

SENATE BILL NO. 353

BY SENATOR HEWITT

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AN ACT

To amend and reenact R.S. 30:1103(2), (3), (6), and (9), 1104(A)(9), the introductory paragraph of (C), (C)(1), 1108(A)(1) and (B), 1110(C)(1)(a) through (e), and R.S. 19:2(12), and to enact R.S. 30:1103(12), relative to the Louisiana Geologic Sequestration of Carbon Dioxide Act; to provide certain definitions, terms, procedures, conditions, requirements, and effects; to provide for the powers and duties of the commissioner of conservation; to provide relative to storage facilities and operations; to provide relative to eminent domain and expropriation; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 30:1103(2), (3), (6), and (9), 1104(A)(9), the introductory paragraph of (C), (C)(1), 1108(A)(1) and (B), 1110(C)(1)(a) through (e), are hereby amended and reenacted and R.S. 30:1103(12) is hereby enacted to read as follows:

§1103. Definitions

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

* * *

(2) "Commissioner" has the same meaning as provided in R.S. 30:3~~(2)~~(1).

(3) "Gas" has the same meaning as provided in R.S. ~~30:3(5)~~30:3(3).

* * *

(6) "Oil" has the same meaning as provided in R.S. ~~30:3(4)~~30:3(7).

* * *

1 (9) "Storage facility" means the underground reservoir, carbon dioxide
2 injection wells, monitoring wells, underground equipment, and surface buildings and
3 equipment utilized in the storage operation, ~~including pipelines owned or operated~~
4 ~~by the storage operator used to transport the carbon dioxide from one or more~~
5 ~~capture facilities or sources to the storage and injection site.~~ The underground
6 reservoir component of the storage facility includes any necessary and reasonable
7 aerial buffer and subsurface monitoring zones designated by the commissioner for
8 the purpose of ensuring the safe and efficient operation of the storage facility for the
9 storage of carbon dioxide and shall be chosen to protect against pollution, and escape
10 or migration of carbon dioxide.

11 * * *

12 **(12) "Interested person" means any person who presently owns an**
13 **interest within the area of, or proximate to, the tracts directly affected by the**
14 **storage facility.**

15 §1104. Duties and powers of the commissioner; rules and regulations; permits

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

18 * * *

19 (9) Approve conversion ~~of an~~ **to geologic storage facilities of**
20 **hydrocarbon-bearing formations, including depleted oil formations as well as**
21 ~~existing~~ **or pre-existing** enhanced oil or gas recovery ~~operation into a storage facility~~
22 **operations**, if necessary, taking into consideration prior approvals of the
23 commissioner regarding such enhanced oil recovery operations.

24 * * *

25 C. Prior to the use of any reservoir for the storage of carbon dioxide and prior
26 to the exercise of eminent domain by any person, firm, or corporation having such
27 right under laws of the state of Louisiana, and as a condition precedent to such use
28 or to the exercise of such rights of eminent domain, the commissioner, after public
29 hearing pursuant to the provisions of R.S. 30:6, held in the parish where the storage
30 facility is to be located, shall have found ~~all of~~ **at least one of** the following:

1 (1) That the reservoir sought to be used for the injection, storage, and
 2 withdrawal of carbon dioxide is suitable and feasible for such use, provided no
 3 reservoir, any part of which is producing or is capable of producing oil, gas,
 4 condensate, or other commercial mineral in paying quantities, shall be subject to
 5 such use, unless ~~all owners in such reservoir have agreed thereto. In addition, no~~
 6 ~~reservoir shall be subject to such use unless either:~~ **any of the following applies:**

7 (a) **The reservoir or any part thereof sought to be used for storage under**
 8 **this Chapter is producing or is capable of producing oil, gas, condensate, or**
 9 **other commercial mineral in paying quantities, and all owners in such reservoir**
 10 **or relevant part thereof have agreed to such use.**

11 (b) The volumes of original reservoir, oil, gas, condensate, salt, or other
 12 commercial mineral therein which are capable of being produced in paying quantities
 13 have all been produced.

14 ~~(b)~~(c) Such reservoir has a greater value or utility as a reservoir for carbon
 15 dioxide storage than for the production of the remaining volumes of original
 16 reservoir oil, gas, condensate, or other commercial mineral, and at least three-fourths
 17 of the owners, in interest, exclusive of any "lessor" defined in R.S. 30:148.1, have
 18 consented to such use in writing.

