2024 Regular Session

HOUSE BILL NO. 966 (Substitute for House Bill No. 696 by Representative Geymann)
BY REPRESENTATIVE GEYMANN

1	AN ACT
2	To amend and reenact R.S. 30:28(D)(2), (3), (4), and (7) and (E) and 1104(A)(1) and to
3	enact R.S. 30:1104.2 and 1113, relative to unitization for carbon dioxide
4	sequestration; to provide definitions; to provide for notification requirements; to
5	provide for the issuance of drilling permits; to provide for the authority of the
6	commissioner of conservation; to authorize unitization for carbon dioxide storage;
7	to provide for public hearings; to provide required findings; to provide for terms of
8	the unitization order and compensation for owners in interest; to require certain
9	determinations by the commissioner; to provide for a method for determining fair
10	and just compensation; to provide relative to venue; to provide relative to owners
11	rights; and to provide for related matters.
12	Be it enacted by the Legislature of Louisiana:
13	Section 1. R.S. 30:28(D)(2), (3), (4) and (7) and (E) and 1104(A)(1) are hereby
14	amended and reenacted and R.S. 30:1104.2 and 1113 are hereby enacted to read as follows:
15	§28. Drilling permits; issuance; fees; location plat; notice and hearing; funds from
16	drilling permit fees
17	* * *
18	D. The commissioner of conservation shall not issue a permit to drill a well
19	or a test well pursuant to Subsection A, B, or C of this Section until the provisions
20	of this Subsection have been satisfied:
21	* * *

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

(2) The commissioner of conservation shall review the location plat and make a determination as to whether any residential or commercial structure or area of review for a carbon dioxide storage facility not owned by the applicant, his lessor, or other predecessor in interest is situated within a five hundred foot radius of the proposed drilling site. For purposes of this Section, "carbon dioxide storage facility" shall include any current or proposed project for which a Class VI permit has been applied or issued and "area of review" shall have the same meaning as that term is defined in administrative rules regarding Class VI injection wells.

- (3) Upon a determination by the commissioner that a residential or commercial structure or area of review for a carbon dioxide storage facility is located within five hundred feet of the proposed drilling site, he shall convey that information, together with written notice of a public hearing thereon, by means of an official notice delivered by first class mail, to any person owning a residential or commercial structure within a five hundred foot radius of the proposed site, the operator of a carbon dioxide storage facility whose area of review is within a five hundred foot radius of the proposed site, and to the local governing authority in whose jurisdiction the property is located.
- (4) Any property owner, carbon dioxide storage facility operator, or local governing authority so notified shall have the right within ten days of the mailing of such notice to request a public hearing concerning the issuance of such permit.

* * *

(7) If the commissioner, in his review of the location plat required by Paragraph (2) of this Subsection, determines that no residential or commercial structure or area of review for a carbon dioxide storage facility not owned by the applicant, his lessor, or other predecessor in interest falls within five hundred feet of the proposed well site, he shall issue the permit required for such drilling in accordance with the provisions of Subsections A, B, C, and F of this Section and any rules and regulations issued thereunder.

* * *

E. Any permit issued to drill an oil or gas well or test well to a depth of less than ten thousand feet shall not be subject to the provisions of Subsection D of this Section other than those requirements regarding carbon dioxide storage facilities.

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

A. The office of conservation's actions under this Chapter shall be directed and controlled by the commissioner. The commissioner shall have authority to:

(1) Regulate the development and operation of storage facilities and pipelines transmitting transporting carbon dioxide to storage facilities, including unitization in accordance with the provisions of R.S. 30:1107, 30:1104.2 and the issuance of certificates of public convenience and necessity for storage facilities and pipelines in accordance with the provisions of R.S. 30:1107 serving such projects approved hereunder.

* * *

§1104.2. Unitization

A. In order to promote the orderly development of the state's geologic storage resources, to ensure that these resources are developed in an efficient, fair, and equitable manner, and to prevent waste thereof, upon the application of a storage operator, the commissioner is authorized and empowered to enter an order requiring the unit operation of a storage unit, as that term is defined in this Section, in addition to any reasonable and necessary areal buffer and subsurface monitoring zones, and in connection with such an order of unit operation, the commissioner shall have the right to unitize, pool, and consolidate all separately owned tracts and other property interests within a storage unit for geologic storage.

B. An order for unit operation shall be issued only after notice, public hearing, and a finding by the commissioner that it is for a public and necessary purpose. In order to consider a unit application, the commissioner shall find that at least three-fourths of the owners in interest within the proposed storage unit have consented in writing to geologic storage. The required three-fourths of the owners in interest shall be on the basis of, and in proportion to, the surface acreage content

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of the entire storage unit and, if a tract within the storage unit is subject to ownership in indivision, credited by multiplying the acreage of the tract by the undivided ownership interest of the parties who have consented in writing to geologic storage.

C. An order for unit operation shall provide for just and equitable sharing of the benefits generated from use of such tracts for geologic storage, and shall provide for just and equitable compensation to all owners in interest, including the storage operator, other owners in interest who consented in writing to geologic storage, and owners in interest who did not consent in writing to geologic storage, except that the order shall not vary, alter, or otherwise apply a standard of benefit sharing or compensation to, the terms of any contracts between the storage operator and any owner in interest. The order shall set forth the method, formula, or other basis by which the just and equitable sharing of the benefits shall be determined, including the timing of payments thereof. In determining the method, formula, or other basis, the commissioner may take into consideration such factors that include but are not limited to the computational modeling submitted by an existing or proposed storage operator, whether there is an impact to a tract, the extent of any impact to a tract, each separately owned tract's proportionate share of the total surface acreage contributed to the storage unit, the costs required to perform the unit operation, and the viability of any third-party geologic storage projects within the storage unit and any associated third-party contracts executed by an owner in interest.

