

2021 Regular Session

HOUSE BILL NO. 572

BY REPRESENTATIVE WHITE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CONSERVATION: Provides relative to the Carbon Dioxide Geologic Storage Trust Fund

1 AN ACT

2 To amend and reenact R.S. 30:23(A), (B)(introductory paragraph), (1), (2), and (4), (C), and  
3 (D)(1) and R.S. 30:1110(C)(3) and (E)(5) and to enact R.S. 30:1110(F)(7), relative  
4 to the underground storage of hydrogen, nitrogen, ammonia, compressed air, or  
5 noble gases in underground reservoirs and salt domes; to include hydrogen, nitrogen,  
6 ammonia, compressed air, and noble gases as substances that can be stored in  
7 underground reservoirs and salt domes; to provide relative to the Carbon Dioxide  
8 Geologic Storage Trust Fund; to provide for certain fee amounts; to authorize  
9 contracts for professional service; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 30:23(A), (B)(introductory paragraph), (1), (2), and (4), (C), and  
12 (D)(1) and R.S. 30:1110(C)(3) and (E)(5) are hereby amended and reenacted and R.S.  
13 30:1110(F)(7) is hereby enacted to read as follows:

14 §23. Underground storage of liquid or gaseous hydrocarbons or ~~both or both,~~ carbon  
15 dioxide, hydrogen, nitrogen, ammonia, compressed air, or noble gases not  
16 otherwise prohibited by law

17 A. The underground storage of liquid or gaseous hydrocarbons, ~~or~~ carbon  
18 dioxide, hydrogen, nitrogen, ammonia, compressed air, or noble gases not otherwise  
19 prohibited by law will permit the accumulation of large quantities of such liquid or

1           gaseous hydrocarbons, ~~carbon dioxide, hydrogen, nitrogen, ammonia, compressed~~  
2           air, or noble gases not otherwise prohibited by law for orderly withdrawal in times  
3           of greater demand, it being deemed in the public interest to have a supply of such  
4           ~~hydrocarbons~~ substances readily available for consumption. The underground  
5           storage of carbon dioxide which provides more uniform withdrawal from various gas  
6           or oil fields is in the public interest and for a public purpose.

7           B. Except as to liquid or gas hydrocarbon, ~~storage or~~ carbon dioxide,  
8           hydrogen, nitrogen, ammonia, compressed air, or noble gas storage projects begun  
9           before the effective date of this Section, and prior to authorizing the use of any salt  
10          dome cavity for the storage of liquid or gaseous hydrocarbons or carbon dioxide, the  
11          assistant secretary, after public hearing pursuant to the provisions of R.S. 30:6, shall  
12          have found all of the following:

13                 (1) That the area of the salt dome sought to be used for the injection, storage,  
14                 and withdrawal of liquid or gaseous hydrocarbons, ~~or carbon dioxide,~~ hydrogen,  
15                 nitrogen, ammonia, compressed air, or noble gases not otherwise prohibited by law  
16                 is suitable and feasible for such use.

17                 (2) That the use of the salt dome cavity for the storage of liquid or gaseous  
18                 hydrocarbons, ~~or carbon dioxide,~~ hydrogen, nitrogen, ammonia, compressed air, or  
19                 noble gases not otherwise prohibited by law will not contaminate other formations  
20                 containing fresh water, oil, gas, or other commercial mineral deposits, except salt.

21                                 \*       \*       \*

22                 (4) That temporary loss of jobs caused by the storage of liquid or gaseous  
23                 hydrocarbons, ~~or carbon dioxide,~~ hydrogen, nitrogen, ammonia, compressed air, or  
24                 noble gases not otherwise prohibited by law will be corrected by compensation,  
25                 finding of new employment, or other provisions made for displaced labor.

26                                 \*       \*       \*

27           C. After having made the findings required in Subsection B of this Section,  
28           the commissioner shall transmit a copy of the application, together with his findings,  
29           to the natural resources committees of the Senate and House of Representatives.

