

RÉSUMÉ DIGEST

ACT 61 (SB 353)

2020 Regular Session

Hewitt

Prior law defined a storage facility. New law 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.

New law 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.

Prior law authorized the commissioner of conservation 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. New law 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.

Prior law provided 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. New law retains prior law.

Prior law provided 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.

New law retains prior law 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.

Prior law authorized 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. Prior law required the exercise of eminent domain in accordance with prior law. New law retains prior law and adds to the purposes of exercising the authority for utilities necessary to the operation of storage facility.

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

Prior law authorized 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 $F \times 120 < M$, 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. New law increases the minimum number of months from 120 to 144, thereby changing the formula from $F \times 120 < M$ to $F \times 144 < M$.

Prior law authorized 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. New law 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), 1110(C)(1)(a)-(e), and R.S. 19:2(12); adds R.S. 30:1103(12))