**ENROLLED ACT No. 645** 

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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1	(2) The commissioner of conservation shall review the location plat and
2	make a determination as to whether any residential or commercial structure or area
3	of review for a carbon dioxide storage facility not owned by the applicant, his lessor,
4	or other predecessor in interest is situated within a five hundred foot radius of the
5	proposed drilling site. For purposes of this Section, "carbon dioxide storage facility"
6	shall include any current or proposed project for which a Class VI permit has been
7	applied or issued and "area of review" shall have the same meaning as that term is
8	defined in administrative rules regarding Class VI injection wells.
9	(3) Upon a determination by the commissioner that a residential or
10	commercial structure or area of review for a carbon dioxide storage facility is located
11	within five hundred feet of the proposed drilling site, he shall convey that
12	information, together with written notice of a public hearing thereon, by means of
13	an official notice delivered by first class mail, to any person owning a residential or
14	commercial structure within a five hundred foot radius of the proposed site, the
15	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.

\* \* \*

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## **ENROLLED**

1	E. Any permit issued to drill an oil or gas well or test well to a depth of less
2	than ten thousand feet shall not be subject to the provisions of Subsection D of this
3	Section other than those requirements regarding carbon dioxide storage facilities.
4	* * *
5	§1104. Duties and powers of the commissioner; rules and regulations; permits
6	A. The office of conservation's actions under this Chapter shall be directed
7	and controlled by the commissioner. The commissioner shall have authority to:
8	(1) Regulate the development and operation of storage facilities and
9	pipelines transmitting transporting carbon dioxide to storage facilities, including
10	unitization in accordance with the provisions of R.S. 30:1107, 30:1104.2 and the
11	issuance of certificates of public convenience and necessity for storage facilities and
12	pipelines in accordance with the provisions of R.S. 30:1107 serving such projects
13	approved hereunder.
14	* * *
15	<u>§1104.2. Unitization</u>
16	A. In order to promote the orderly development of the state's geologic
17	storage resources, to ensure that these resources are developed in an efficient, fair,
18	and equitable manner, and to prevent waste thereof, upon the application of a storage
19	operator, the commissioner is authorized and empowered to enter an order requiring
20	the unit operation of a storage unit, as that term is defined in this Section, in addition
21	to any reasonable and necessary areal buffer and subsurface monitoring zones, and
22	in connection with such an order of unit operation, the commissioner shall have the
23	right to unitize, pool, and consolidate all separately owned tracts and other property
24	interests within a storage unit for geologic storage.
25	B. An order for unit operation shall be issued only after notice, public
26	hearing, and a finding by the commissioner that it is for a public and necessary
27	purpose. In order to consider a unit application, the commissioner shall find that at
28	least three-fourths of the owners in interest within the proposed storage unit have
29	consented in writing to geologic storage. The required three-fourths of the owners
30	in interest shall be on the basis of, and in proportion to, the surface acreage content

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1	of the entire storage unit and, if a tract within the storage unit is subject to ownership
2	in indivision, credited by multiplying the acreage of the tract by the undivided
3	ownership interest of the parties who have consented in writing to geologic storage.
4	C. An order for unit operation shall provide for just and equitable sharing of
5	the benefits generated from use of such tracts for geologic storage, and shall provide
6	for just and equitable compensation to all owners in interest, including the storage
7	operator, other owners in interest who consented in writing to geologic storage, and
8	owners in interest who did not consent in writing to geologic storage, except that the
9	order shall not vary, alter, or otherwise apply a standard of benefit sharing or
10	compensation to, the terms of any contracts between the storage operator and any
11	owner in interest. The order shall set forth the method, formula, or other basis by
12	which the just and equitable sharing of the benefits shall be determined, including
13	the timing of payments thereof. In determining the method, formula, or other basis,
14	the commissioner may take into consideration such factors that include but are not
15	limited to the computational modeling submitted by an existing or proposed storage
16	operator, whether there is an impact to a tract, the extent of any impact to a tract,
17	each separately owned tract's proportionate share of the total surface acreage
18	contributed to the storage unit, the costs required to perform the unit operation, and
19	the viability of any third-party geologic storage projects within the storage unit and
20	any associated third-party contracts executed by an owner in interest.
21	D. Judicial review of orders, rules, and regulations issued by the
22	commissioner pursuant to this Section shall be conducted pursuant to the provisions
23	and requirements of R.S. 30:12. Additionally, subject to timely filing for court
24	review pursuant to R.S. 30:12, the proposed storage unit operator or any owner in
25	interest who has not entered into an agreement for geologic storage with the
26	proposed storage unit operator shall have the right to have the reviewing court

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

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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

