

Date: March 27, 2023

To: Chairman Goldman and the Members of the House Committee on Energy Resources.

CC: Rep. Eddie Morales, Rep. Rafael Anchía, Rep. Charles "Doc" Anderson, Rep. Ernest Bailes, Rep. Tom Craddick, Rep. Drew Darby, Rep. Stan Gerdes, Rep. R. D. "Bobby" Guerra, Rep. Shawn Thierry, Rep. Erin Zwiener
Via hand delivery and by email.

From: Adrian Shelley, Public Citizen, ashelley@citizen.org, 512-477-1155

Re: HB 1158 – Opposition Testimony by Public Citizen

Dear Chairman Goldman and Members of the Committee:

Public Citizen appreciates the opportunity to testify against HB 1158 by Representative Drew Darby, relating to advanced clean energy projects and certain other projects that reduce or eliminate carbon dioxide emissions.

HB 1158 continues and broadens the “Advanced clean energy project” found in the Texas Clean Air Act (P.1, L.7-11). There may be some opportunities for state investment in carbon capture that we would support, but we do not support the use of funds intended to reduce air pollution for public health benefit.

Increasing the carbon capture and sequestration requirement to 90 percent in the Texas Clean Air Act is good—95 percent would be better.

The definition of “advanced clean energy project” in the Texas Clean Air Act¹ includes projects that capture and sequester at least 50 percent of the carbon dioxide from the facility. HB 1158 increases this to 90 percent (P.3, L.5). We support increasing this requirement but suggest 95 percent is an achievable target.

TERP should not be used for CCS projects.

We do not support diverting funds from the public health focus of the Texas Emissions Reduction Plan for carbon capture projects.

The Texas Emission Reduction Plan (TERP) is a voluntary air pollution program run by the Texas Commission on Environmental Quality. TERP is intended to reduce certain pollutants including ozone—for which many Texas cities do not meet federal standards—and particulate matter, perhaps the deadliest pollutant in Texas. TERP’s most successful program is the Diesel Emissions Reduction Incentive Program, which has reduced 189,151 tons of nitrogen oxides at an average cost per ton of \$6,304.²

The New Technology Implementation Grant Program was added to TERP in 2010. Since then, the NTIG Program has awarded \$16,296,259 across 10 projects, including.³

¹ Health & Safety Code Chapter 382.

² “Texas Emissions Reduction Plan Biennial Report to the 88th Texas Legislature” TCEQ Air Grants Division (Dec. 2022) available at <https://www.tceq.texas.gov/downloads/air-quality/terp/publications/sfr/79-22.pdf>.

³ *Id.* at pdf p. 21.

- six renewable energy electricity storage projects,
- three projects to reduce emissions from stationary sources, and
- one project to reduce emissions from natural gas storage and compression.

TERP is used to reduce air pollutants that have immediate health impacts, including:

- Ozone pollution, for which nonattainment of federal standards costs industry billions of dollars in regulatory costs; and
- Particulate matter, which kills at least 17,000 Texans annually.⁴

Carbon dioxide (CO₂) pollution is not part of TERP. We do not support diverting funds from this public health program to carbon capture and storage projects.

Keep the requirement to sequester 99 percent of carbon dioxide for 1,000 years.

The Tax Code includes a Sales and Use Tax exemption for carbon sequestration projects that meet a standard of a 99 percent sequestration for 1,000 years.⁵

We do not support HB 1158 removing this requirement. The bill strikes the 99 percent for 1,000 years requirement and replaces it with simply “preventing carbon dioxide from entering the atmosphere.” (P.5, L.4-9)

This seems to apply to any carbon capture project at all, no matter how effective it is. We do not support this and suggest leaving the 99 percent sequestration for 1,000 year requirement. We also think that requirement should be applied to other state programs that support carbon capture and storage projects.

⁴ Vohra K, Vodonos A, Schwartz J, Marais EA, Sulprizio MP, Mickley LJ. “Global mortality from outdoor fine particle pollution generated by fossil fuel combustion: Results from GEOS-Chem.” *Environ Res.* 2021 Apr;195:110754. <https://doi.org/10.1016/j.envres.2021.110754>. Epub 2021 Feb 9. PMID: 33577774, available at <https://pubmed.ncbi.nlm.nih.gov/33577774/>.

⁵ Tax Code Sec. 151.334.