

2024 Regular Session

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

BY REPRESENTATIVE GEYMANN

ENERGY/CONSERVATION: Authorizes unitization for carbon dioxide sequestration

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 \* \* \*

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  
16 hundred foot radius of the proposed site, and to the local governing authority in  
17 whose jurisdiction the property is located.

18 (4) Any property owner, carbon dioxide storage facility operator, or local  
19 governing authority so notified shall have the right within ten days of the mailing of  
20 such notice to request a public hearing concerning the issuance of such permit.

21 \* \* \*

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

29 \* \* \*

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 ~~servicing such projects~~  
13 ~~approved hereunder.~~ Owners in interests' rights to compensation and to challenge  
14 the public purpose of the exercise of eminent domain are reserved for the courts as  
15 required by Article I, Section 4 of the Constitution of Louisiana.

16 \* \* \*

17 §1104.2. Unitization

18 A. Upon the application of a proposed storage operator, the commissioner  
19 is authorized and empowered to enter an order requiring the unit operation of a  
20 reservoir or portion thereof, including any necessary and reasonable areal buffer and  
21 subsurface monitoring zones, or portions thereof, as referenced in R.S. 30:1103(11),  
22 for geologic storage, and in connection with such an order of unit operation, the  
23 commissioner shall have the right to unitize, pool, and consolidate all separately  
24 owned tracts and other property interests within such storage unit for geologic  
25 storage.

26 B. An order for unit operation shall be issued only after notice, public  
27 hearing, and a finding by the commissioner that at least three-fourths of the owners  
28 in interest within the storage unit have consented in writing to geologic storage. The  
29 required three-fourths of the owners in interest shall be on the basis of, and in

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

5            C. An order for unit operation shall provide for just and equitable  
6        compensation to all owners in interest within the storage unit, 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 or alter the terms of any contracts between the storage operator  
10       and an owner in interest. Owners in interests' rights to compensation and to  
11       challenge the public purpose of the exercise of eminent domain are reserved for the  
12       courts as required by Article I, Section 4 of the Constitution of Louisiana.

13           D. Judicial review of orders, rules, and regulations issued by the  
14        commissioner pursuant to this Section shall be conducted pursuant to the same  
15        provisions and requirements as R.S. 30:12, except that the venue for those  
16        proceedings required to be heard originally in the courts by Article I, Section 4 of the  
17        Constitution of Louisiana and appeals of the commissioner's orders, shall only be  
18        proper in a parish where the storage unit is located.

19           E. Upon application by the storage operator or at the commissioner's  
20        discretion and after notice, public hearing, and consideration of available geological,  
21        engineering, and other relevant evidence, the commissioner, to the extent required  
22        by such evidence, may by order revise, amend, enlarge, reduce, confirm or dissolve  
23        any storage unit provided for under this Section or modify any provision of any order  
24        issued pursuant to this Section, without the consent required by Subsection B of this  
25        Section. An order enlarging or reducing the areal extent of an existing storage unit  
26        shall provide for just and equitable compensation to all owners in interest as to any  
27        acreage added to the storage unit and may also provide for compensation adjustments  
28        as are just and equitable for all owners in interest as to the area encompassed by the  
29        enlarged or reduced storage unit. However, no order issued pursuant to this

1        Subsection shall vary or alter the terms of any contracts between the storage operator  
2        and any owner in interest. Owners in interests' rights to compensation and to  
3        challenge the public purpose of the exercise of eminent domain are reserved for the  
4        courts as required by Article I, Section 4 of the Constitution of Louisiana.

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

7                G. The commissioner shall prescribe, issue, amend, and rescind such orders,  
8        rules, and regulations as he may find necessary or appropriate to carry out the  
9        provisions of this Section, including establishing the methodology for determining  
10       or adjusting just and equitable compensation to owners in interest that have not  
11       entered into a contract with the storage operator, including the storage operator, other  
12       owners in interest who consented in writing to geologic storage and owners in  
13       interest who did not consent in writing to geologic storage, including in the event a  
14       storage unit is enlarged or reduced. Owners in interests' rights to compensation and  
15       to challenge the public purpose of the exercise of eminent domain are reserved for  
16       the courts as required by Article I, Section 4 of the Constitution of Louisiana.

17               H. For the purposes of this Section, the following terms shall have the  
18       following meanings:

19               (1) "Owner in interest" shall mean any party who owns or otherwise has the  
20       right to use the subsurface of a tract within the storage unit for geologic storage,  
21       regardless of whether such party is the surface owner of the tract or has acquired the  
22       right from the surface owner, or is a successor or assign of such right.

23               (2) "Storage unit" shall mean a reservoir or portion thereof, including any  
24       necessary and reasonable areal buffer and subsurface monitoring zones or portions  
25       thereof, as referenced in R.S. 30:1103(11), as designated, enlarged, or reduced by the  
26       commissioner in accordance with this Section.

