

## HOUSE SUMMARY OF SENATE AMENDMENTS

HB 966

2024 Regular Session

Geymann

ENERGY/CONSERVATION: Authorizes unitization for carbon dioxide sequestration

### Synopsis of Senate Amendments

1. Changes the definition of a storage unit to mean the area encompassing the underground reservoir or portion thereof which comprises the carbon dioxide plume based on department approved computational modeling.
2. Adds introductory language explaining the general purpose of unitization, which is to ensure that geologic storage reservoirs are developed in an efficient, fair, and equitable manner and to prevent waste.
3. Requires the commissioner to find a public and necessary purpose as a condition to issue a unitization order.
4. Requires the commissioner to make a determination providing for just and equitable sharing of the benefits from geologic storage by interest owners and provides factors the commissioner may consider in making the determination, including computational modeling, any impact to a tract, the extent of impact, owned tract's proportionate share of the total surface acreage, and the viability of any third party geologic storage projects.
5. Prohibits the commissioner's determination of just and equitable share from affecting a contract between the storage operator and an interest owner.
6. Removes references to constitutional reservation of jurisdiction for courts over challenges to the public purpose of the exercise of eminent domain and the right to compensation.
7. Adds judicial review provisions specific to challenges to the public purpose of a unit and whether compensation is just.
8. Removes a provision regarding proper venue for judicial review of compensation determinations.
9. Provides that orders to reduce or enlarge a storage unit must use the same method or formula for determining the just and equitable share as used in the original unit.
10. Changes the spacing of a Class VI wellhead from 500 feet from a residential or commercial structure to 500 feet from an inhabited dwelling not owned by the storage operator or an owner in interest.
11. Authorizes the use of eminent domain in the event proposed law providing for unitization is determined to be invalid.
12. Changes notification requirement for mineral interest owners from within 10 days of the filing of a Class VI permit to within 30 days from the Class VI permit application being deemed administratively complete.

13. Changes the area in the notice requirement applicable to persons known to the applicant, including owners and operators acting on behalf of the person, that has the right to drill from the area of review delineated in the application to the predicted or modeled carbon dioxide plume as defined in administrative rules governing Class VI injections wells.
14. Makes technical corrections.

### **Digest of Bill as Finally Passed by Senate**

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 the unit is for a public and necessary purpose. At least three-fourths of the owners in interest within the storage unit must have given written consent for geologic storage in order for an application to be considered. 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 requires the unitization order to provide for just and equitable compensation for all owners in interest and the storage operator. Further requires the order to provide for the method, formula, or other basis to determine the just and equitable share of the benefits.

Proposed law provides for the factors the commissioner may consider in determining the method, formula, or other basis to be used to determine the just and equitable share.

Proposed law prohibits a unitization order from varying, altering, or otherwise applying a standard of benefit to a contract between an interest owner and a storage operator.

Proposed law requires judicial review of orders, rules, and regulations issued by the commissioner pursuant to proposed law be conducted pursuant to the provisions and requirements of present law governing review of the commissioner's decisions.

Proposed law authorizes the proposed storage unit operator or any owner in interest who has not entered into a contract with the proposed storage unit operator to have the court review 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. Further, the court's review in those instances is limited to the compensation affecting the specific owner in interest seeking review.

Proposed law authorizes review of whether the compensation is just to be heard by a jury trial. Further, requires the review be conducted by preference and with the greatest possible dispatch.

Proposed law authorizes the commissioner to revise a storage unit under certain circumstances, following notice and a public hearing. Proposed law requires any order modifying a unit that provides for compensation use the same method, formula, or other basis to determine the just and equitable share as used in proposed law.

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

Proposed law prohibits a Class VI injection wellhead within a unit within 500 feet of any inhabited dwelling not owned by the operator or an owner in interest.

Proposed law authorizes the use of eminent domain in the event proposed law providing for unitization is determined unconstitutional or otherwise invalid by a court of law.

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 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 for a Class V well or within the predicted or modeled carbon dioxide plume for a Class VI well.

Proposed law requires the notification of a Class V well permit application within 10 days of filing the application and requires the notification of a Class VI well permit application within 30 days of the application being deemed administratively complete.

(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)