

2025 Regular Session

HOUSE BILL NO. 632

BY REPRESENTATIVE RISER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

ENERGY: Protects mineral servitude ownership in relation to carbon dioxide sequestration

1 AN ACT

2 To amend and reenact R.S. 30:1102(A)(2) through (4) and (B), 1103(7), (13), and (14),
3 1104(A)(3), (5) through (7), and (11), and (C) through (E), 1104.2(B), (D), and (F),
4 1106(A), 1107(D), 1108(B)(3), 1109(Section heading) and (G), 1109.1, 1110(C)(1),
5 and 1115(A)(introductory paragraph) and (2) and (B)(2), to enact R.S. 30:1102(C),
6 1103(17) through (19), and 1108(E), and to repeal R.S. 30:1103(4), 1104(F), and
7 1104.2(H), relative to carbon dioxide sequestration; to provide for public policy
8 regarding carbon dioxide sequestration and the priority of public interest in minerals;
9 to remove references to the withdrawal of sequestered carbon dioxide; to provide for
10 the duties of the commissioner of conservation; to protect mineral interests and
11 mineral servitude ownership with respect to carbon dioxide sequestration; to amend
12 definitions; to provide for findings required for use of an underground reservoir for
13 geologic storage; to protect the right to drill through a storage reservoir; to provide
14 for mineral servitude owners' consent, rights, and compensation related to
15 unitization; to provide for judicial review of compensation and public purpose
16 related to unitization and expropriation; to provide for proper venue; to provide for
17 suspension of the prescription of nonuse for mineral servitudes; to provide relative
18 to notice of carbon dioxide sequestration permit applications; to remove a public
19 records exception for confidential business records in permit applications; and to
20 provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S. 30:1102(A)(2) through (4) and (B), 1103(7), (13), and (14),
3 1104(A)(3), (5) through (7), and (11), and (C) through (E), 1104.2(B), (D), and (F), 1106(A),
4 1107(D), 1108(B)(3), 1109(Section heading) and (G), 1109.1, 1110(C)(1), and
5 1115(A)(introductory paragraph) and (2) and (B)(2) are hereby amended and reenacted and
6 R.S. 30:1102(C), 1103(17) through (19), and 1108(E) are hereby enacted to read as follows:

7 §1102. Policy; jurisdiction

8 A. It is declared to be in the public interest for a public purpose and the
9 policy of Louisiana that:

10 * * *

11 ~~(2) Carbon dioxide is a valuable commodity to the citizens of the state.~~

12 ~~(3) Geologic storage of carbon dioxide may allow for the orderly withdrawal~~
13 ~~as appropriate or necessary, thereby allowing carbon dioxide to be available for~~
14 ~~commercial, industrial, or other uses, including the use of carbon dioxide for~~
15 ~~enhanced recovery of oil and gas.~~

16 ~~(4)~~ It is the public policy of Louisiana and the purpose of this Chapter to
17 provide for a coordinated statewide program related to the geologic storage of carbon
18 dioxide and to also fulfill the state's primary responsibility for assuring compliance
19 with the federal Safe Drinking Water Act, including any amendments thereto related
20 to the underground injection of carbon dioxide.

21 B. The commissioner of conservation shall have jurisdiction and authority
22 over all persons and property necessary to enforce effectively the provisions of this
23 Chapter relating to the geologic storage of carbon dioxide ~~and subsequent~~
24 ~~withdrawal of stored carbon dioxide.~~

25 C. This public policy of the state in favor of the geologic storage of carbon
26 dioxide is subordinate to the broader public interest of the state in the sound and
27 prudent development of oil, gas, and other natural resources of the state set forth in
28 the Constitution of Louisiana and the prohibition against the waste of oil or gas set
29 forth in R.S. 30:2.

1 §1103. Definitions

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

4 * * *

5 (7) "Geologic storage" means the ~~long- or short-term underground storage~~
6 ~~of carbon dioxide in a reservoir~~ long-term storage or containment of carbon dioxide
7 disposed of in secure underground storage as contemplated by 26 U.S.C. 45Q.

8 * * *

9 (13) "Reservoir" means that portion of any underground geologic stratum,
10 formation, aquifer, or cavity or void, whether natural or artificially created, including
11 oil and gas reservoirs, salt domes or other saline formations, and coal and coalbed
12 methane seams, suitable for or capable of being made suitable for the injection and
13 geologic storage of carbon dioxide therein.