1	instances shall be limited to the compensation affecting that specific owner in
2	interest. The review of whether the compensation is just may be heard through a trial
3	by jury if timely requested by any party. Judicial reviews conducted under this
4	Subsection shall be tried by preference and shall be conducted with the greatest
5	possible dispatch.
6	E. Upon application by the storage operator or at the commissioner's
7	discretion and after notice, public hearing, and consideration of available geological,
8	engineering, and other relevant evidence, the commissioner, to the extent required
9	by such evidence, may by order revise, amend, enlarge, reduce, confirm or dissolve
10	any storage unit provided for under this Section or modify any provision of any order
11	issued pursuant to this Section, without the consent required by Subsection B of this
12	Section. An order enlarging or reducing the areal extent of an existing storage unit
13	shall provide for just and equitable compensation to all owners in interest as to any
14	acreage added to the storage unit and may also provide for adjustments to
15	compensation and the sharing of benefits as are just and equitable for all owners in
16	interest as to the area encompassed by the enlarged or reduced storage unit. In any
17	order issued pursuant to this Subsection providing for compensation, the
18	commissioner shall use the same method, formula, or other basis used to determine
19	the just and equitable share pursuant to Subsection C of this Section. However, no
20	order issued pursuant to this Subsection shall vary, alter, or otherwise apply a
21	standard of benefit sharing or compensation to, the terms of any contracts between
22	the storage operator and any owner in interest.
23	F. Operations on or injection in the storage unit for geologic storage shall be
24	considered operations on or injection in each separate tract in the storage unit.

25 <u>G. The commissioner shall prescribe, issue, amend, and rescind such orders,</u> 26 rules, and regulations as he may find necessary or appropriate to carry out the 27 provisions of this Section, including establishing the methodology for determining 28 or adjusting just and equitable compensation to owners in interest that have not 29 entered into a contract with the storage operator, including the storage operator, other 30 owners in interest who consented in writing to geologic storage and owners in

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1	interest who did not consent in writing to geologic storage, including in the event a
2	storage unit is enlarged or reduced. However, no order, rule, or regulation issued
3	pursuant to this Subsection shall vary, alter, or otherwise apply a standard of benefit
4	sharing or compensation to, the terms of any contracts between the storage operator
5	and any owner in interest. The same requirements and procedures to challenge such
6	an order, rule, or regulation that are stated in Subsection D of this Section shall also
7	apply to this Subsection.
8	H. For the purposes of this Section, the following terms shall have the
9	following meanings:
10	(1) "Owner in interest" shall mean any party who owns or otherwise has the
11	right to use the subsurface of a tract within the storage unit for geologic storage,
12	regardless of whether such party is the surface owner of the tract or has acquired the
13	right from the surface owner, or is a successor or assign of such right.
14	(2) "Storage unit" shall mean the area encompassing the underground
15	reservoir or portion thereof, and all associated top and bottom seals, which comprise
16	the carbon dioxide plume, as that term is defined in administrative rules and
17	regulations providing for Class VI injection wells, based on computational modeling
18	submitted in the unit application by the existing or proposed storage operator, as
19	approved by the commissioner.
20	I. Except as provided in R.S. 30:1108(B)(2), nothing in this Section shall
21	prevent persons having the right to do so from drilling through the storage unit in
22	such manner as shall comply with the rules of the commissioner issued for the
23	purpose of protecting the storage unit or an associated storage facility against
24	pollution or invasion and against the escape or migration of carbon dioxide.
25	J. No Class VI injection wellhead shall be located within five hundred feet
26	of any inhabited dwelling not owned by the storage operator or any owner in interest
27	bound by a contract with the storage operator that allows for the location of a Class
28	VI injection wellhead within five hundred feet of an inhabited dwelling.

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1	K. If this Section, or the application thereof to any person or circumstance,
2	is finally determined by a court of law to be unconstitutional or otherwise invalid,
3	the right to exercise the power of eminent domain and expropriate reservoir storage
4	rights for geologic storage shall be reinstated, subject to the storage operator
5	obtaining a certificate of public convenience and necessity from the commissioner
6	pursuant to R.S. 30:1107(A).
7	* * *
8	§1113. Notifications regarding applications
9	A. Within thirty days of receiving notice of an application for a Class VI
10	injection well being deemed administratively complete, the owner or operator shall
11	make a good faith effort to provide notice of the submission of the application via
12	United States mail to all of the following:
13	(1) The last operator of record for any oil or gas well located within the area
14	of review delineated in the application.
15	(2) Any person known to the applicant after reasonable search, including
16	owners and operators, acting on behalf of the person, that presently has the right to
17	drill into and produce from a pool and to appropriate production either for himself
18	or others within the predicted or modeled carbon dioxide plume, as that term is
19	defined in administrative rules and regulations providing for Class VI injection
20	wells.
21	B. Within ten days of filing an application with the commissioner for a Class
22	V stratigraphic test well, the owner or operator shall make a good faith effort to
23	provide notice of the submission of the application via United States mail to all of
24	the following:
25	(1) The last operator of record for any oil or gas well located within five
26	hundred feet of the proposed Class V stratigraphic test well location.
27	(2) Any person known to the applicant after reasonable search, including
28	owners and operators, acting on behalf of the person, that presently has the right to
29	drill into and produce from a pool and to appropriate production either for himself

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 or others within five hundred feet of the proposed Class V stratigraphic test well

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 location.

## SPEAKER OF THE HOUSE OF REPRESENTATIVES

## PRESIDENT OF THE SENATE

## GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_