

2023 Regular Session

HOUSE BILL NO. 571

BY REPRESENTATIVE SCHEXNAYDER

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

ENERGY: Provides relative to carbon capture and sequestration

1 AN ACT  
2 To amend and reenact the heading of Subpart A-3 of Part II of Chapter 2 of Subtitle I of  
3 Title 30 of the Louisiana Revised Statutes of 1950, R.S. 30:209(4)(e)(introductory  
4 paragraph), 1105(A), 1109(A), 1110(C)(introductory paragraph) and (1)(introductory  
5 paragraph) and (f) and (g), (E)(2), (F), (G), and (H) and to enact R.S. 30:6(H) and  
6 149, the heading of Subpart A-4 of Part II of Chapter 2 of Subtitle I of Title 30 of the  
7 Louisiana Revised Statutes of 1950, R.S. 30:209.2, 1104.1, 1107.1, 1109(G),  
8 1110(C)(1)(h) and (I), and 1112, Part II of Chapter 6 of Subtitle II of Title 47 of the  
9 Louisiana Revised Statutes of 1950, to be comprised of R.S. 47:651, and R.S.  
10 56:30.5, relative to carbon capture and sequestration; to provide for notice to parishes  
11 regarding certain well permit applications, State Mineral and Energy Board operating  
12 agreements, and geophysical surveys related to carbon dioxide sequestration; to  
13 provide for the distribution of funds received by the state for the storage of carbon  
14 dioxide; to provide relative to certificates of completion of injection operations; to  
15 provide relative to release from liability; to provide relative to the Carbon Dioxide  
16 Geologic Storage Trust Fund; to provide for collections of fees for the fund; to  
17 provide for uses of the fund; to provide for recordation of notices of geologic storage  
18 agreements; to create a tax on carbon dioxide extracted under certain circumstances;  
19 and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. The heading of Subpart A-3 of Part II of Chapter 2 of Subtitle I of Title  
3 30 of the Louisiana Revised Statutes of 1950, R.S. 30:209(4)(e)(introductory paragraph),  
4 1105(A), 1109(A), 1110(C)(introductory paragraph) and (1)(introductory paragraph) and (f)  
5 and (g), (E)(2), (F), (G), and (H) are hereby amended and reenacted and R.S. 30:6(H) and  
6 149, the heading of Subpart A-4 of Part II of Chapter 2 of Subtitle I of Title 30 of the  
7 Louisiana Revised Statutes of 1950, R.S. 30:209.2, 1104.1, 1107.1, 1109(G), 1110(C)(1)(h)  
8 and (I), and 1112 are hereby enacted to read as follows:

9 §6. Hearings; notice; rules of procedure; emergency; service of process; public  
10 records; request for hearings; orders and compliance orders

11 \* \* \*

12 H. When an application for any permit to construct or drill a Class V or  
13 Class VI well related to the geologic sequestration of carbon dioxide becomes  
14 complete, the commissioner shall notify the governing authority of any parish  
15 included in the permit application. The notice to the governing authority of the  
16 parish shall be made no later than the date on which public notice is issued in  
17 accordance with applicable law or regulations. Such notice may be made by  
18 electronic mail to the parish president, policy jury president, or mayor-president,  
19 depending on the form of parish government.

20 \* \* \*

21 SUBPART A-3. DISTRIBUTION OF FUNDS FROM STORAGE OF CARBON

22 DIOXIDE

23 §149. Storage of carbon dioxide; distribution of funds

24 A. For purposes of this Section, "specific area of interest" means an  
25 individual tract of property that is the subject of any contractual agreement entered  
26 into by the State Mineral and Energy Board for the purpose of injection, storage,  
27 sequestration, transportation, shipment, or withdrawal of carbon dioxide.

28 B. Any revenues collected by the office of mineral resources pursuant to any  
29 contractual agreement for the storage of carbon dioxide beneath state-owned land or

1 water bottoms shall be immediately forwarded to the state treasurer for deposit into  
2 the state treasury. After complying with the provisions of Article VII, Section 9(B)  
3 of the Constitution of Louisiana relative to the Bond Security and Redemption Fund,  
4 the state treasurer shall remit the funds as follows:

5 (1) Thirty percent of the revenue shall be remitted to the Mineral and Energy  
6 Operation Fund. The revenue remitted to the Mineral and Energy Operation Fund  
7 under this Subsection shall be in lieu of any other revenues collected pursuant to any  
8 contractual agreement for the storage of carbon dioxide beneath the state-owned land  
9 or water bottoms that is required by law to be remitted to the Mineral and Energy  
10 Operation Fund.

