

2024 Regular Session

HOUSE BILL NO. 492

BY REPRESENTATIVE GEYMANN

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AN ACT

To amend and reenact R.S. 19:2(9) through (12) and R.S. 30:1103(12), 1104(C)(introductory paragraph), 1107, 1108(A)(2) and (B)(1) and to enact R.S. 30:1108(A)(3), relative to expropriation; to clarify the rights of owners of land as it relates to eminent domain; to provide for expropriation by certain legal entities; to provide for duties and powers of the commissioner; to provide for certificates of public convenience and necessity; to prohibit the expropriation of reservoir storage rights for geologic storage; to provide an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 19:2(9) through (12) are hereby amended and reenacted to read as follows:

§2. Expropriation by state or certain corporations, limited liability companies, or other legal entities.

Prior to filing an expropriation suit, an expropriating authority shall attempt in good faith to reach an agreement as to compensation with the owner of the property sought to be taken and comply with all of the requirements of R.S. 19:2.2.

If unable to reach an agreement with the owner as to compensation, any of the following may expropriate needed property:

* * *

(9) Any domestic or foreign corporation, limited liability company, or other legal entity created for the purpose of, or engaged in, piping or marketing of coal or

1 lignite in whatever form or mixture convenient for transportation within a pipeline
2 as otherwise provided for in R.S. 30:721 through 723.

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

16 (11) ~~Any domestic or foreign corporation, limited liability company, or other~~
17 ~~legal entity engaged in any of the activities otherwise provided for in this Section.~~

18 (12) Any domestic or foreign corporation, limited liability company, or other
19 legal entity ~~composed of such corporations or wholly owned subsidiaries thereof~~
20 created for the purpose of, or engaged in, the injection of carbon dioxide for the
21 underground storage of carbon dioxide and that has received a certificate of public
22 convenience and necessity pursuant to the provisions of R.S. 30:1107(A) approved
23 ~~by the commissioner of conservation.~~ Property located in Louisiana may be so
24 expropriated for the underground storage of carbon dioxide in connection with such
25 storage facility projects located in Louisiana, including but not limited to surface and
26 subsurface rights, mineral rights, and other property interests necessary or useful for
27 the purpose of constructing, operating, or modifying a carbon dioxide storage facility
28 ~~or transporting carbon dioxide by pipeline to such storage facility.~~ This Paragraph
29 shall not allow for the expropriation of reservoir storage rights for geologic storage
30 of carbon dioxide, except in connection with any project as to which R.S.

1 30:1108(B)(2) is applicable. This Paragraph shall have no effect on nor does it grant
 2 expropriation of the mineral rights or other property rights associated with the
 3 approvals required for injection of carbon dioxide into enhanced recovery projects
 4 approved by the commissioner under R.S. 30:4.

5 (12) Subject to any applicable limitations in this Section, any domestic or
 6 foreign corporation, limited liability company, or other legal entity created for the
 7 purpose of, or engaged in, any of the activities otherwise provided for in this Section.

8 Section 2. R.S. 30:1103(12), 1104(C)(introductory paragraph), 1107, 1108(A)(2) and
 9 (B)(1) are hereby amended and reenacted and R.S. 30:1108(A)(3) is hereby enacted to read
 10 as follows:

11 §1103. Definitions

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

14 * * *

15 (12) "Storage operator" means the person ~~authorized~~ recognized by the
 16 commissioner ~~to operate a~~ as the operator of a proposed or existing storage facility.
 17 A storage operator can, but need not be, the owner of carbon dioxide injected into
 18 a storage facility. Ownership of carbon dioxide and use of geologic storage is a
 19 matter of private contract between the storage operator and owner, shipper, or
 20 generator of carbon dioxide, as applicable.