14 (14) "Storage facility" means the underground reservoir, carbon dioxide
15 injection wells, monitoring wells, underground equipment, and surface buildings and
16 equipment utilized in the geologic storage operation. The underground reservoir
17 component of the storage facility includes any necessary and reasonable aerial buffer
18 and subsurface monitoring zones designated by the commissioner for the purpose of
19 ensuring the safe and efficient operation of the geologic storage facility for the
20 storage of carbon dioxide and shall be chosen to protect against pollution, and escape
21 or migration of carbon dioxide.

22 * * *

23 (17) "Mineral servitude owner" shall mean any party who has the right to use
24 the subsurface of a tract within the storage unit for the purposes set forth in Chapter
25 4 of Title 31 of the Revised Statutes of 1950.

26 (18) "Owner in interest" shall mean any party who owns or otherwise has the
27 right to use the subsurface of a tract within the storage unit for geologic storage or
28 mineral exploration, regardless of whether such party is the surface owner of the tract

1 or has acquired the right from the surface owner, or is a successor or assign of such
2 right, and shall specifically include mineral servitude owners.

3 (19) "Storage unit" shall mean the area encompassing the underground
4 reservoir or portion thereof, and all associated top and bottom seals, which comprise
5 the carbon dioxide plume, as that term is defined in administrative rules and
6 regulations providing for Class VI injection wells, based on computational modeling
7 submitted in the unit application by the existing or proposed storage operator, as
8 approved by the commissioner.

9 §1104. Duties and powers of the commissioner; rules and regulations; permits

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

12 * * *

13 (3) Make such inquiries as he deems proper to determine whether or not
14 waste, over which he has jurisdiction, exists or is imminent. In the exercise of this
15 power the commissioner has the authority to collect data; to make investigations and
16 inspections; to examine properties, papers, books, and records; to examine, survey,
17 check, test, and gauge injection, ~~withdrawal~~ and other wells used in connection with
18 carbon geologic storage; to examine, survey, check, test, and gauge tanks; and modes
19 of transportation; to hold hearings; to provide for the keeping of records and the
20 making of reports; to require the submission of an emergency phone number by
21 which the operator may be contacted in case of an emergency; and to take any action
22 as reasonably appears to him to be necessary to enforce this Chapter.

23 * * *

24 (5) Prevent wells from being drilled and operated in a manner which may
25 cause injury or damage to neighboring or co-existing leases, minerals servitudes, or
26 property.

27 (6) Prevent blowouts, caving, and seepage in the sense that conditions
28 indicated by these terms are generally understood in the geologic storage business.

(7) Identify the ownership of all wells used in connection with a storage facility, tanks, plants, structures, and all other geologic storage and transportation equipment and facilities.

* * *

(11) Regulate by rules, the drilling, casing, cementing, injection interval, monitoring, plugging and permitting of injection, withdrawal and other wells which are used in connection with a geologic storage facility and to regulate all surface facilities incidental to such storage operation.

* * *

C. Prior to the use of any reservoir for the geologic storage of carbon dioxide and prior to the exercise of eminent domain pursuant to the provisions of R.S. 19:2(11) and R.S. 30:1108 by any person, firm, or corporation having such right under laws of the state of Louisiana, and as a condition precedent to such use or to the exercise of such rights of eminent domain pursuant to the provisions of R.S. 19:2(11) and R.S. 30:1108, the commissioner, after public hearing pursuant to the provisions of R.S. 30:6, held in the parish where the storage facility is to be located, shall have found at least one of the following:

(1) That the reservoir sought to be used for the injection, and geologic storage, ~~and withdrawal~~ of carbon dioxide is suitable and feasible for such use, provided no reservoir, any part of which is producing or is capable of producing oil, gas, condensate, or other ~~commercial mineral in paying quantities~~, shall be subject to such use, unless any of the following applies:

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

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

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

6 (2) That the use of the reservoir for the geologic storage of carbon dioxide
7 will not contaminate, lead to the waste, whether economic or otherwise, of other
8 formations containing fresh water, oil, gas, or other ~~commercial~~ mineral deposits.

9 (3) That the proposed geologic storage will not endanger human lives or
10 cause a hazardous condition to property.

11 D. The commissioner shall determine with respect to any such reservoir
12 proposed to be used as a geologic storage reservoir, whether or not such reservoir is
13 fully depleted of the original ~~commercially~~ recoverable natural gas, condensate, or
14 other ~~commercial~~ mineral therein. If the commissioner finds that such reservoir has
15 not been fully depleted, the commissioner shall determine the amount of the
16 remaining ~~commercially~~ recoverable natural gas, condensate, or other ~~commercial~~
17 mineral of such reservoir.