11 (2) Thirty percent of the revenue shall be remitted to the governing authority  
12 of the parish located in a specific area of interest. If the specific area of interest is  
13 located in more than one parish, the monies shall be divided between the parishes in  
14 proportion to the amount of property located in each parish pursuant to the  
15 contractual agreement.

16 (3) The remaining revenue shall be deposited into the state general fund.

17 C. Nothing in this Section shall impact existing constitutional or statutory  
18 dedications from funds collected by the office of mineral resources on behalf of a  
19 state department or an agency as defined in R.S. 30:151.

20 SUBPART ~~A-3~~ A-4. LOUISIANA ROYALTY RELIEF

21 DRY HOLE CREDIT PROGRAM

22 \* \* \*

23 §209. State Mineral and Energy Board; authority

24 In order to carry out the provisions of R.S. 30:208, the State Mineral and  
25 Energy Board may:

26 \* \* \*

27 (4)

28 \* \* \*

1           (e) Upon a two-thirds vote of the members of the State Mineral and Energy  
 2 Board and after notification to the governing authority of the affected parish, which  
 3 may be made by electronic mail to the parish president, policy jury president, or  
 4 mayor-president, depending on the form of parish government, and a public hearing  
 5 conducted by a hearing officer appointed by the assistant secretary for the office of  
 6 mineral resources in ~~the~~ each affected parish pursuant to R.S. 30:6, enter into  
 7 operating agreements whereby the state receives a share of revenues from the storage  
 8 of oil, natural gas, liquid or liquefied hydrocarbons, or carbon dioxide, in whole or  
 9 in part, as may be agreed upon by the parties, and assumes all or a portion of the risk  
 10 of the cost of the activity in those situations where the board determines it is in the  
 11 best interest of the state either in equity or in the promotion of conservation to do so,  
 12 such as but not limited to the following illustrations:

13   \*       \*       \*

14           §209.2. Storage of carbon dioxide; distribution of funds

15           A. For purposes of this Section, "specific area of interest" means an  
 16 individual tract of property that is the subject of any contractual agreement entered  
 17 into by the State Mineral and Energy Board for the purpose of injection, storage,  
 18 sequestration, transportation, shipment, or withdrawal of carbon dioxide.

19           B. Any revenues collected by the office of mineral resources pursuant to any  
 20 contractual agreement for the storage of carbon dioxide beneath state-owned land or  
 21 water bottoms shall be immediately forwarded to the state treasurer for deposit into  
 22 the state treasury. After complying with the provisions of Article VII, Section 9(B)  
 23 of the Constitution of Louisiana relative to the Bond Security and Redemption Fund,  
 24 the state treasurer shall remit the funds as follows:

25           (1) Thirty percent of the revenue shall be remitted to the Mineral and Energy  
 26 Operation Fund. The revenue remitted to the Mineral and Energy Operation Fund  
 27 under this Subsection shall be in lieu of any other revenues collected pursuant to any  
 28 contractual agreement for the storage of carbon dioxide beneath the state-owned land

1       or water bottoms that is required by law to be remitted to the Mineral and Energy  
2       Operation Fund.

3               (2) Thirty percent of the revenue shall be remitted to the governing authority  
4       of the parish located in a specific area of interest. If the specific area of interest is  
5       located in more than one parish, the monies shall be divided between the parishes in  
6       proportion to the amount of property located in each parish pursuant to the  
7       contractual agreement.

8               (3) The remaining revenue shall be deposited into the state general fund.

9               C. Nothing in this Section shall impact existing constitutional or statutory  
10       dedications from funds collected by the office of mineral resources on behalf of a  
11       state department or an agency as defined in R.S. 30:151.

12   \*       \*       \*

13       §1104.1. Environmental analysis

14               A. The applicant for a permit for a Class VI injection well shall submit an  
15       environmental analysis as part of the permit application.

16               B. The environmental analysis required by this Section shall be used to  
17       satisfy the public trustee requirements of Article IX, Section 1 of the Constitution of  
18       Louisiana and shall address the following questions regarding the proposed permit  
19       activity:

20                       (1) Have the potential and real adverse environmental effects of the proposed  
21       permit activity been avoided to the maximum extent possible?

22                       (2) Does a cost-benefit analysis of the environmental impact costs versus the  
23       social and economic benefits of the proposed activities demonstrate that the latter  
24       outweighs the former?

25                       (3) Are there alternative activities which would offer more protection to the  
26       environment than the proposed activity without unduly curtailing non-environmental  
27       benefits?

1 (4) Are there alternative sites which would offer more protection to the  
2 environment than the proposed site without unduly curtailing non-environmental  
3 benefits?

