

1 (10) Any domestic or foreign corporation, limited liability company, or other
2 legal entity created for the purpose of, or engaged in, the piping or marketing of
3 carbon dioxide for use in connection with a secondary or tertiary recovery project for
4 the enhanced recovery of liquid or gaseous hydrocarbons approved by the
5 commissioner of conservation, ~~or created for the purpose of, or engaged in, the~~
6 ~~transportation of carbon dioxide by pipeline for underground storage, including but~~
7 ~~not limited to through connecting to an existing pipeline transporting carbon dioxide~~
8 ~~for underground storage, whether owned or operated by the same entity, and which~~
9 ~~has received a certificate of public convenience and necessity pursuant to the~~
10 ~~provisions of R.S. 30:1107(B). Property located in Louisiana may be so~~
11 ~~expropriated for the transportation of carbon dioxide for underground injection in~~
12 ~~connection with such projects located in Louisiana or in other states or jurisdictions.~~

13 (11)(a) Any domestic or foreign corporation, limited liability company, or
14 other legal entity created for the purpose of, or engaged in, the injection of carbon
15 dioxide for the underground storage of carbon dioxide and that has received a
16 certificate of public convenience and necessity pursuant to the provisions of R.S.
17 30:1107(A). Property located in Louisiana may be so expropriated for the
18 underground storage of carbon dioxide in connection with such storage facility
19 projects located in Louisiana, including but not limited to surface and subsurface
20 rights, mineral rights, and other property interests necessary or useful for the purpose
21 of constructing, operating, or modifying a carbon dioxide storage facility. This
22 Paragraph shall not allow for the expropriation of reservoir storage rights for
23 geologic storage of carbon dioxide, except in connection with any project as to which
24 R.S. 30:1108(B)(2) is applicable. This Paragraph shall have no effect on nor does
25 it grant expropriation of the mineral rights or other property rights associated with
26 the approvals required for injection of carbon dioxide into enhanced recovery
27 projects approved by the commissioner under R.S. 30:4.

28 (b) For the purposes of this Paragraph, "foreign" entities shall be construed
29 to mean those entities incorporated, registered, or otherwise organized under the laws

1 of a state of the United States other than Louisiana. A legal entity owned by, or with
2 a controlling interest held by, a country other than the United States or persons who
3 are not American citizens or permanent legal residents of the United States do not
4 have the authority to expropriate property located in Louisiana and shall not be
5 considered an expropriating authority pursuant to this Paragraph.

6 * * *

7 Section 2. R.S. 30:1107(B) and 1108(A)(1) and (3) are hereby amended and
8 reenacted and R.S. 30:1108(A)(4) is hereby enacted to read as follows:

9 §1107. Certificates of public convenience and necessity; certificate of completion
10 of injection operations

11 * * *

12 B.(1) A transporter is not authorized to construct a pipeline for the
13 transportation of carbon dioxide for geologic storage unless a certificate of public
14 convenience and necessity is issued for the pipeline pursuant to this Subsection. A
15 certificate issued pursuant to this Subsection may only authorize the construction of
16 a pipeline. Nothing in this Section shall be construed to authorize the use of eminent
17 domain for a pipeline used to transport carbon dioxide for geologic storage.

18 (2) The commissioner shall issue a certificate of public convenience and
19 necessity to each transporter of carbon dioxide applying therefor, whether or not
20 such transporter is also the storage operator for the laying, maintaining, and
21 operating of a pipeline for the transportation of carbon dioxide to a storage facility,
22 and such rights necessary and incidental thereto if, after a public hearing pursuant
23 to the provisions of R.S. 30:6, the commissioner determines that it is or will be in the
24 present or future public interest to do so and that the applicant has complied with this
25 Subsection.

26 (3) Prior to executing any agreement for the use of private property for the
27 construction of a pipeline used to transport carbon dioxide for geologic storage, the
28 transporter of the proposed pipeline shall provide the following notice, printed using

1 bold typed print as it appears in this Paragraph and no less than fourteen-point font,
2 to the owner of the property:

3 **NOTICE**

4 Under Louisiana law, the pipeline company does not have the legal
5 authority to take your property by eminent domain.

6 If you have any questions about this, you can call the Louisiana Department
7 of Energy and Natural Resources, office of conservation at 225-342-5540.

8 * * *

9 §1108. Eminent domain; expropriation

10 A.(1) Any storage operator is hereby authorized, after obtaining any permit
11 and any certificate of public convenience and necessity from the commissioner
12 required by this Chapter, to exercise the power of eminent domain and expropriate
13 needed property to acquire surface and subsurface rights and property interests
14 necessary or useful for the purpose of constructing, operating, or modifying a storage
15 facility and the necessary infrastructure including the laying, maintaining, and
16 operating of ~~pipelines for the transportation of carbon dioxide to a storage facility,~~
17 ~~together with~~ utility, telegraph, and telephone lines necessary and incidental to the
18 operation of these storage facilities ~~and pipelines, over private property thus~~
19 ~~expropriated;~~ and have the further right to construct and develop storage facilities
20 and the necessary infrastructure, ~~including the laying, maintaining, and operating of~~
21 ~~pipelines~~ along, across, over, and under any navigable stream or public highway,
22 street, bridge, or other public place; ~~and also have the authority, under the right of~~
23 ~~expropriation herein conferred, to cross railroads, street railways, and other~~
24 ~~pipelines, by expropriating property necessary for the crossing under the general~~
25 ~~expropriation laws of this state.~~ The right to run along, across, over, or under any
26 public road, bridge, or highway, ~~as before provided for,~~ may be exercised only upon
27 condition that the traffic thereon is not interfered with; and that such road or highway
28 is promptly restored to its former condition of usefulness, at the expense of the
29 storage facility ~~and the pipeline owner if different from the storage operator, the~~

Present law requires the commissioner to issue a certificate of public convenience and necessity to each transporter of CO2 applying for one, and such rights necessary and incidental thereto, if after a public hearing the commissioner determines that it is or will be in the public interest to do so. Additionally, present law authorizes a transporter of CO2 to use eminent domain only after it has been issued a certificate of public convenience and necessity.

Proposed law modifies present law by requiring a transporter to obtain a certificate prior to constructing a CO2 storage pipeline and removing the commissioner's authority to authorize.

Proposed law also limits the authority granted by a certificate to the construction of a pipelines and adds provision that issuance of a certificate does not authorize a transporter to use eminent domain.

Proposed law further requires specified notice be provided to property owners by CO2 storage pipeline companies prior to the execution of any agreement for the use of the landowner's property for construction of a CO2 storage pipeline and requires such notice prior to the issuance of a certificate of public convenience and necessity.

(Amends R.S. 19:2(10) and (11) and R.S. 30:1107(B) and 1108(A)(1) and (3); Adds R.S. 30:1108(A)(4))

Summary of Amendments Adopted by House

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

1. Make technical changes.
2. Remove the 95% consent threshold required in proposed law for CO2 storage pipelines to use expropriation.
3. Remove the limitation on certificates of public convenience and necessity for CO2 storage pipelines to no more than 5% of the total length of the proposed pipeline.
4. Remove process provided by proposed law for the issuance of a certificate of public convenience and necessity for CO2 storage pipelines, including required findings, evidence of alternative routes, and consideration of landowner concerns.
5. Remove the notice required to be given to landowners by transporters prior to the use of expropriation for CO2 storage pipelines.
6. Remove proposed definition of "foreign entity" applicable to CO2 storage pipeline entities with expropriating authority.
7. Remove all expropriating authority in present law for CO2 storage pipelines.
8. Remove provision that specifies the commissioner of conservation is authorized, rather than required, to issue a certificate of public convenience and necessity upon application by a CO2 storage pipeline.
9. Add a provision requiring a certificate of public convenience and necessity for the construction of a CO2 storage pipeline.
10. Limit the authority granted by the issuance of a certificate of public convenience and necessity for a CO2 storage pipeline to construction of the pipeline only and

add a statement that such certificates do not authorize a CO2 pipeline operator to use eminent domain.

11. Add a provision that requires transporters to provide notice to landowners prior to executing any agreement for the use of private property for construction of a CO2 storage pipeline that transporters are not authorized to use eminent domain to take the property.
12. Remove all references to pipelines within present law authorizing eminent domain for CO2 sequestration.