

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

4 A. The underground storage of liquid or gaseous hydrocarbons, ~~or carbon~~
5 dioxide, hydrogen, nitrogen, ammonia, compressed air, or noble gases not otherwise
6 prohibited by law will permit the accumulation of large quantities of such liquid or
7 gaseous hydrocarbons, carbon dioxide, hydrogen, nitrogen, ammonia, compressed
8 air, or noble gases not otherwise prohibited by law for orderly withdrawal in times
9 of greater demand, it being deemed in the public interest to have a supply of such
10 ~~hydrocarbons~~ substances readily available for consumption. The underground
11 storage of carbon dioxide which provides more uniform withdrawal from various gas
12 or oil fields is in the public interest and for a public purpose.

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

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

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

27 * * *

28 (4) That temporary loss of jobs caused by the storage of liquid or gaseous
29 hydrocarbons, ~~or carbon dioxide,~~ hydrogen, nitrogen, ammonia, compressed air, or

1 noble gases not otherwise prohibited by law will be corrected by compensation,
2 finding of new employment, or other provisions made for displaced labor.

3 * * *

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

1 to surface storage facilities for the protection of the environment, drilling into any
 2 salt dome for the creation of cavities, and equipping of same for the injection,
 3 storage, and withdrawal of liquid or gaseous hydrocarbons, ~~or carbon dioxide,~~
 4 hydrogen, nitrogen, ammonia, compressed air, or noble gases not otherwise
 5 prohibited by law. Subject to the exception provided in Subsection B of this Section,
 6 the commissioner shall not allow the use of any salt dome in the state of Louisiana
 7 for the purposes mentioned herein until such time as he has prepared and
 8 promulgated the regulations required herein according to the Louisiana
 9 Administrative Procedure Act, ~~R.S.49:951~~ R.S. 49:950 et seq. In addition, the
 10 commissioner shall issue necessary orders, rules, and regulations for the protection
 11 of the rights of owners of parts of the salt dome which are adjacent to any part
 12 thereof sought to be used for the storage of liquid or gaseous ~~hydrocarbon~~
 13 hydrocarbons, or carbon dioxide, hydrogen, nitrogen, ammonia, compressed air, or
 14 noble gases not otherwise prohibited by law ~~storage~~.

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

* * *

25 §1103. Definitions

26 Unless the context otherwise requires, the words defined in this Section have
 27 the following meaning when found in this Chapter:

* * *

1 (3) "Confidential business information" means any information accepted or
2 determined by the United States Environmental Protection Agency to be subject to
3 confidential treatment.

4 ~~(3)~~(4) "Gas" has the same meaning as provided in R.S. 30:3.

5 ~~(4)~~(5) "Geologic storage" means the long-or short-term underground storage
6 of carbon dioxide in a reservoir.

7 ~~(5)~~(6) "Interested person" means any person who presently owns an interest
8 within the area of, or proximate to, the tracts directly affected by the storage facility.

9 ~~(6)~~(7) "Office" means the office of conservation, Department of Natural
10 Resources.

11 ~~(7)~~(8) "Oil" has the same meaning as provided in R.S. 30:3.

12 ~~(8)~~(9) "Person" means any natural person, corporation, association,
13 partnership, limited liability company, or other entity, receiver, tutor, curator,
14 executor, administrator, fiduciary, or representative of any kind.

15 ~~(9)~~(10) "Reservoir" means that portion of any underground geologic stratum,
16 formation, aquifer, or cavity or void, whether natural or artificially created, including
17 oil and gas reservoirs, salt domes or other saline formations, and coal and coalbed
18 methane seams, suitable for or capable of being made suitable for the injection and
19 storage of carbon dioxide therein.

20 ~~(10)~~(11) "Storage facility" means the underground reservoir, carbon dioxide
21 injection wells, monitoring wells, underground equipment, and surface buildings and
22 equipment utilized in the storage operation. The underground reservoir component
23 of the storage facility includes any necessary and reasonable aerial buffer and
24 subsurface monitoring zones designated by the commissioner for the purpose of
25 ensuring the safe and efficient operation of the storage facility for the storage of
26 carbon dioxide and shall be chosen to protect against pollution, and escape or
27 migration of carbon dioxide.

28 ~~(11)~~(12) "Storage operator" means the person authorized by the
29 commissioner to operate a storage facility. A storage operator can, but need not be,

1 the owner of carbon dioxide injected into a storage facility. Ownership of carbon
2 dioxide and use of geologic storage is a matter of private contract between the
3 storage operator and owner, shipper, or generator of carbon dioxide, as applicable.

4 ~~(12)~~(13) "Waste" in addition to its ordinary meaning, means "physical
5 waste" as that term is generally understood in the storage industry.

6 §1104. Duties and powers of the commissioner; rules and regulations; permits

7 * * *

8 F. The commissioner of conservation, in order to facilitate orderly
9 application reviews in conjunction with the United States Environmental Protection
10 Agency (EPA) and in anticipation of being granted primary enforcement authority
11 from the EPA, shall adopt and apply the "Reasons of business confidentiality"
12 defined in 40 CFR 2.201(e) in the same manner and to the same extent as the EPA,
13 and shall not treat any confidential business information contained within the permit
14 applications as a public record. The commissioner shall promulgate any rules or
15 regulations necessary to implement the provisions of this Subsection.

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 Reengrossed 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 a provision that is no longer applicable that gave the commissioner the authority to use the Oil and Gas Regulatory Fund for the administration of present law.

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.

Proposed law defines "Confidential Business Information". Further requires the commissioner of conservation to adopt and apply certain federal regulations relative to confidential business information.

(Amends R.S. 30:23(A), (B)(intro. para.), (1), (2), and (4), (C), and (D)(1), 1103(3)-(12), and 1110(C)(3) and (E)(5); Adds R.S. 30:1103(13), 1104(F), and 1110(F)(7))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Natural Resources and Environment to the original bill:

1. Define "Confidential Business Information".
2. Require the commissioner of conservation to adopt and apply certain federal regulations relative to confidential business information.
3. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.