1           These committees, meeting jointly, shall consider the facts surrounding the  
2           application and the findings of the commissioner and may hold public hearings  
3           thereon. Based upon its deliberations, the committees, acting jointly, may submit a  
4           report and recommendations to the commissioner within fifteen days after receipt of  
5           the application. After consideration of any recommendations so made, the  
6           commissioner may issue all necessary orders providing that liquid or gaseous  
7           hydrocarbons, ~~or carbon dioxide,~~ hydrogen, nitrogen, ammonia, compressed air, or  
8           noble gases not otherwise prohibited by law, previously reduced to possession and  
9           which are subsequently injected and stored in a salt dome cavity, shall at all times  
10          be deemed the property of the injector, his successors, or assigns, subject to the  
11          provisions of any contract between the owner or owners of the solid mineral or land  
12          overlying the area affected as determined by the commissioner of conservation; and  
13          providing further that in no event shall the owner of the surface of the lands or water  
14          bottoms or of any mineral interest under or adjacent to which such salt dome cavity  
15          may lie, or any other person, be entitled to any right or claim in or to such liquid or  
16          gaseous hydrocarbons, ~~or carbon dioxide,~~ hydrogen, nitrogen, ammonia, compressed  
17          air, or noble gases not otherwise prohibited by law stored therein, including the right  
18          to produce, take, reduce to possession, waste, or otherwise interfere with or exercise  
19          any control thereover. The commissioner shall issue necessary orders, rules, and  
20          regulations for the protection from pollution of any salt dome cavity used for storage  
21          of liquid or gaseous hydrocarbons or carbon dioxide, or any adjacent strata or  
22          formation; and such rules and regulations as may be necessary pertaining to surface  
23          storage facilities for the protection of the environment, drilling into any salt dome  
24          for the creation of cavities, and equipping of same for the injection, storage, and  
25          withdrawal of liquid or gaseous hydrocarbons, ~~or carbon dioxide,~~ hydrogen,  
26          nitrogen, ammonia, compressed air, or noble gases not otherwise prohibited by law.  
27          Subject to the exception provided in Subsection B of this Section, the commissioner  
28          shall not allow the use of any salt dome in the state of Louisiana for the purposes  
29          mentioned herein until such time as he has prepared and promulgated the regulations

1 required herein according to the Louisiana Administrative Procedure Act, ~~R.S.49:951~~  
 2 R.S. 49:950 et seq. In addition, the commissioner shall issue necessary orders, rules,  
 3 and regulations for the protection of the rights of owners of parts of the salt dome  
 4 which are adjacent to any part thereof sought to be used for the storage of liquid or  
 5 gaseous ~~hydrocarbon~~ hydrocarbons, or carbon dioxide, hydrogen, nitrogen,  
 6 ammonia, compressed air, or noble gases not otherwise prohibited storage.

7 D.(1) In furtherance of the development of comprehensive energy policy for  
 8 the state, the secretary of the Department of Natural Resources shall determine the  
 9 feasibility of initiating projects, by the state or by contract on behalf of the state, for  
 10 the storage of emergency supplies of state-owned oil and gas, ~~or carbon dioxide,~~  
 11 hydrogen, nitrogen, ammonia, compressed air, or noble gas not otherwise prohibited  
 12 by law. Such determination shall include consideration of the techniques, costs,  
 13 quantities of oil and gas, ~~or carbon dioxide, hydrogen, nitrogen, ammonia,~~  
 14 compressed air, or noble gas not otherwise prohibited by law available for such  
 15 purpose and priorities for allocation in time of emergency.

16 \* \* \*

17 §1110. Carbon Dioxide Geologic Storage Trust Fund

18 \* \* \*

19 C. The commissioner is hereby authorized to levy on storage operators the  
 20 following fees or costs for the purpose of funding the fund:

21 \* \* \*

22 (3) An application fee payable to the office of conservation, in a form and  
 23 schedule prescribed by the office of conservation, by industries under the jurisdiction  
 24 of the office of conservation. The commissioner may, by rule in accordance with the  
 25 Administrative Procedure Act, ~~increase any application fee to an amount not in~~  
 26 ~~excess of eight and one-half percent above the amount charged for the fee on July~~  
 27 ~~1, 2010.~~ charge a fee that shall not exceed the actual or anticipated cost to the state  
 28 for the review of the permit or application.

29 \* \* \*

1 E. The fund shall be used solely for the following purposes:

2 \* \* \*

3 (5)(a) Administration of this Chapter by the commissioner in an amount not  
4 to exceed seven hundred fifty thousand dollars each fiscal year.

5 (b) The Oil and Gas Regulatory Fund created by R.S. 30:21 may be used for  
6 the administration of this Chapter as authorized by this Paragraph until June 30,  
7 2014. Any such payments from the Oil and Gas Regulatory Fund shall be repaid  
8 from the Carbon Dioxide Storage Trust Fund by June 30, 2018.

9 \* \* \*

10 F. The commissioner is authorized to enter into agreements and contracts  
11 and to expend money in the fund for the following purposes:

12 \* \* \*

13 (7) To contract for professional services to assist with permit or application  
14 reviews.

15 \* \* \*

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 572 Original

2021 Regular Session

White

**Abstract:** Adds hydrogen, nitrogen, ammonia, compressed air, and noble gases to the list of substances that can be stored in underground reservoirs and salt domes and changes the amount of certain fees the commissioner is authorized to levy.

Present law provides for the storage of natural gas, liquid hydrocarbons, and carbon dioxide in underground reservoirs and salt domes. Proposed law retains present law but also provides for the storage of hydrogen, nitrogen, ammonia, compressed air, or noble gases not otherwise prohibited by law in such reservoirs and salt domes.