4 (5) Are there mitigating measures which would offer more protection to the  
5 environment than the proposed activity without unduly curtailing non-environmental  
6 benefits?

7 §1105. Hearings; notice; rules of procedures; emergency; service of process; public  
8 records; request for hearings; orders and compliance orders

9 A. All public hearings under this ~~Part~~ Chapter shall be conducted pursuant  
10 to the provisions of R.S. 30:6. In addition to the requirements of R.S. 30:6, any  
11 notice required pursuant to this Chapter shall also be provided to the governing  
12 authority of any affected parish. Such notice may be made by electronic mail to the  
13 parish president, police jury president, or mayor-president, depending on the form  
14 of parish government.

15 \* \* \*

16 §1107.1. Reporting; record keeping

17 A. The owner or operator of a permitted Class VI well shall provide  
18 quarterly reports to the commissioner containing, at a minimum, the following:

19 (1) Any changes to the physical, chemical, and other relevant characteristics  
20 of the carbon dioxide stream from the proposed operating data or parameters.

21 (2) Monthly average, maximum, and minimum values for injection pressure,  
22 flow rate and volume, and annular pressure.

23 (3) The monthly volume or mass of the carbon dioxide stream injected over  
24 the reporting period and the volume injected cumulatively over the life of the project.

25 (4) Additional reporting as required by applicable administrative rules.

26 B. At a minimum, the owner or operator of a permitted Class VI well shall  
27 provide a report within twenty-four hours of the occurrence of any of the following:

28 (1) Evidence that the injected carbon dioxide stream or associated pressure  
29 front may endanger an underground source of drinking water.

1                         (2) Noncompliance with a permit condition, or malfunction of the injection  
2                         system, which may cause fluid migration into or between underground sources of  
3                         drinking water.

4                         (3) Failure to maintain mechanical integrity.

5                         C. Owners or operators of Class VI wells shall retain records as required by  
6                         applicable administrative rules.

7   \*                 \*                 \*

8                         §1109. Cessation of storage operations; limited liability release

9                                 A.(1) ~~For~~ Fifty years after cessation of injection into a storage facility, or  
10                                 any other time frame established on a site-specific basis by ~~rule~~ application of the  
11                                 rules regarding the time frame for a storage operator's post-injection site care and site  
12                                 closure plan, after cessation of injection into a storage facility, the commissioner  
13                                 shall issue a certificate of completion of injection operations, upon a showing by the  
14                                 current storage operator that the of all of the following:

15                                 (a) The reservoir is reasonably expected to retain mechanical integrity, and  
16                                 the

17                                 (b) The carbon dioxide will reasonably remain emplaced, at which time.

18                                 (c) The storage facility does not pose an endangerment to underground  
19                                 sources of drinking water, or the health and safety of the public.

20                                 (d) The current storage operator has complied with all applicable regulations  
21                                 related to post-injection monitoring and the issuance of the certificate of completion  
22                                 of injection operations.

23                                 (e) The storage facility has been closed in accordance with all applicable  
24                                 regulations related to site closure.

25                                 (2) Upon issuance of the certificate of completion of injection operations,  
26                                 ownership to the remaining project including the stored carbon dioxide transfers to  
27                                 the state.

28                                 (3) Upon the issuance of the certificate of completion of injection operations,  
29                                 the storage operator, all generators of any injected carbon dioxide, all owners of

1 carbon dioxide stored in the storage facility, and all owners otherwise having any  
2 interest in the storage facility, shall be released from any and all future duties or  
3 obligations under this Chapter and any and all liability, other than contractual  
4 obligations and criminal liability, associated with or related to that storage facility  
5 which arises after the issuance of the certificate of completion of injection  
6 operations. The release from duties or obligations under this Chapter shall not apply  
7 to a current or former owner or operator of a storage facility when such duties or  
8 obligations arise from that owner or operator's noncompliance with applicable laws  
9 and regulations, including underground injection control regulations, prior to  
10 issuance of the certificate of completion of injection operations, nor shall it apply  
11 when the commissioner determines that there is fluid migration for which the  
12 operator is responsible that causes or threatens imminent and substantial  
13 endangerment to an underground source of drinking water.

14 ~~(2)~~ (4) Provided the provisions pertaining to site-specific trust accounts are  
15 not applicable, such release from liability will not apply to the owner or last operator  
16 of record of a storage facility if the Carbon Dioxide Geologic Storage Trust Fund has  
17 been depleted of funds such that it contains inadequate funds to address or remediate  
18 any duty, obligation, or liability that may arise after issuance of the certificate of  
19 completion of injection operations.