21 * * *

22 §1104. Duties and powers of the commissioner; rules and regulations; permits

23 * * *

24 C. Prior to the use of any reservoir for the storage of carbon dioxide and
 25 prior to the exercise of eminent domain pursuant to the provisions of R.S. 19:2(11)
 26 and R.S. 30:1108 by any person, firm, or corporation having such right under laws
 27 of the state of Louisiana, and as a condition precedent to such use or to the exercise
 28 of such rights of eminent domain pursuant to the provisions of R.S. 19:2(11) and
 29 R.S. 30:1108, the commissioner, after public hearing pursuant to the provisions of

1 R.S. 30:6, held in the parish where the storage facility is to be located, shall have
2 found at least one of the following:

3 * * *

4 §1107. Certificates of public convenience and necessity; certificate of completion
5 of injection operations

6 A. The commissioner shall issue a certificate of public convenience and
7 necessity or a certificate of completion of injection operations to each person
8 applying therefor if, after a public hearing pursuant to the provisions of R.S. ~~30:6~~
9 30:6, held in the parish where the storage facility is to be located, he determines that
10 it is required by the present or future public convenience and necessity, and such
11 decision is based upon the following criteria: (1) the proposed storage facility meets
12 the requirements of R.S. 30:1104(C) and (2) the proposed storage facility meets the
13 requirements of any rules adopted under this Chapter. However, if any person has
14 previously been issued a certificate of public convenience and necessity or a
15 certificate of completion of injection operations by the commissioner, that certificate
16 continues to remain valid and in force.

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

24 ~~B. C.~~ The commissioner shall issue a certificate of completion of injection
25 operations to the operator applying therefor, if after a public hearing pursuant to R.S.
26 30:6, it is determined that such operator has met all of the conditions required for
27 such certificate, including the requirements of R.S. 30:1109.

28 ~~C. D.~~ Notwithstanding any provision of this Chapter or any rule, regulation,
29 or order issued by the commissioner under this Chapter to the contrary, accepting or
30 acting pursuant to a certificate of public convenience and necessity or a certificate

1 of completion of injection operations issued under this Chapter, compliance with the
2 provisions of this Chapter or with rules, regulations, or orders issued by the
3 commissioner under this Chapter or voluntarily performing any act which could be
4 required by the commissioner pursuant to this Chapter or rules, regulations, or orders
5 issued by the commissioner under this Chapter shall not have the following
6 consequences:

7 (1) Cause any storage operator or transporter of carbon dioxide for storage
8 to become or be classified as a common carrier or a public utility for any purpose
9 whatsoever.

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

13 (3) Increase the liability of any storage operator or transporter of carbon
14 dioxide for storage for any taxes otherwise due to the state of Louisiana in the
15 absence of any additions or amendments to any tax laws of this state.

16 * * *

17 §1108. Eminent domain; expropriation

18 A.

19 * * *

20 (2) The exercise of eminent domain or expropriation powers under this
21 Section shall not allow for the expropriation of reservoir storage rights for geologic
22 storage. This prohibition against the use of expropriation of reservoir storage rights
23 for geologic storage shall not apply to the exercise of expropriation powers in
24 connection with any parish as to which Paragraph (B)(2) of this Section is applicable.

25 ~~(2)~~ (3) In the exercise of the privilege herein conferred, owners or operators
26 of such storage facilities and pipelines shall compensate the parish, municipality, or
27 road district, respectively, for any damage done to a public road, in the construction
28 of storage facilities, and the laying of pipelines, utility, telegraph, or telephone lines,
29 along, under, over, or across the road. Nothing in this Chapter shall be construed to
30 grant any transporter the right to use any public street or alley of any parish,

1 incorporated city, town, or village, except by express permission from the parish,
2 city, or other governing authority.

3 B.(1) Except as provided in Paragraph (2) of this Subsection, the exercise of
4 the right of eminent domain granted in this Chapter shall not prevent persons having
5 the right to do so from drilling through the storage facility in such manner as shall
6 comply with the rules of the commissioner issued for the purpose of protecting the
7 storage facility against pollution or invasion and against the escape or migration of
8 carbon dioxide. Furthermore, the right of eminent domain set out in this Section
9 shall not prejudice the rights of the owners of the lands or minerals as to all other
10 uses not acquired for the storage facility and not reasonably necessary for the use of
11 the acquired property.

12 * * *

13 Section 3. This Act shall take effect and become operative if and when the Act which
14 originated as House Bill No. 966 of this 2024 Regular Session of the Legislature is enacted
15 and becomes effective.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____