18 E. The commissioner may issue any necessary order providing that all
19 carbon dioxide which has previously been reduced to possession and which is
20 subsequently injected into a geologic storage reservoir shall at all times be deemed
21 the property of the party that owns such carbon dioxide, whether at the time of
22 injection or pursuant to a change of ownership by agreement while the carbon
23 dioxide is located in the storage facility, his successors and assigns; and in no event
24 shall such carbon dioxide be subject to the right of the owner of the surface of the
25 lands or of any mineral interest therein under which such storage reservoir shall lie
26 or be adjacent to or of any person other than the owner, his successors, and assigns
27 to produce, take, reduce to possession, waste, or otherwise interfere with or exercise
28 any control there over, provided that the owner, his successors, and assigns shall
29 have no right to gas, liquid hydrocarbons, salt, carbon dioxide, or other ~~commercially~~

1 recoverable minerals in any stratum or portion thereof ~~not determined by the~~
2 ~~commissioner to constitute an approved storage reservoir~~. The commissioner shall
3 issue such orders, rules, and regulations as may be necessary for the purpose of
4 protecting any such storage reservoir, strata, or formations against pollution or
5 against the escape of carbon dioxide therefrom, including such necessary rules and
6 regulations ~~as may pertain to the~~ necessary to ensure unencumbered and
7 unburdened drilling into or through such storage reservoir.

8 * * *

9 §1104.2. Unitization

10 * * *

11 B. An order for unit operation shall be issued only after notice, public
12 hearing, and a finding by the commissioner that it is for a public and necessary
13 purpose. In order to consider a unit application, the commissioner shall find that at
14 least three-fourths of the owners in interest within the proposed storage unit have
15 consented in writing to geologic storage. The required three-fourths of the owners
16 in interest shall be on the basis of, and in proportion to, the surface acreage content
17 of the entire storage unit and, if a tract within the storage unit is subject to ownership
18 in indivision, credited by multiplying the acreage of the tract by the undivided
19 ownership interest of the parties who have consented in writing to geologic storage.
20 Where the surface and mineral ownership of a tract included in a storage unit are not
21 unified in the same owner, the consent of both the surface owner and the mineral
22 owner shall be required for any acreage to contribute to the three-fourths
23 requirement.

24 * * *

25 D. The right of an owner in interest to receive just compensation and to
26 challenge the purpose of the unit as public and necessary are reserved for the courts
27 pursuant to Article I, Section 4 of the Constitution of Louisiana. Judicial review of
28 orders, rules, and regulations issued by the commissioner pursuant to this Section
29 shall be conducted pursuant to the provisions and requirements of R.S. 30:12, except

1 that the venue for those proceedings shall be proper only in the district court of the
2 parish in which the storage unit is located. Additionally, subject to timely filing for
3 court review pursuant to R.S. 30:12, the proposed storage unit operator or any owner
4 in interest who has not entered into an agreement for geologic storage with the
5 proposed storage unit operator shall have the right to have the reviewing court
6 determine whether the purpose for the storage unit is public and necessary, whether
7 the compensation provided for is just, and, if not, the amount of just compensation
8 due. In any instance in which the surface and mineral ownership of a tract included
9 in a storage unit are not unified in the same owner, the mineral servitude owner shall
10 be separately compensated for the value of the rights taken or damaged as a result
11 of the unit order. As to any owner in interest having the right to have a reviewing
12 court determine whether the compensation is just under this Subsection, the court's
13 review in those instances shall be limited to the compensation affecting that specific
14 owner in interest. The review of whether the compensation is just may be heard
15 through a trial by jury if timely requested by any party. Judicial reviews conducted
16 under this Subsection shall be tried by preference and shall be conducted with the
17 greatest possible dispatch.

18 * * *

19 F. Operations on or injection in the storage unit for geologic storage shall be
20 considered operations on or injection in each separate tract in the storage unit.
21 Operations on or injection in the storage unit shall be considered operations
22 sufficient to suspend the running of liberative prescription of nonuse under R.S.
23 31:27 for any mineral servitude burdening any tract in any storage unit and,
24 notwithstanding the provisions of R.S. 31:61(A), geologic storage of carbon dioxide
25 shall constitute an obstacle suspending prescription pursuant to R.S. 31:59 for any
26 mineral servitude burdening any tract in any storage unit for the duration of such
27 storage.

28 * * *

29 §1106. Underground injection control

1 A. The commissioner shall have authority to perform any and all acts
2 necessary to carry out the purposes and requirements of the federal Safe Drinking
3 Water Act, as amended, relating to this state's participation in the underground
4 injection control program established under that act with respect to the geologic
5 storage and sequestration of carbon dioxide. To that end, the commissioner is
6 authorized and empowered to adopt, modify, repeal, and enforce procedural,
7 interpretive, and administrative rules in accordance with the provisions of this
8 Chapter.