20 ~~(3)~~ ~~Such release from liability will~~ (5) The release provided in Paragraphs  
21 (3) and (4) of this Subsection shall not apply to the any owner of a storage facility,  
22 any storage operator, any operator of a or operator of a storage facility, carbon  
23 dioxide transmission pipeline, or the any generator of the carbon dioxide being  
24 handled by either the storage facility or carbon dioxide transmission pipeline if it is  
25 demonstrated that any such owner, storage operator, operator, or generator  
26 intentionally and knowingly concealed or intentionally and knowingly  
27 misrepresented material facts related to the mechanical integrity of the storage  
28 facility or the chemical composition of any injected carbon dioxide or if the  
29 commissioner determines that the operator provided deficient or erroneous



1 information that was material and relied upon by the commissioner to support  
 2 approval of site closure or issuance of a certificate of completion of injection  
 3 operations. In addition, upon the issuance of the certificate of completion of  
 4 injection operations, ~~any performance bonds posted by the operator shall be released~~  
 5 ~~and~~ continued monitoring of the site, including remediation of any well leakage,  
 6 shall become the principal responsibility of the Carbon Dioxide Geologic Storage  
 7 Trust Fund.

8 (4) (6) It is the intent of this Section that the state shall not assume or have  
 9 any liability by the mere act of assuming ownership of a storage facility after  
 10 issuance of a certificate of completion of injection operations.

11 \* \* \*

12 G. The commissioner shall implement this Section in a manner consistent  
 13 with and as he deems necessary to carry out the purposes and requirements of the  
 14 federal Safe Drinking Water Act, as amended, relating to the state's participation in  
 15 the underground injection control program established under that act with respect to  
 16 the storage and sequestration of carbon dioxide, including but not limited to the  
 17 state's authority to restrain any person from engaging in any unauthorized activity  
 18 which is endangering or causing damage to public health or the environment.

19 \* \* \*

20 §1110. Carbon Dioxide Geologic Storage Trust Fund

21 \* \* \*

22 C. The commissioner is hereby authorized to levy on ~~storage operators~~ each  
 23 storage facility the following fees or costs for the purpose of funding the fund:

24 (1) A fee payable to the office of conservation, in a form and schedule  
 25 prescribed by the office of conservation, for each ton of carbon dioxide injected for  
 26 storage into that storage facility. This fee is to be determined based upon the  
 27 following formula:

28 \* \* \*

1           (f) ~~Once a storage operator has contributed five million dollars to the trust~~  
2 ~~fund~~ five million dollars has been contributed to the fund for a storage facility, the  
3 fee assessments to that storage ~~operator~~ facility under this Section shall cease until  
4 such time as funds begin to be expended for ~~monitoring and caretaking of any~~  
5 ~~completed~~ that storage facility. The ~~treasurer of the state of Louisiana~~ secretary of  
6 the Department of Natural Resources shall certify, to the commissioner, the date on  
7 which the balance in the fund for a storage ~~operator~~ facility equals or exceeds five  
8 million dollars. The fund fees shall not be collected or required to be paid on or after  
9 the first day of the second month following the certification, except that the  
10 commissioner shall resume collecting the fees on receipt of a certification from the  
11 ~~treasurer~~ secretary of the Department of Natural Resources that, based on the  
12 expenditures or commitments to expend monies, the fund has fallen below four  
13 million dollars for ~~the~~ that storage operator facility. ~~If at any time the balance in the~~  
14 ~~trust fund exceeds an authorized amount determined by multiplying five million~~  
15 ~~dollars by the number of active and completed storage facilities within the state, the~~  
16 ~~collection of fees from the operators of storage facilities that have already~~  
17 ~~contributed five million dollars to the trust fund will be suspended until such time~~  
18 ~~as the balance in the trust fund falls below such authorized amount, at which time~~  
19 ~~they will be reinstated.~~

20           (g) Notwithstanding the total number of storage facilities owned or operated  
21 by a storage operator, once ten million dollars has been contributed to the fund by  
22 a storage operator, the fee assessment to that storage operator under this Section shall  
23 cease until such time as funds begin to be expended for any storage facility owned  
24 or operated by that storage operator. The secretary of the Department of Natural  
25 Resources shall certify to the commissioner the date on which the balance in the fund  
26 for a storage operator equals or exceeds ten million dollars. The fund fees shall not  
27 be collected or required to be paid on or after the first day of the second month  
28 following the certification, except that the commissioner shall resume collecting the  
29 fees upon receipt of a certification from the secretary of the Department of Natural

1       Resources that, based on the expenditures or commitments to expend monies, the  
2       fund has fallen below eight million dollars for that storage operator.

