The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Tyler S. McCloud.

DIGEST 2020 Regular Session

SB 353 Engrossed

Hewitt

<u>Present law</u> defines a storage facility. <u>Proposed law</u> removes from that definition pipelines owned or operated by the storage operator used to transport the carbon dioxide from one or more capture facilities or sources to the storage and injection site.

<u>Proposed law</u> defines interested person as any person who presently owns an interest within the area of, or proximate to, the tracts directly affected by the storage facility.

<u>Present law</u> authorizes the commissioner to approve conversion of an existing enhanced oil or gas recovery operation into a storage facility, if necessary, taking into consideration prior approvals of the commissioner regarding such enhanced oil recovery operations. <u>Proposed law</u> authorizes the approval of a conversion to geologic storage facilities of hydrocarbon-bearing formations, including depleted oil formations as well as existing or pre-existing enhanced oil or gas recovery operations.

<u>Present law</u> provides that prior to using a reservoir and prior to the exercise of eminent domain the commissioner shall have a hearing and find that such use is suitable and feasible; will not contaminate other formations containing fresh water, oil, gas, or other commercial mineral deposits; and will not endanger lives or property. Proposed law retains present law.

<u>Present law</u> provides that a reservoir is suitable and feasible for use as carbon dioxide storage when either of the following conditions exists:

- (1) The volumes of original oil, gas, condensate, salt, or other commercial mineral are capable of being produced in paying quantities have all been produced.
- (2) The reservoir has a greater value or utility as carbon dioxide storage than mineral production and at least 3/4 of the owner's consent in writing.

<u>Proposed law</u> retains <u>present law</u> and adds a reservoir is also suitable and feasible if a reservoir is capable of producing mineral in paying quantities and all the owners have agreed to such use.

<u>Present law</u> authorizes a storage operator that has been issued a permit and a certificate of public necessity to exercise eminent domain to construct, operate, and modify a storage facility or lay, maintain, and operate pipelines for the transportation of carbon dioxide to storage. <u>Present law</u> requires the exercise of eminent domain in accordance with <u>present law</u>. <u>Proposed law</u> retains <u>present law</u> and adds to the purposes of exercising the authority for utilities necessary to the operation of storage facility.

Present law prohibits the right of eminent domain in present law from prejudicing the rights of the

owners of the lands, minerals, or other rights or interests not acquired for the storage facility. Proposed law prohibits the right of eminent domain from prejudicing landowner rights or mineral rights not reasonably necessary for the use of the acquired property.

<u>Present law</u> authorizes the commissioner to levy per tonnage of carbon dioxide stored fee on operators up to a maximum of \$5,000,000. The rate of collecting the fee shall be determined by the commissioner based on the formula F x 120 < M, where "F" is the per unit fee, "120" is the minimum number of months over which the fee is collected, and "M" is the maximum payment of \$5,000,000. <u>Proposed law</u> increases the minimum number of months <u>from</u> 120 <u>to</u> 144, thereby changing the formula from F x 120 < M to F x 144 < M.

<u>Present law</u> authorizes the expropriation of property by any domestic or foreign corporation, limited liability company, or other legal entity composed of such corporations or wholly owned subsidiaries of such entities engaged in the injection of carbon dioxide for the underground storage of carbon dioxide approved by the commissioner of conservation. <u>Proposed law</u> extends that expropriation authority for the purpose of transporting carbon dioxide by pipeline to a carbon dioxide storage facility.

Effective August 1, 2020.

(Amends R.S. 30:1103(2), (3), (6), and (9), 1104(A)(9), (C) (intro para) and (C)(1), 1108(A)(1) and (B), 1109(A), 1110(C)(1)(a)-(e), 1111(F), and R.S. 19:2(12); adds R.S. 30:1103(12))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Natural Resources to the original bill

- 1. Adds definition for interested person.
- 2. Removes language preventing the commissioner from disapproving documentation and quantification of carbon dioxide stored in association with an enhanced oil and gas recovery project.
- 3. Removes language requiring the commissioner to issue an order at the request of the owner on the ownership of CO2 that has been reduced to possession and injected into a storage facility.
- 4. Removes language relative to liability and release from liability.
- 5. Technical amendments