27               I. Except as provided in R.S. 30:1108(B)(2), nothing in this Section shall  
28       prevent persons having the right to do so from drilling through the storage unit in  
29       such manner as shall comply with the rules of the commissioner issued for the

1 purpose of protecting the storage unit or an associated storage facility against  
2 pollution or invasion and against the escape or migration of carbon dioxide.

3 J. No Class VI injection well shall be located within five hundred feet of any  
4 residential or commercial structure.

5 \* \* \*

6 §1113. Notifications regarding applications

7 A. Within ten days of filing an application with the commissioner for a Class  
8 VI injection well, the owner or operator shall make a good faith effort to provide  
9 notice of the submission of the application via United States mail to all of the  
10 following:

11 (1) The last operator of record for any oil or gas well located within the area  
12 of review delineated in the application.

13 (2) Any person known to the applicant after reasonable search, including  
14 owners and operators, acting on behalf of the person, that presently has the right to  
15 drill into and produce from a pool and to appropriate production either for himself  
16 or others within the area of review delineated in the application.

17 B. Within ten days of filing an application with the commissioner for a Class  
18 V stratigraphic test well, the owner or operator shall make a good faith effort to  
19 provide notice of the submission of the application via United States mail to all of  
20 the following:

21 (1) The last operator of record for any oil or gas well located within five  
22 hundred feet of the proposed Class V stratigraphic test well location.

23 (2) Any person known to the applicant after reasonable search, including  
24 owners and operators, acting on behalf of the person, that presently has the right to  
25 drill into and produce from a pool and to appropriate production either for himself  
26 or others within five hundred feet of the proposed Class V stratigraphic test well  
27 location.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 966 Reengrossed

2024 Regular Session

Geymann

**Abstract:** Authorizes the commissioner of conservation to order unitization for carbon dioxide sequestration projects.

Present law authorizes the commissioner of conservation to perform any act necessary to carry out the requirements of the federal Safe Drinking Water Act related to the state's participation in the underground injection control program and the sequestration of carbon dioxide, including the authority to promulgate administrative rules and issue permits and orders.

Proposed law retains this authority and specifies that the commissioner is authorized to order unitization of a reservoir for geologic storage upon the application of a proposed storage facility operator after proper notice, public hearing, and a finding that least three-fourths of the owners in interest within the storage unit have given written consent for geologic storage and further provides a method for calculating three-fourths owners in interest.

Proposed law defines "carbon dioxide storage facility", "area of review", "owner in interest", and "storage unit".

Proposed law provides that executed contracts will not be altered by a unitization order.

Proposed law requires the unitization order to provide for just and equitable compensation for all owners in interest and the storage operator.

Present law prohibits the taking of property by a private entity authorized to expropriate except for a public and necessary purpose and with just compensation to the owner. Present law further provides that whether a purpose is public and necessary is a judicial question and that a person is entitled to a trial by jury to determine whether the compensation is just.

Proposed law retains present law and reinforces that the right to compensation for an owner in interest within a storage unit and challenges to the public purpose of the exercise of eminent domain in relation to the unit are questions reserved the courts.

Present law establishes a process for judicial review of decisions, acts, and adjudications by the commissioner of conservation. Present law requires that suits for judicial review of the commissioner's acts be filed in the district court of the parish where the commissioner of conservation's office is located.

Proposed law authorizes judicial review of unitization orders as provided under present law, but provides that venue is proper in the parish where the storage unit is located for proceedings regarding whether the purpose of an expropriation or taking in the unit is public and necessary and for appeals of a commissioner's orders regarding unitization.

Proposed law authorizes the commissioner to revise the storage unit under certain circumstances and following notice and public hearing. Further requires the commissioner to provide for compensation adjustments.

Proposed law authorizes the commissioner to issue order and promulgate rules and regulations as necessary to implement unitization for carbon dioxide sequestration.

Proposed law prohibits a Class VI injection well within a unit to be drilled within 500 feet of any residential or commercial structure.

Present law requires the commissioner to review the location plat of any drilling permit and determine whether residential or commercial structures are situated within a 500 foot radius.

Proposed law further requires the commissioner to determine whether the area of review for any carbon dioxide storage facility is within a 500 foot radius of the proposed drilling site.

Proposed law requires applicants for Class V and Class VI well permits to provide notice of the submission of the application via U.S. mail to the following parties:

- (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 area of review delineated in the application.

(Amends R.S. 30:28(D)(2), (3), (4) and (7) and (E) and 1104(A)(1); Adds R.S. 30:1104.2 and 1113)

#### Summary of Amendments Adopted by House

##### The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Express that the right to compensation for an owner in interest within a storage unit and challenges to the public purpose of the exercise of eminent domain in relation to the unit are questions reserved for the courts.
3. Provide that for judicial review of orders of the commissioner of conservation regarding unitization, venue is proper in the parish where the storage unit is located.
4. Provide that for legal challenges to whether the purpose of an expropriation or taking in the unit is public and necessary, venue is proper in the parish where the storage unit is located.
5. Prohibit Class VI injection wells within a unit from being located within 500 feet of a residential or commercial structure.