3               (g) (h) At the end of each fiscal year, the fee may be redetermined by the  
4       commissioner based upon the estimated cost of administering and enforcing this  
5       Chapter for the upcoming year divided by the tonnage of carbon dioxide expected  
6       to be injected during the upcoming year. The total fee assessed shall be sufficient  
7       to assure a balance in the fund not to exceed five million dollars for any active  
8       storage facility within the state at the beginning of each fiscal year. Any amount  
9       received that exceeds the annual balance required shall be deposited in the fund, but  
10       appropriate credits shall be given against future fees or fees associated with other  
11       storage facilities operated by the same storage operator.

12   \*       \*       \*

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

14   \*       \*       \*

15               (2) Remediation associated with, arising from, or related to the site,  
16       including remediation of property and of any mechanical problems associated with  
17       remaining wells and surface site infrastructure.

18   \*       \*       \*

19               F. No additional purposes for use of the fund may be added unless approved  
20       by a two-thirds vote of the elected members of each house of the legislature.

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

23               (1) To fund research and development in connection with carbon  
24       sequestration technology and methods.

25               (2) To monitor any remaining surface facilities and wells.

26               (3) To remediate any mechanical problems associated with remaining wells  
27       or site infrastructure, or any other remediation associated with, arising from, or  
28       related to the site, including remediation of property.

29               (4) To repair mechanical leaks at the storage facility.

1 (5) To contract with a private legal entity pursuant to this Chapter.

2 (6) To plug and abandon remaining wells except for those wells to be used  
3 as observation wells.

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

6 ~~G.~~ H. The commissioner shall keep accurate accounts of all receipts and  
7 disbursements related to the administration of the fund and site-specific trust funds  
8 and shall make a specific annual report addressing the administration of the funds to  
9 the Senate Committee on Natural Resources, the House Committee on Natural  
10 Resources and Environment, and the Senate Committee on Environmental Quality  
11 before March first.

12 H. I. Every five years the commissioner shall submit a report to the Senate  
13 Committee on Natural Resources, the House Committee on Natural Resources and  
14 Environment, and the Senate Committee on Environmental Quality before March  
15 first, that assesses the effectiveness of the fund and other related provisions in this  
16 ~~Part Chapter~~ and provides such other information as may be requested by the  
17 legislature to allow the legislature to assess the effectiveness of this Chapter.

18 \* \* \*

19 §1112. Notice of geologic storage agreements; recordation

20 A. (1) In lieu of recording an agreement for the geologic storage of carbon  
21 dioxide or any amendment or modification thereof, as provided by Civil Code  
22 Article 3338, a party may record a notice of geologic storage agreement, signed by  
23 the grantor who executed the agreement.

24 (2) Recordation of a notice shall make the geologic storage agreement and  
25 any subsequent amendment or modification effective as to third persons to the same  
26 extent as recordation of the instrument.

27 (3) The notice of geologic storage agreement shall contain the following:

28 (a) A declaration that the property is subject to the geologic storage  
29 agreement and the names and addresses of the parties who executed the agreement.

1           (b) A description of the surface and depths covered by the geologic storage  
2           agreement.

3           (c) The effective date of the geologic storage agreement, its term, and the  
4           provisions of any other extensions and renewals of the term provided for in the  
5           agreement.

6           (d) A description of any restrictions on drilling through or otherwise  
7           penetrating the carbon dioxide storage reservoir for purposes of exploring,  
8           developing, or producing minerals from or below the reservoir.

9           B.(1) A change in a geologic storage agreement with respect to any matter  
10          that is required to be included in a notice of geologic storage agreement pursuant to  
11          Subsection A of this Section is not effective as to third persons unless the parties  
12          record a signed amendment to the notice that describes the change.

13          (2) Notwithstanding Paragraph (1) of this Subsection, if the change is a  
14          transfer of a party's rights, the parties may do either of the following:

15               (a) Record an amendment to the notice signed by the transferor and  
16               transferee evidencing the transfer.

17               (b) Record the instrument transferring the party's rights.

18          C. The effect of recordation of a notice of geologic storage agreement ceases  
19          on occurrence of either of the following:

20               (1) Upon recordation of an instrument signed by the parties to the agreement  
21               or their successors declaring that the geologic storage agreement has terminated.

22               (2) On the date that the geologic storage agreement may finally terminate as  
23               set forth in the notice of geologic storage agreement.

24          D. The provisions of this Section authorizing the filing of a notice of  
25          geologic storage agreement are remedial and shall be applied retroactively to any  
26          notice of geologic storage agreement theretofore filed for record which is in  
27          substantial compliance with the provisions of Subsection A of this Section, and such  
28          a notice shall affect third persons as of the date of recordation.