Present law provides that prior to using a salt dome as storage of liquid or gas hydrocarbons, or carbon dioxide, the assistant secretary must have a hearing and find that such use is feasible; that the storage will not contaminate other formations; the storage will not endanger lives or property and is environmentally compatible with existing dome uses; and that temporary loss of jobs caused by the storage will be corrected by compensation, new employment, or other provisions. Proposed law retains present law but adds to the existing list: hydrocarbon, hydrogen, nitrogen, ammonia, compressed air, or noble gas storage.

Present law provides that such findings along with the application for such use of a salt dome must be transmitted to the natural resources committees of the House and Senate, which may

meet jointly to make recommendations to the commissioner. Proposed law retains present law and adds the storage of hydrogen, nitrogen, ammonia, compressed air, or noble gases not otherwise prohibited by law.

Present law further provides that after receipt of such recommendations, if any, the commissioner is authorized to issue orders to ensure that liquid or gaseous hydrocarbons or carbon dioxide reduced to possession and then injected into a salt dome remains the property of the injector, not the surface or mineral rights owner, and to issue orders to protect the reservoir. Proposed law retains present law and adds hydrogen, nitrogen, ammonia, compressed air, or noble gases not otherwise prohibited by law.

Present law requires the secretary of the Dept. of Natural Resources determine the feasibility of projects for the emergency storage of state-owned oil and gas or carbon dioxide. Proposed law retains present law and adds hydrogen, nitrogen, ammonia, compressed air, or noble gases not otherwise prohibited by law.

Present law establishes the Carbon Dioxide Geologic Storage Trust Fund which is funded by fees, penalties, bond forfeitures, private contributions, interest on deposited funds, civil penalties, costs recovered from responsible parties, grants, donations, and site-specific trust accounts.

Present law authorizes the commissioner to levy per tonnage of carbon dioxide stored fee on operators up to a maximum of \$5,000,000. The rate of collecting the fee shall be determined by the commissioner based on the formula  $F \times 144 < M$ , where "F" is the per unit fee, "144" is the minimum number of months over which the fee is collected, and "M" is the maximum payment of \$5,000,000.

Present law provides that the commissioner shall suspend the collection of the fee once the storage operator's balance in the fund equals \$5,000,000 and will resume once the balance falls below that amount.

Present law provides for a regulatory fee payable to the commissioner in the form and schedule set by the commissioner not to exceed \$50,000 for FY 2010-2011 and thereafter.

Proposed law retains present law.

Present law provides for an application fee in the form and schedule set by the commissioner not to exceed 8-½% above the amount charged on July 1, 2010.

Proposed law retains present law in part and removes the cap of 8 ½% in which the fee can be increased and limits the fee to an amount equal to or less than the actual or anticipated cost to the state for the review of the permit or application.

Present law provides for the following uses of the Fund:

- (1) Operational and long-term inspecting, testing, and monitoring of the site, including remaining surface facilities and wells.
- (2) Remediation of mechanical problems associated with remaining wells and surface infrastructure.
- (3) Repairing mechanical leaks at the site.
- (4) Plugging and abandoning remaining wells or conversion for use as observation wells.
- (5)
  - (a) Administration of this Chapter by the commissioner in an amount not to exceed seven hundred fifty thousand dollars each fiscal year.
  - (b) The Oil and Gas Regulatory Fund created by R.S. 30:21 may be used for the administration of this Chapter as authorized by this Paragraph until June 30, 2014. Any such payments from the Oil and Gas Regulatory Fund shall be repaid from the Carbon Dioxide Storage Trust Fund by June 30, 2018.
- (6) Payment of fees and costs associated with the administration of the fund or site-specific accounts.

- (7) Payment of fees and costs associated with the acquisition of appropriate insurance for future storage facility liability if it should become available, either commercially or through government funding.

Proposed law retains present law in part and removes authorization for the commissioner to use up to \$750,000 per year in the administration of this Chapter. Further removes the authority of the commissioner to use the Oil and Gas Regulatory Fund for the administration of this Chapter.

Present law authorizes the commissioner to enter into agreements and contracts for the following purposes:

- (1) To fund research and development in connection with carbon sequestration technology and methods.
- (2) To monitor any remaining surface facilities and wells.
- (3) To remediate mechanical problems associated with remaining wells or site infrastructure.
- (4) To repair mechanical leaks at the storage facility.
- (5) To contract with a private legal entity pursuant to present law.
- (6) To plug and abandon remaining wells except for those wells to be used as observation wells.

Proposed law retains present law and adds authorization for the commissioner to contract for professional services to assist with permit or application reviews.

(Amends R.S. 30:23(A), (B)(intro. para.), (1), (2), and (4), (C), and (D)(1) and R.S. 30:1110(C)(3) and (E)(5); Adds R.S. 30:1110(F)(7))