19 * * *

20 §1108. Eminent domain, expropriation

21 A.(1) Any storage operator is hereby authorized, after obtaining any permit
 22 and any certificate of public convenience and necessity from the commissioner
 23 required by this Chapter, to exercise the power of eminent domain and expropriate
 24 needed property to acquire surface and subsurface rights and property interests
 25 necessary or useful for the purpose of constructing, operating, or modifying a storage
 26 facility and the necessary infrastructure including the laying, maintaining, and
 27 operating **of** pipelines for the transportation of carbon dioxide to a storage facility,
 28 together with **utility**, telegraph, and telephone lines necessary and incidental to the
 29 operation of these storage facilities and pipelines, over private property thus
 30 expropriated; and have the further right to construct and develop storage facilities

1 and the necessary infrastructure, including the laying, maintaining, and operating of
 2 pipelines along, across, over, and under any navigable stream or public highway,
 3 street, bridge, or other public place; and also have the authority, under the right of
 4 expropriation herein conferred, to cross railroads, street railways, and other
 5 pipelines, by expropriating property necessary for the crossing under the general
 6 expropriation laws of this state. The right to run along, across, over, or under any
 7 public road, bridge, or highway, as before provided for, may be exercised only upon
 8 condition that the traffic thereon is not interfered with, and that such road or highway
 9 is promptly restored to its former condition of usefulness, at the expense of the
 10 storage facility and the pipeline owner if different from the storage operator, the
 11 restoration to be subject also to the supervision and approval of the proper local
 12 authorities.

13 * * *

14 B. The exercise of the right of eminent domain granted in this Chapter shall
 15 not prevent persons having the right to do so from drilling through the storage
 16 facility in such manner as shall comply with the rules of the commissioner issued for
 17 the purpose of protecting the storage facility against pollution or invasion and against
 18 the escape or migration of carbon dioxide. Furthermore, the right of eminent domain
 19 set out in this Section shall not prejudice the rights of the owners of the lands; or
 20 ~~minerals, or other rights or interests therein as to all other uses~~ not acquired for the
 21 storage facility **and not reasonably necessary for the use of the acquired**
 22 **property.**

23 * * *

24 §1110. Carbon Dioxide Geologic Storage Trust Fund

25 * * *

26 C. The commissioner is hereby authorized to levy on storage operators the
 27 following fees or costs for the purpose of funding the fund:

28 (1) A fee payable to the office of conservation, in a form and schedule
 29 prescribed by the office of conservation, for each ton of carbon dioxide injected for
 30 storage. This fee is to be determined based upon the following formula:

1 (a) $F \times \del{120}144 < M$.

2 (b) "F" is a per unit fee in dollars per ton set by the office of conservation.

3 (c) "~~120~~"144" is the minimum number of months over which a fee is to be
4 collected.

5 (d) "M" is the ~~Maximum Payment~~ maximum payment of five million
6 dollars and is the total amount of fees to be collected before the payment of the fee
7 can be suspended as provided in this Section.

8 (e) The fee cannot exceed five million dollars divided by one hundred ~~twenty~~
9 forty-four divided by the total tonnage of carbon dioxide to be injected,
10 (($\$5,000,000/\del{120}144$)/ total injection tonnage of carbon dioxide).

11 * * *

12 Section 2. R.S. 19:2(12) is hereby amended and reenacted to read as follows:

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

15 Prior to filing an expropriation suit, an expropriating authority shall attempt
16 in good faith to reach an agreement as to compensation with the owner of the
17 property sought to be taken and comply with all of the requirements of R.S. 19:2.2.
18 If unable to reach an agreement with the owner as to compensation, any of the
19 following may expropriate needed property:

20 * * *

21 (12) Any domestic or foreign corporation, limited liability company, or other
22 legal entity composed of such corporations or wholly owned subsidiaries thereof
23 engaged in the injection of carbon dioxide for the underground storage of carbon
24 dioxide approved by the commissioner of conservation. Property located in
25 Louisiana may be so expropriated for the underground storage of carbon dioxide in
26 connection with such storage facility projects located in Louisiana, including but not
27 limited to surface and subsurface rights, mineral rights, and other property interests
28 necessary or useful for the purpose of constructing, operating, or modifying a carbon
29 dioxide storage facility or transporting carbon dioxide by pipeline to such
30 storage facility. This Paragraph shall have no effect on nor does it grant

1 expropriation of the mineral rights or other property rights associated with the
2 approvals required for injection of carbon dioxide into enhanced recovery projects
3 approved by the commissioner under R.S. 30:4.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____