1           E. The grantee of any recorded notice of geologic storage agreement shall  
2           notify the governing authority of the parish in which the instrument is recorded  
3           within thirty days after recordation. Such notice may be made by electronic mail to  
4           the parish president, policy jury president, or mayor-president, depending on the  
5           form of parish government.

6           Section 2. Part II of Chapter 6 of Subtitle II of Title 47 of the Louisiana Revised  
7 Statutes of 1950, comprised of R.S. 47:651, is hereby enacted to read as follows:

8                           PART II. CARBON DIOXIDE EXTRACTION

9           §651. Tax on carbon dioxide extraction

10           A. There shall be a tax levied upon the extraction of carbon dioxide when the  
11           extraction occurs subsequent to the storage of carbon dioxide in accordance with the  
12           Louisiana Geologic Sequestration of Carbon Dioxide Act. The rate of the tax shall  
13           be equal to twenty cents per ton extracted from the storage facility.

14           B. The tax shall be due by the owner at the time of the extraction in the  
15           manner prescribed by the Department of Revenue. The tax shall be reported and paid  
16           by the owner on or before the twentieth day of the month following the month to  
17           which the tax is applicable. The department may promulgate rules in accordance  
18           with the Administrative Procedure Act as are necessary to implement the provisions  
19           of this Part.

20           C. All taxes collected by the Department of Revenue pursuant to this Part  
21           shall be immediately forwarded to the state treasurer for deposit into the state  
22           treasury. After complying with the provisions of Article VII, Section 9(B) of the  
23           Constitution of Louisiana relative to the Bond Security and Redemption Fund, the  
24           state treasurer shall remit seventy-five percent of the tax levied pursuant to this Part  
25           to the governing authority of the parish in which the extraction occurs. If the storage  
26           facility from which the carbon dioxide is extracted is located in more than one  
27           parish, the monies shall be divided between the parishes in proportion to the amount  
28           of property located in each parish.

1           D. This Part shall not apply to the extraction of carbon dioxide which was  
2           injected pursuant to a secondary, tertiary, or enhanced oil and gas recovery project  
3           or to the extraction of carbon dioxide for operational or safety purposes.

4           Section 3. R.S. 56:30.5 is hereby enacted to read as follows:

5           §30.5. Notice to parish governing authorities

6                   An applicant seeking a permit or permission to operate for geophysical and  
7                   geological surveys related to exploration for the geologic sequestration of carbon  
8                   dioxide shall notify the governing authority of the parish within which the proposed  
9                   survey is to occur in accordance with rules promulgated by the department. Such  
10                  notice may be made by electronic mail to the parish president, police jury president,  
11                  or mayor-president, depending on the form of parish government.

12           Section 4. If any provision of this Act or the application thereof is held invalid, such  
13           invalidity shall not affect other provisions or applications of this Act which can be given  
14           effect without the invalid provisions or applications, and to this end the provisions of this  
15           Act are hereby declared severable.

16           Section 5.(A) This Section and Sections 1, 3, and 4 of this Act shall become  
17           effective upon signature of this Act by the governor or, if not signed by the governor, upon  
18           expiration of the time for bills to become law without signature by the governor, as provided  
19           by Article III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the  
20           governor and subsequently approved by the legislature, this Section and Sections 1, 3, and  
21           4 of this Act shall become effective on the day following such approval.

22           (B) Section 2 of this Act shall become effective if and when the Department of  
23           Natural Resources promulgates rules for the extraction of carbon dioxide which was stored  
24           in accordance with the Louisiana Geologic Sequestration of Carbon Dioxide Act.

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DIGEST

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HB 571 Reengrossed

2023 Regular Session

Schexnayder

**Abstract:** Provides relative to the regulation of carbon capture and sequestration.

NOTICE REQUIREMENTS

Present law provides procedures for notice and hearings by the office of conservation.

Proposed law retains present law and adds that the commissioner must notify the governing authority of any affected parish of completed applications for Class V or Class VI well permits related to the geologic sequestration of carbon dioxide at the same time that notice is required to be published and that such notice may be by email to the parish president, police jury president, or mayor-president, depending on the form of parish government.

Proposed law further provides that any time notice is required under the La. Geologic Sequestration of Carbon Dioxide Act, notice must also be provided to the governing authority affected parishes and that such notice may be made by email to the parish president, police jury president, or mayor-president, depending on the form of parish government.

Present law imposes requirements on the State Mineral and Energy Board to enter into operating agreements for the storage of carbon dioxide, including a public hearing in the affected parish.

Proposed law adds a requirement that the governing authority of any affected parish be given notice, which may be made by email to the parish president, police jury president, or mayor-president, depending on the form of parish government. Further requires that a hearing be held in each parish affected, and provides that the assistant secretary for the office of mineral resources may appoint a hearing officer to conduct the required public hearings.

Present law gives the La. Dept. of Wildlife and Fisheries authority to regulate geophysical and geological surveys.

Proposed law requires an applicant seeking to conduct geophysical and geological surveys related to exploration for carbon dioxide sequestration to notify the governing authority of any parish where the proposed surveys would occur in accordance with rules promulgated by the department.

ENVIRONMENTAL ANALYSIS

Proposed law requires the submission of an environmental analysis as part of the application for a Class VI injection well permit.

Proposed law requires the environmental analysis to address the following questions:

- (1) Have the potential and real adverse environmental effects of the proposed permit activity been avoided to the maximum extent possible?
- (2) Does a cost-benefit analysis of the environmental impact costs versus the social and economic benefits of the proposed project demonstrate that the latter outweighs the former?



- (3) Are there alternative projects which would offer more protection to the environment than the proposed project without unduly curtailing non-environmental benefits?
- (4) Are there alternative sites which would offer more protection to the environment than the proposed site without unduly curtailing non-environmental benefits?
- (5) Are there mitigating measures which would offer more protection to the environment than the proposed project without unduly curtailing non-environmental benefits?

#### REPORTING AND RECORDKEEPING

Proposed law requires the owner or operator of a Class VI injection well shall to provide quarterly reports on the following:

- (1) Any changes to the physical, chemical, and other relevant characteristics of the carbon dioxide stream from the proposed operating data.
- (2) Monthly average, maximum, and minimum values for injection pressure, flow rate and volume, and annular pressure.
- (3) The monthly volume or mass of the carbon dioxide stream injected over the reporting period and the volume injected cumulatively over the life of the project.
- (4) Additional reporting as required by applicable administrative rules.

Proposed law requires the owner or operator of a Class VI injection well to report the following occurrences within 24 hours:

- (1) Evidence that the injected carbon dioxide stream or associated pressure front may endanger an underground source of drinking water.
- (2) Noncompliance with a permit condition, or malfunction of the injection system, which may cause fluid migration into or between underground sources of drinking water.
- (3) Failure to maintain mechanical integrity.

Proposed law further requires owners and operators to retain records as required by administrative rules.

#### DISTRIBUTION OF FUNDS

Proposed law provides for the following allocation of funds collected by the office of mineral resources from any contractual agreements for the storage of carbon dioxide on state-owned lands or water bottoms:

- (1) 30% will be remitted to the Mineral and Energy Operation Fund.
- (2) 30% will be remitted to parishes included in the agreement. If one or more parishes is included in the agreement, the 30% will be divided based on the amount of land in each parish included in the agreement.
- (3) The remaining funds will be deposited into the state general fund.

## LIABILITY

Present law allows a storage facility operator to apply for a certificate of completion of injection operations 10 years after injection into a storage facility has ceased, or any other time frame established by rule.

Proposed law changes the time period from 10 years to 50 years, or any other time frame established by rule, after the injection has ceased for a storage operator to apply for a certificate of completion of injection operations.

Proposed law provides for additional criteria the storage operator shall meet to receive the certificate of completion of injection operations.

Present law provides that upon issuance of the certificate of completion of injection operations, all generators of any injected carbon dioxide, owners of carbon dioxide stored in the storage facility, and all owners otherwise having any interest in the storage facility, will be released from any and all duties or obligations under present law and any and all liability associated with or related to that storage facility which arises after the issuance of the certificate of completion of injection operations.

Present law provides exceptions to the liability release for the following circumstances:

- (1) Funds in the Carbon Dioxide Geologic Storage Trust Fund become inadequate.
- (2) Where an owner intentionally or knowingly conceals or misrepresents material facts related to the mechanical integrity of a storage facility or the chemical composition of any injected carbon dioxide.

Proposed law adds that the liability release will not apply when the duties or obligations arise from any of the following:

- (1) Contractual obligations.
- (2) Criminal liability.
- (3) Noncompliance with applicable laws or regulations, including underground injection control regulations, prior to issuance of the certificate of completion of injection operations.
- (4) Where an operator is responsible for fluid migration that endangers an underground source of drinking water.
- (5) Where an operator provides deficient or erroneous information material to a decision on site closure or the issuance of a certificate of completion.

Proposed law requires the commissioner to implement provisions of present law and proposed law in accordance with the federal Safe Drinking Water Act.