9 * * *

10 §1107. Certificates of public convenience and necessity; certificate of completion
11 of injection operations

12 * * *

13 D. Notwithstanding any provision of this Chapter or any rule, regulation, or
14 order issued by the commissioner under this Chapter to the contrary, accepting or
15 acting pursuant to a certificate of public convenience and necessity or a certificate
16 of completion of injection operations issued under this Chapter; compliance with the
17 provisions of this Chapter or with rules, regulations, or orders issued by the
18 commissioner under this Chapter; or voluntarily performing any act which could be
19 required by the commissioner pursuant to this Chapter or rules, regulations, or orders
20 issued by the commissioner under this Chapter shall not have the following
21 consequences:

22 (1) Cause any storage operator or transporter of carbon dioxide for geologic
23 storage to become or be classified as a common carrier or a public utility for any
24 purpose whatsoever.

25 (2) Subject any storage operator or transporter of carbon dioxide for geologic
26 storage to any duties, obligations, or liabilities as a common carrier or public utility
27 under the constitution and laws of this state.

(3) Increase the liability of any storage operator or transporter of carbon dioxide for geologic storage for any taxes otherwise due to the state of Louisiana in the absence of any additions or amendments to any tax laws of this state.

* * *

§1108. Eminent domain; expropriation

* * *

B.

* * *

(3) If a party who has the right to explore for and produce minerals from depths below the base of the underground reservoir component of the storage facility is prohibited from drilling through the storage facility under Paragraph (2) of this Subsection by the exercise of the right of eminent domain granted in this Section, that prohibition shall terminate upon a finding by the commissioner, after notice and hearing conducted in accordance with R.S. 30:1105(C), that the storage facility operator abandoned all reasonable efforts to use, or cause others to use, the storage facility prior to any use of the underground reservoir component of the storage facility for the geologic storage of carbon dioxide.

* * *

E. Notwithstanding any provision of this Chapter to the contrary, if the exercise of the power of eminent domain is used to expropriate property for the geologic storage of carbon dioxide, the right of an owner in interest to receive just compensation and to challenge the public purpose of the exercise of eminent domain are reserved for the courts pursuant to Article I, Section 4 of the Constitution of Louisiana. In any instance in which the surface and mineral ownership of a tract expropriated are not unified in the same owner, the mineral servitude owner shall be separately compensated for the value of the rights condemned by way of expropriation.

§1109. Cessation of geologic storage operations; limited liability release

* * *

G. The commissioner shall implement this Section in a manner consistent with and as the commissioner deems necessary to carry out the purposes and requirements of the federal Safe Drinking Water Act, as amended, relating to the state's participation in the underground injection control program established under that Act with respect to the geologic storage and sequestration of carbon dioxide, including but not limited to the state's authority to restrain any person from engaging in any unauthorized activity which is endangering or causing damage to public health or the environment.

§1109.1. ~~Landowner liability~~ Liability limitation; owners in interest

A. ~~A landowner~~ An owner in interest shall not assume or have any liability associated with or related to carbon dioxide, at any time, by the mere fact of being ~~a landowner~~ an owner in interest or by the mere fact of entering a contract to allow his property to be used for geologic storage, injection, or transportation of carbon dioxide.

B. Nothing in this Section shall alter the terms of or supersede any contractual agreement between ~~a landowner~~ owner in interest and an owner or operator of a storage facility, a carbon dioxide transmission pipeline, or a generator of the carbon dioxide.

§1110. Carbon Dioxide Geologic Storage Trust Fund

* * *

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

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

* * *

§1115. Notifications regarding applications

A. Within thirty days of receiving notice of an application for a Class VI injection well being deemed administratively complete, and within thirty days of submitting an application to convert a Class V well to a Class VI well, the owner or operator shall make a good faith effort to provide notice of the submission of the application via United States mail to all of the following:

* * *

(2) Any person known to the applicant after reasonable search, including owners in interest 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 predicted or modeled carbon dioxide plume, as that term is defined in administrative rules and regulations providing for Class VI injection wells.

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

* * *

(2) Any person known to the applicant after reasonable search, including owners in interest 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 five hundred feet of the proposed Class V stratigraphic test well location.

Section 2. R.S. 30:1103(4), 1104(F), and 1104.2(H) are hereby repealed in its entirety.

Section 3. The Louisiana State Law Institute is hereby authorized and directed to alphabetize and renumber the definitions contained in R.S. 30:1103 and to correct any cross-references to the renumbered paragraphs if necessary, consistent with the provisions of this Act.

