

2023 Regular Session

HOUSE BILL NO. 571

BY REPRESENTATIVE SCHEXNAYDER

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), 1107(C), 1109(A), 1110(C)(introductory paragraph) and
5 (1)(introductory paragraph) and (f) and (g), (E)(2), (F), (G), and (H) and to enact
6 R.S. 30:6(H) and 149, the heading of Subpart A-4 of Part II of Chapter 2 of Subtitle
7 I of Title 30 of the Louisiana Revised Statutes of 1950, R.S. 30:209.2, 1104.1,
8 1107.1, 1109(G), 1110(C)(1)(h) and (I), and 1112, and R.S. 56:30.5, relative to
9 carbon capture and sequestration; to provide for notice to parishes regarding certain
10 well permit applications, State Mineral and Energy Board operating agreements, and
11 geophysical surveys related to carbon dioxide sequestration; to provide for duties,
12 obligations, and responsibilities for the transport and storage of carbon dioxide; 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 provide for an effective date; and to provide for related matters.

19 Be it enacted by the Legislature of Louisiana:

20 Section 1. The heading of Subpart A-3 of Part II of Chapter 2 of Subtitle I of Title
21 30 of the Louisiana Revised Statutes of 1950, R.S. 30:209(4)(e)(introductory paragraph),
22 1105(A), 1107(C), 1109(A), 1110(C)(introductory paragraph) and (1)(introductory
23 paragraph) and (f) and (g), (E)(2), (F), (G), and (H) are hereby amended and reenacted and
24 R.S. 30:6(H) and 149, the heading of Subpart A-4 of Part II of Chapter 2 of Subtitle I of Title

1 30 of the Louisiana Revised Statutes of 1950, R.S. 30:209.2, 1104.1, 1107.1, 1109(G),
2 1110(C)(1)(h) and (I), and 1112 are hereby enacted to read as follows:

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

5 * * *

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

14 * * *

15 SUBPART A-3. DISTRIBUTION OF FUNDS FROM STORAGE OF CARBON
16 DIOXIDE

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

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

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

28 (1) Thirty percent of the revenue shall be remitted to the Mineral and Energy
29 Operation Fund. The revenue remitted to the Mineral and Energy Operation Fund
30 under this Subsection shall be in lieu of any other revenues collected pursuant to any

1 contractual agreement for the storage of carbon dioxide beneath the state-owned land
2 or water bottoms that is required by law to be remitted to the Mineral and Energy
3 Operation Fund.

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

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

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

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

14 DRY HOLE CREDIT PROGRAM

15 * * *

16 §209. State Mineral and Energy Board; authority

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

19 * * *

20 (4)

21 * * *

22 (e) Upon a two-thirds vote of the members of the State Mineral and Energy
23 Board and after notification to the governing authority of the affected parish, which
24 may be made by electronic mail to the parish president, police jury president, or
25 mayor-president, depending on the form of parish government, and a public hearing
26 conducted by a hearing officer appointed by the assistant secretary for the office of
27 mineral resources in the each affected parish pursuant to R.S. 30:6, enter into
28 operating agreements whereby the state receives a share of revenues from the storage
29 of oil, natural gas, liquid or liquefied hydrocarbons, or carbon dioxide, in whole or
30 in part, as may be agreed upon by the parties, and assumes all or a portion of the risk

1 of the cost of the activity in those situations where the board determines it is in the
 2 best interest of the state either in equity or in the promotion of conservation to do so,
 3 such as but not limited to the following illustrations:

4 * * *

5 §209.2. Storage of carbon dioxide; distribution of funds

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

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

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

22 (2) Thirty percent of the revenue shall be remitted to the governing authority
 23 of the parish located in a specific area of interest. If the specific area of interest is
 24 located in more than one parish, the monies shall be divided between the parishes in
 25 proportion to the amount of property located in each parish pursuant to the
 26 contractual agreement.

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

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

4 * * *

5 §1104.1. Environmental analysis

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

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

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

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

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

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

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

26 §1105. Hearings; notice; rules of procedures; emergency; service of process; public
 27 records; request for hearings; orders and compliance orders

28 A. All public hearings under this ~~Part~~ Chapter shall be conducted pursuant
 29 to the provisions of R.S. 30:6. In addition to the requirements of R.S. 30:6, any
 30 notice required pursuant to this Chapter shall also be provided to the governing

1 authority of any affected parish. Such notice may be made by electronic mail to the
2 parish president, police jury president, or mayor-president, depending on the form
3 of parish government.

