
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Tyler S. McCloud.

DIGEST

SB 353 Original

2020 Regular Session

Hewitt

Present law defines a storage facility. Proposed law removes from that definition pipelines owned or operated by the storage operator used to transport the carbon dioxide from one or more capture facilities or sources to the storage and injection site.

Present law provides that present law does not prevent an enhanced oil and gas recovery project using injected carbon dioxide. Proposed law retains present law and adds nor does present law prevent the commissioner from approving, validating or verifying the documentation and quantification of carbon dioxide stored in association with the production of hydrocarbons at an enhanced oil and gas recovery project.

Present law authorizes the commissioner to approve conversion of an existing enhanced oil or gas recovery operation into a storage facility, if necessary, taking into consideration prior approvals of the commissioner regarding such enhanced oil recovery operations. Proposed law authorizes the approval of a conversion to geologic storage facilities of hydrocarbon-bearing formations, including depleted oil formations as well as existing or pre-existing enhanced oil or gas recovery operations.

Present law provides that prior to using a reservoir and prior to the exercise of eminent domain the commissioner shall have a hearing and find that such use is suitable and feasible; will not contaminate other formations containing fresh water, oil, gas, or other commercial mineral deposits; and will not endanger lives or property. Proposed law retains present law.

Present law provides that a reservoir is suitable and feasible for use as carbon dioxide storage when that either of the following conditions exists:

- (1) The volumes of original oil, gas, condensate, salt, or other commercial mineral are capable of being produced in paying quantities have all been produced.
- (2) The reservoir has a greater value or utility as carbon dioxide storage than mineral production and at least 3/4 of the owners consent in writing.

Proposed law retains present law and adds that the a reservoir is also suitable and feasible if a reservoir is capable of producing mineral in paying quantities and all the owners have agreed to such use.

Present law authorizes the commissioner to issue orders to ensure that carbon dioxide reduced to possession and then injected into such a reservoir remains the property of the owner of the carbon dioxide, not the surface or mineral rights owner, and to issue orders to protect the reservoir. Proposed law requires the commissioner issue such order upon the request of the owner of the carbon dioxide.

Present law requires a public hearing to be conducted as provided by present law and to require such hearings when requested by an interested person and within 30 days after hearing, the commissioner shall take whatever action he deems appropriate. Proposed law requires the interested person requesting a hearing allege an injury in fact that may result from the proposed storage facility.

Present law authorizes a storage operator that has been issued a permit and a certificate of public necessity to exercise eminent domain to construct, operate, and modify a storage facility or lay, maintain, and operate pipelines for the transportation of carbon dioxide to storage. Present law requires the exercise of eminent domain in accordance with present law. Proposed law retains present law and adds to the purposes of exercising the authority for utilities necessary to the operation of storage facility.

Present law prohibits the right of eminent domain in present law from prejudicing the rights of the owners of the lands, minerals, or other rights or interests not acquired for the storage facility. Proposed law prohibits the right of eminent domain from prejudicing landowner rights or mineral rights not reasonably necessary for the use of the acquired property.

Present law provides that after 10 years, or other time established by rule, after cessation of operations the commissioner shall issue a certificate of completion of injection operations by showing the reservoir is expected to retain integrity, at which time ownership is transferred to the state and the storage operator and all generators of the carbon dioxide shall be released from any and all duties under present law and any and all liability.

Proposed law authorizes a time shorter than 10 years if established by rule. Proposed law requires the storage operator show substantial evidence of completion and the associated facilities have been decommissioned. Proposed law authorizes the ownership of the project to transfer to a party that has established a site-specific trust account rather than to the state.

Present law provides that the release from liability applies to liability which arises after the issuance of the certificate of completion. Proposed law removes the limitation of when the liabilities arise.

Present law provides that the last operator or owner shall not be released of liability if the Carbon Dioxide Geologic Trust Fund has been depleted. Proposed law removes present law limitation on release of liability.

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 $F \times 120 < M$, where "F" is the per unit fee, "120" is the minimum number of months over which the fee is collected, and "M" is the maximum payment of \$5,000,000. Proposed law increases the minimum number of months from 120 to 144, thereby changing the formula from $F \times 120 < M$ to $F \times 144 < M$.

Present law provides for site-specific accounts that are established for long-term maintenance and restoration when a storage facility is transferred from one party to another. Present law provides that once the site-specific fund is fully funded, the owners, operators, and working interest owners are prohibited from being held liable by the state. Proposed law removes the limitation of liability from only the state.

Present law authorizes the expropriation of property by any domestic or foreign corporation, limited liability company, or other legal entity composed of such corporations or wholly owned subsidiaries of such entities engaged in the injection of carbon dioxide for the underground storage of carbon dioxide approved by the commissioner of conservation. Proposed law extends that expropriation authority for the purpose of transporting carbon dioxide by pipeline to a carbon dioxide storage facility.

Effective August 1, 2020.

(Amends R.S. 30:1103(3), (6), and (9), 1104(A)(8) and (9), (C) (intro para) and (C)(1), (E), 1105(C), 1108(A)(1) and (B), 1109(A), 1110(C)(1)(a)-(e), 1111(F), and R.S. 19:2(12))