alters, conveys, stores, disperses, or disposes of air contaminants or that renders less noxious or reduces the concentration of air contaminants in the ambient air. The act adds any property or portion of it used for the collection, storage, treatment, utilization, processing, or final disposal of a by-product resulting from any method, process, device, structure, or equipment that removes, reduces, prevents, contains, alters, conveys, stores, disperses, or disposes of air contaminants or that renders less noxious or reduces the concentration of air contaminants in the ambient air. (Sec. 3706.01(G)(4).)

The act also adds to the definition of "air quality facility" all of the following:

(1) Any coal research and development project conducted under the Coal Research and Development Law;

(2) As determined by the Director of the Ohio Coal Development Office, any property or portion of it that is used for the collection, storage, treatment, utilization, processing, or final disposal of a by-product resulting from a coal research and development project as defined in the Coal Research and Development Law or from the use of clean coal technology, excluding any property or portion of it that is used primarily for other subsequent commercial purposes;¹ and

¹ *"Coal research and development project" means any coal research and development, or any coal research and development facility, including undivided or other interests, acquired or to be acquired, constructed or to be constructed, or operating or to be operated by a person doing business in this state or by an educational or scientific institution located in this state with all or a part of the cost of the project being paid from a loan or grant from the Ohio Coal Development Office or a loan guaranteed by the Office under [the Coal Research and Development Law], including all buildings and*

(3) Any property or portion of it that is part of the FutureGen project of the United States Department of Energy or related to the siting of the FutureGen project. (Sec. 3706.01(G)(6) to (8).)

The act defines "FutureGen project" to mean the buildings, equipment, and real property and functionally related buildings, equipment, and real property designated by the United States Department of Energy and the FutureGen Industrial Alliance, Inc., as the coal-fueled, zero-emissions power plant designed to prove the technical and economic feasibility of producing electricity and hydrogen from coal and nearly eliminating carbon dioxide emissions through capture and permanent storage (sec. 3706.01(U)).

Continuing law states that "air quality facility" also includes any property or system to be used in whole or in part for any of the purposes specifically delineated in the definition whether another purpose is also served. The act extends this provision to the projects and properties that it adds to the definition. (Sec. 3706.01(G).)

Under the Air Quality Development Authority Law, the Ohio Air Quality Development Authority is authorized to acquire, construct, and operate air quality projects, which by definition are air quality facilities; to cause such air quality projects to be operated under a lease or other agreement with any person or governmental agency; to make loans and grants to governmental agencies and persons for the acquisition or construction of air quality facilities; and to issue air quality revenue bonds to pay the costs of those projects (sec. 3706.03, not in the act). Thus, by expanding the definition of "air quality facility," the act makes the types of projects and properties that it adds to the definition eligible for construction and operation by, or funding from, the Authority.

Intent of definition revision

The act states that in amending the definition of "air quality facility," the General Assembly declares its intent to secure the United States Department of Energy's FutureGen program, the first zero-emissions coal power plant in the world, for the citizens of the state of Ohio for all of the following reasons:

(1) Ohio meets the essential requirements for the FutureGen project because the state has deep geological formations, including depleted oil and gas wells and unmineable coal seams, that are suitable and available to sequester

facilities that the Office determines necessary for the operation of the project, together with all property, rights, easements, and interests that may be required for the operation of the project (sec. 1555.01(C), not in the act).



carbon dioxide that will be produced in the operation of the FutureGen plant; the coal feedstock that is essential for the future operation of the FutureGen plant because the state has the seventh largest coal reserves in the country, which are expected to last almost 250 years at present consumption levels; and markets for the products produced from the operation of the FutureGen plant. The state will use the electricity produced from the plant because the state is the country's fourth largest industrial consumer of energy. In addition, the state will use the hydrogen produced from FutureGen because the state is the home of leaders in fuel cell research and development.

(2) Ohio is nationally recognized in the area of clean coal research and development and implementation of new clean coal technologies and will contribute that expertise to the program. In addition, the state's long-term vision regarding and commitment to clean coal technology are evidenced by the creation of the Ohio Coal Development Office in 1984 and the investment of over \$173 million in coal research since 1984.

(3) The Ohio Coal Research Consortium is a group of six internationally recognized universities that conduct research in clean coal technologies and will contribute that expertise to the program. The universities are Case Western Reserve University, Ohio University, The Ohio State University, the University of Akron, the University of Cincinnati, and the University of Dayton.

(4) Ohio has the following infrastructure that is necessary to support the FutureGen program: an existing permitting process for the timely siting and permitting of the FutureGen plant; an adequate supply of water for the operation of the plant; water, rail, and highway transportation systems for shipping coal to the plant; access to electric transmission lines for the distribution of electricity from the plant; and other infrastructure that will be beneficial to the program.

(5) Ohio is the home of leading researchers and research facilities that will assist in the program.

(6) The program will create in this state between 150 and 250 new jobs per year over a seven-year period. In addition, construction of the FutureGen plant will create approximately 1,100 jobs in this state over a three-year period.

(7) The program will provide a new zero-emissions baseload power plant for the citizens of Ohio.

(8) The program will enhance the state's national and international leadership in clean coal technologies.

(9) The program will build on the state's investment in the fuel cell industry. (Section 3.)

FutureGen Initiative Fund

The act creates the FutureGen Initiative Fund consisting of money appropriated to it and money from private donations, grants, gifts, bequests, and other sources and requires money in the Fund to be used to make grants for the drilling of a test well to assist the state's efforts to secure the FutureGen Initiative pursuant to the act (sec. 3706.101). The act appropriates \$1.25 million to be used to make grants for the drilling of a test well to assist the state's efforts to secure the FutureGen Initiative (Section 4).

HISTORY

ACTION	DATE
Introduced	12-06-05
Reported, H. Economic Development & Environment	02-09-06
Passed House (95-0)	02-14-06
Reported, S. Environment & Natural Resources	03-23-06
Passed Senate (33-0)	03-28-06
House concurred in Senate amendments (95-1)	03-29-06

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