4 * * *

5 §1107. Certificates of public convenience and necessity; certificate of completion of
6 injection operations

7 * * *

8 C. ~~Anything in this Chapter, or in any rule, regulation, or order issued by the~~
9 ~~commissioner under this Chapter to the contrary notwithstanding~~ Notwithstanding
10 any provision of this Chapter or any rule, regulation, or order issued by the
11 commissioner under this Chapter to the contrary, accepting or acting pursuant to a
12 certificate of public convenience and necessity or a certificate of completion of
13 injection operations issued under this Chapter, compliance with the provisions of this
14 Chapter; or with rules, regulations, or orders issued by the commissioner under this
15 Chapter; or voluntarily performing any act ~~or acts~~ which could be required by the
16 commissioner pursuant to this Chapter, or rules, regulations, or orders issued by the
17 commissioner under this Chapter, shall not have the following consequences:

18 (1) Cause any storage operator or ~~carbon dioxide~~ transporter of carbon
19 dioxide for storage to become, or be classified as, a common carrier or a public
20 utility for any purpose whatsoever.

21 (2) Subject such storage operator or ~~such carbon dioxide to storage~~
22 transporter of carbon dioxide for storage to any duties, obligations, or liabilities as
23 a common carrier or public utility, under the constitution and laws of this state.

24 (3) Increase the liability of any storage operator or ~~carbon dioxide for storage~~
25 transporter of carbon dioxide for storage for any taxes otherwise due to the state of
26 Louisiana in the absence of any additions or amendments to any tax laws of this
27 state.

28 §1107.1. Reporting; record keeping

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

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

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

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

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

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

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

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

15 (3) Failure to maintain mechanical integrity.

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

18 * * *

19 §1109. Cessation of storage operations; limited liability release

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

26 (a) The reservoir is reasonably expected to retain mechanical integrity, and
27 the

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

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

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

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

6 (2) Upon issuance of the certificate of completion of injection operations,
 7 ownership to the remaining project including the stored carbon dioxide transfers to
 8 the state.

9 (3) Upon the issuance of the certificate of completion of injection operations,
 10 the storage operator, all generators of any injected carbon dioxide, all owners of
 11 carbon dioxide stored in the storage facility, and all owners otherwise having any
 12 interest in the storage facility, shall be released from any and all future duties or
 13 obligations under this Chapter and any and all liability associated with or related to
 14 that storage facility which arises after the issuance of the certificate of completion
 15 of injection operations. The release from duties or obligations under this Chapter
 16 shall not apply to a current or former owner or operator of a storage facility when
 17 such duties or obligations arise from that owner or operator's noncompliance with
 18 applicable underground injection control laws and regulations prior to issuance of
 19 the certificate of completion of injection operations.

20 ~~(2)~~ (4) Provided the provisions pertaining to site-specific trust accounts are
 21 not applicable, such release from liability will not apply to the owner or last operator
 22 of record of a storage facility if the Carbon Dioxide Geologic Storage Trust Fund has
 23 been depleted of funds such that it contains inadequate funds to address or remediate
 24 any duty, obligation, or liability that may arise after issuance of the certificate of
 25 completion of injection operations.

26 ~~(3) Such release from liability will~~ (5) The release provided in Paragraphs
 27 (3) and (4) of this Subsection shall not apply to the any owner of a storage facility,
 28 any storage operator, any operator of a or operator of a storage facility, carbon
 29 dioxide transmission pipeline, or the any generator of the carbon dioxide being
 30 handled by either the storage facility or carbon dioxide transmission pipeline if it is

1 demonstrated that any such owner, storage operator, operator, or generator
 2 intentionally and knowingly concealed or intentionally and knowingly
 3 misrepresented material facts related to the mechanical integrity of the storage
 4 facility or the chemical composition of any injected carbon dioxide. In addition,
 5 upon the issuance of the certificate of completion of injection operations, ~~any~~
 6 ~~performance bonds posted by the operator shall be released and~~ continued
 7 monitoring of the site, including remediation of any well leakage, shall become the
 8 principal responsibility of the Carbon Dioxide Geologic Storage Trust Fund.

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

12 * * *

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

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.

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

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

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

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

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

17 * * *

18 §1112. Notice of geologic storage agreements; recordation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 E. The grantee of any recorded notice of geologic storage agreement shall
28 notify the governing authority of the parish in which the instrument is recorded
29 within thirty days after recordation. Such notice may be made by electronic mail to

1 the parish president, police jury president, or mayor-president, depending on the
2 form of parish government.

3 Section 2. R.S. 56:30.5 is hereby enacted to read as follows:

4 §30.5. Notice to parish governing authorities

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

11 Section 3. If any provision of this Act or the application thereof is held invalid, such
12 invalidity shall not affect other provisions or applications of this Act which can be given
13 effect without the invalid provisions or applications, and to this end the provisions of this
14 Act are hereby declared severable.

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____