## CARBON DIOXIDE GEOLOGIC STORAGE TRUST FUND

Present law establishes the Carbon Dioxide Geologic Storage Trust Fund and provides for fees to be collected by the commissioner for deposit into the fund.

Present law authorizes the commissioner to levy a fee on each storage operator based on a rate of tonnage injected over a minimum of 144 months. Present law further provides that fee assessments will be suspended once the balance of the fund associated with that storage operator has reached \$5 million and will be resumed if the balance of the fund falls below \$4 million.

Proposed law authorizes the commissioner to levy the fee under present law on each storage facility, rather than each storage operator, where payments will be suspended once \$5 million has been paid by each facility and resumed if the balance associated with that facility falls below \$4 million.

Proposed law further provides that, regardless of the total number of storage facilities owned or operated by the storage operator, a storage operator's payments will be suspended when they have contributed a total of \$10 million and that the commissioner must resume collecting the fee if the balance of the fund attributable to that operator has fallen below \$8 million.

Present law provides purposes for which the fund shall be used, including remediation of mechanical problems with wells and surface infrastructure.

Proposed law retains the purposes provided under present law and adds remediation associated with, arising from, or related to the site, including property remediation.

Proposed law further provides that no additional uses of the fund may be added to proposed law purposes without a 2/3 vote of the elected members of each house of the legislature.

Present law authorizes the commissioner to spend money in the fund for specified purposes, including remediation of mechanical problems with wells and surface infrastructure.

Proposed law retains the purposes provided under present law and adds remediation associated with, arising from, or related to the site, including property remediation.

#### RECORDATION

Present law preserves the rights and obligations established in certain instruments related to immovable property against third parties if the instrument is filed in the appropriate mortgage or conveyance records.

Proposed law retains present law and provides the same protection to the rights and obligations in agreements for the geologic storage of carbon dioxide upon filing a notice thereof.

Proposed law requires certain information to be contained in the notice. Proposed law further requires the grantee to notify the governing authority in the parish in which the notice is recorded within 30 days after recordation and authorizes the notice to be made by email. Requires the notice be sent via email to the president of the political subdivision.

#### EXTRACTION TAX

Proposed law creates a carbon extraction tax at a rate of 20 cents per ton extracted when the extraction occurs subsequent to the storage of carbon dioxide pursuant to the La. Geologic Sequestration of Carbon Dioxide Act.

Proposed law remits 75% to the governing authority of the parish in which the extracted occurs. Further provides that if the storage facility is located in more than one parish, the revenue will be divided between the parishes based on the amount of property located in each parish.

Proposed law provides that the tax will become effective if and when the Dept. of Natural Resources promulgates rules for the extraction of carbon dioxide which was stored in accordance with the La. Geologic Sequestration of Carbon Dioxide Act.

All other provisions are effective upon signature of governor or lapse of time for gubernatorial action.

(Amends the heading of Subpart A-3 of Part II of Chapter 2 of Subtitle I of Title 30, R.S. 30:209(4)(e)(intro. para.), 1105(A), 1109(A), 1110(C)(intro. para.) and (1)(intro. para.) and (f) and (g), (E)(2), (F), (G), and (H); Adds R.S. 30:6(H) and 149, the heading of Subpart A-4 of Part II of Chapter 2 of Subtitle I of Title 30, R.S. 30:209.2, 1104.1, 1107.1, 1109(G), 1110(C)(1)(h) and (I), and 1112, R.S. 47:651, and R.S. 56:30.5)

Summary of Amendments Adopted by House

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

1. Require that notice be provided to parish "governing authorities" rather than parish "chief executive officers".
2. Specify particular parish officials that may be sent notice by electronic mail.
3. Add a new section of law that requires applicants for Class VI injection wells to submit an environmental analysis for the purpose of satisfying the public trustee requirements of Art. IX, Sec. 1 of the La. Constitution.
4. Add an overarching provision regarding notice to affected parishes by providing that any time notice is required under the La. Geologic Sequestration of Carbon Dioxide Act, notice must also be provided to affected parishes.
5. Add a new section of law that requires quarterly reporting of certain data by owners and operators of Class VI injection wells, reporting within twenty-four hours of certain triggers, and record keeping per administrative regulation.
6. Add exceptions to the application of liability release provisions for owners and operators that are issued a certificate of completion of injection for contractual obligations, criminal liability, where an operator is responsible for fluid migration that endangers an underground source of drinking water, and where an operator provides deficient or erroneous information material to a decision on site closure or the issuance of a certificate of completion.
7. Restores a provision of present law which states that the state does not assume liability for a completed storage facility by assuming ownership following the issuance of a certificate of completion.
8. Make technical changes.

The Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill:

1. Make technical changes.