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)]

HB 632 Original

2025 Regular Session

Riser

Abstract: Prioritizes mineral exploration, mineral interests, and mineral servitudes over carbon dioxide sequestration and adds protections for mineral servitude owners throughout the La. Geologic Sequestration of Carbon Dioxide Act.

Present law establishes the following policies of the state regarding carbon dioxide (CO2) and declares these things to be in the public interest for a public purpose:

- (1) CO2 is a valuable commodity.
- (2) Geologic storage will allow for later withdrawal of the CO2 for commercial or industrial or enhanced oil recovery purposes.

Proposed law repeals present law.

Proposed law adds a policy statement that the development of mineral and other natural resources of the state is of greater public interest than geologic storage of CO2.

Present law defines "geologic storage" to include short-term and long-term underground storage of CO2.

Proposed law removes short-term storage from this definition and adds long-term underground containment.

Present law provides that the commissioner of conservation has jurisdiction over all persons and property necessary to enforce the laws on geologic storage and withdrawal of CO2, and requires that the commissioner prevent injection wells from being drilled and operated in a way that injures neighboring leases and property.

Proposed law removes the commissioner's jurisdiction over withdrawal of CO2 from geologic storage, and adds that his duties also include preventing damages to co-existing leases and mineral rights from the drilling and operation of an injection well.

Present law requires the commissioner to make certain findings regarding an underground reservoir before it can be approved for geologic storage of CO2, including:

- (1) A reservoir capable of producing commercial minerals in paying quantities cannot be used for storage unless all of the owners agree, all commercial minerals in the reservoir have been produced, or the reservoir has more value as a storage facility than it would in production.
- (2) Use of the reservoir for storage of CO2 will not contaminate fresh water, oil, gas, or other commercial minerals.
- (3) If the commercially recoverable minerals in a reservoir have been fully depleted or the amount still remaining.

Proposed law retains the required finds, but removes the requirement that the minerals at issue be "commercial" and only requires that they are capable of production, rather than capable of production in paying quantities.

Present law authorizes the commissioner to issue order and rules as necessary to protect storage reservoirs against pollution or escape of CO₂, including order and rules regulating drilling into or through the storage reservoir.

Proposed law provides that the commissioner issue any orders and rules necessary to ensure unencumbered and unburdened drilling into or through the storage reservoir.

Present law provides for the unitization of storage rights for the geologic storage of CO₂ and requires the storage operator to obtain consent from 3/4 of the owners within the unit prior to applying for a unitization order.

Proposed law requires the consent of both the surface owner and the mineral servitude owner in cases where the mineral rights are severed from the surface in order for that tract's acreage to count towards the 3/4 consent requirement.

Present law provides that storage unit operations and injection on one tract within a storage unit are considered operations for all tracts.

Proposed law further provides that operations on one tract in the unit will suspend the prescription of nonuse for mineral servitudes within the unit and that geologic storage of CO₂, even after operations have ceased, will be considered an obstacle that suspends prescription for the servitude.

Present law provides definitions, including for an "owner in interest", which includes persons with the right to use the subsurface of a tract for geologic storage.

Proposed law expands this definition to include persons with the right to use the subsurface for mineral exploration. Further defines "mineral servitude owner" as that term is defined in the Mineral Code.

Proposed law provides that if expropriation or unitization is used to acquire the right to use property for geologic storage of CO₂, then the courts must make determinations on whether compensation is just and whether the use is for a public purpose. Further requires that mineral servitude owners must be compensated separately for the value of mineral rights taken or damaged as a result of this expropriation or unitization.

Present law requires that notice of administratively complete Class VI permit applications and Class V permit applications related to carbon dioxide sequestration projects be provided to owners and operators acting on behalf of owners of mineral rights within the projected plume.

Present law requires notice of a Class V or Class VI permit application to operators and mineral rights owners within the Class VI area of review or within 500 feet of the Class V well.

Proposed law clarifies that the owners entitled to notice are owners in interest.

Present law adopts a federal regulation providing a confidential business records exception to public records law for information contained in Class VI permit applications.

Proposed law repeals present law.

Amends R.S. 30:1102(A)(2) through (4) and (B), 1103(7), (13), and (14), 1104(A)(3), (5) through (7), and (11), and (C) through (E), 1104.2(B), (D), and (F), 1106(A), 1107(D), 1108(A)(3) and (B)(3), 1109(Section heading) and (G), 1109.1, 1110(C)(1), and 1115(A)(intro. para.) and (2) and (B)(2); Adds R.S. 30:1102(C), 1103(17) through (19), and 1108(E); Repeals R.S. 30:1103(4), 1104(F), and 1104.2(H))