D. Judicial review of orders, rules, and regulations issued by the commissioner pursuant to this Section shall be conducted pursuant to the provisions and requirements of R.S. 30:12. Additionally, subject to timely filing for court review pursuant to R.S. 30:12, the proposed storage unit operator or any owner in interest who has not entered into an agreement for geologic storage with the proposed storage unit operator shall have the right to have the reviewing court determine whether the purpose for the storage unit is public and necessary, whether the compensation provided for is just, and, if not, the amount of just compensation due. As to any owner in interest having the right to have a reviewing court determine whether the compensation is just under this Subsection, the court's review in those

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instances shall be limited to the compensation affecting that specific owner in interest. The review of whether the compensation is just may be heard through a trial by jury if timely requested by any party. Judicial reviews conducted under this Subsection shall be tried by preference and shall be conducted with the greatest possible dispatch.

E. Upon application by the storage operator or at the commissioner's discretion and after notice, public hearing, and consideration of available geological, engineering, and other relevant evidence, the commissioner, to the extent required by such evidence, may by order revise, amend, enlarge, reduce, confirm or dissolve any storage unit provided for under this Section or modify any provision of any order issued pursuant to this Section, without the consent required by Subsection B of this Section. An order enlarging or reducing the areal extent of an existing storage unit shall provide for just and equitable compensation to all owners in interest as to any acreage added to the storage unit and may also provide for adjustments to compensation and the sharing of benefits as are just and equitable for all owners in interest as to the area encompassed by the enlarged or reduced storage unit. In any order issued pursuant to this Subsection providing for compensation, the commissioner shall use the same method, formula, or other basis used to determine the just and equitable share pursuant to Subsection C of this Section. However, no order issued pursuant to this Subsection shall vary, alter, or otherwise apply a standard of benefit sharing or compensation to, the terms of any contracts between the storage operator and any owner in interest.

F. Operations on or injection in the storage unit for geologic storage shall be considered operations on or injection in each separate tract in the storage unit.

G. The commissioner shall prescribe, issue, amend, and rescind such orders, rules, and regulations as he may find necessary or appropriate to carry out the provisions of this Section, including establishing the methodology for determining or adjusting just and equitable compensation to owners in interest that have not entered into a contract with the storage operator, including the storage operator, other owners in interest who consented in writing to geologic storage and owners in

interest who did not consent in writing to geologic storage, including in the event a storage unit is enlarged or reduced. However, no order, rule, or regulation issued pursuant to this Subsection shall vary, alter, or otherwise apply a standard of benefit sharing or compensation to, the terms of any contracts between the storage operator and any owner in interest. The same requirements and procedures to challenge such an order, rule, or regulation that are stated in Subsection D of this Section shall also apply to this Subsection.

- H. For the purposes of this Section, the following terms shall have the following meanings:
- (1) "Owner in interest" shall mean any party who owns or otherwise has the right to use the subsurface of a tract within the storage unit for geologic storage, regardless of whether such party is the surface owner of the tract or has acquired the right from the surface owner, or is a successor or assign of such right.
- (2) "Storage unit" shall mean the area encompassing the underground reservoir or portion thereof, and all associated top and bottom seals, which comprise the carbon dioxide plume, as that term is defined in administrative rules and regulations providing for Class VI injection wells, based on computational modeling submitted in the unit application by the existing or proposed storage operator, as approved by the commissioner.
- I. Except as provided in R.S. 30:1108(B)(2), nothing in this Section shall prevent persons having the right to do so from drilling through the storage unit in such manner as shall comply with the rules of the commissioner issued for the purpose of protecting the storage unit or an associated storage facility against pollution or invasion and against the escape or migration of carbon dioxide.
- J. No Class VI injection wellhead shall be located within five hundred feet of any inhabited dwelling not owned by the storage operator or any owner in interest bound by a contract with the storage operator that allows for the location of a Class VI injection wellhead within five hundred feet of an inhabited dwelling.

K. If this Section, or the application thereof to any person or circumstance, is finally determined by a court of law to be unconstitutional or otherwise invalid, the right to exercise the power of eminent domain and expropriate reservoir storage rights for geologic storage shall be reinstated, subject to the storage operator obtaining a certificate of public convenience and necessity from the commissioner pursuant to R.S. 30:1107(A).

* * *

§1113. Notifications regarding applications

A. Within thirty days of receiving notice of an application for a Class VI injection well being deemed administratively complete, the owner or operator shall make a good faith effort to provide notice of the submission of the application via United States mail to all of the following:

- (1) The last operator of record for any oil or gas well located within the area of review delineated in the application.
- (2) Any person known to the applicant after reasonable search, including owners and operators, acting on behalf of the person, that presently has the right to drill into and produce from a pool and to appropriate production either for himself or others within the predicted or modeled carbon dioxide plume, as that term is defined in administrative rules and regulations providing for Class VI injection wells.
- B. Within ten days of filing an application with the commissioner for a Class

 V stratigraphic test well, the owner or operator shall make a good faith effort to

 provide notice of the submission of the application via United States mail to all of
 the following:
- (1) The last operator of record for any oil or gas well located within five hundred feet of the proposed Class V stratigraphic test well location.
- (2) Any person known to the applicant after reasonable search, including owners and operators, acting on behalf of the person, that presently has the right to drill into and produce from a pool and to appropriate production either for himself

1	or others within five hundred feet of the proposed Class V stratigraphic test wel		
2	location.		
		SPEAKER OF THE HOUSE OF REPRESENTATIVES	
		PRESIDENT OF THE SENATE	
		GOVERNOR OF THE STATE OF LOUISIANA	

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HB NO. 966

APPROVED: