

1 Section 1. The heading of Subpart A-3 of Part II of Chapter 2 of Subtitle I of Title
2 30 of the Louisiana Revised Statutes of 1950, R.S. 30:209(4)(e)(introductory paragraph),
3 1109(A), 1110(C)(introductory paragraph) and (1)(introductory paragraph) and (f) and (g),
4 (E)(2), (F), (G)(3), and (H) are hereby amended and reenacted and R.S. 30:6(H) and 149, the
5 heading of Subpart A-4 of Part II of Chapter 2 of Subtitle I of Title 30 of the Louisiana
6 Revised Statutes of 1950, R.S. 30:209.2, 1109(G), 1110(C)(1)(h) and (I) are hereby enacted
7 to read as follows:

8 §6. Hearings; notice; rules of procedure; emergency; service of process; public
9 records; request for hearings; orders and compliance orders

10 * * *

11 H. When an application for any permit to construct or drill a Class V or
12 Class VI well related to the geologic sequestration of carbon dioxide becomes
13 complete, the commissioner shall notify the chief executive officer of any parish
14 included in the permit application. The notice to the chief executive officer of the
15 parish shall be made no later than the date on which public notice is issued in
16 accordance with applicable law or regulations. Such notice may be made by
17 electronic mail.

18 * * *

19 ~~SUBPART A-3. LOUISIANA ROYALTY RELIEF DRY HOLE CREDIT PROGRAM~~
20 DISTRIBUTION OF FUNDS FROM STORAGE OF CARBON DIOXIDE

21 §149. Storage of carbon dioxide; distribution of funds

22 A. For purposes of this Section, "specific area of interest" means an
23 individual tract of property which is the subject of any contractual agreement entered
24 into by the State Mineral and Energy Board for the purpose of injection, storage,
25 sequestration, transportation, shipment, or withdrawal of carbon dioxide.

26 B. Any revenues collected by the office of mineral resources pursuant to any
27 contractual agreement for the storage of carbon dioxide beneath state-owned land or
28 water bottoms shall be immediately forwarded to the state treasurer for deposit into
29 the state treasury. After complying with the provisions of Article VII, Section 9(B)

1 of the Constitution of Louisiana relative to the Bond Security and Redemption Fund,
2 the state treasurer shall remit the funds as follows:

3 (1) Thirty percent of the revenue shall be remitted to the Mineral and Energy
4 Operation Fund. The revenue remitted to the Mineral and Energy Operation Fund
5 under this Subsection shall be in lieu of any other revenues collected pursuant to any
6 contractual agreement for the storage of carbon dioxide beneath the state-owned land
7 or water bottoms that is required by law to be remitted to the Mineral and Energy
8 Operation Fund.

9 (2) Thirty percent of the revenue shall be remitted to the governing authority
10 of the parish located in a specific area of interest. If the specific area of interest is
11 located in more than one parish, the monies shall be divided between the parishes in
12 proportion to the amount of property located in each parish pursuant to the
13 contractual agreement.

14 (3) The remaining revenue shall be deposited into the state general fund.

15 C. Nothing in this Section shall impact existing constitutional or statutory
16 dedications from funds collected by the office of mineral resources on behalf of an
17 agency as defined in R.S. 30:151 or 171.

18 * * *

19 SUBPART A-4. LOUISIANA ROYALTY RELIEF DRY HOLE CREDIT PROGRAM

20 * * *

21 §209. State Mineral and Energy Board; authority

22 In order to carry out the provisions of R.S. 30:208, the State Mineral and
23 Energy Board may:

24 * * *

25 (4)

26 * * *

27 (e) Upon a two-thirds vote of the members of the State Mineral and Energy
28 Board and after notification to the chief executive officer of the affected parish,
29 which may be made by electronic mail, and a public hearing conducted by a hearing

1 proportion to the amount of property located in each parish pursuant to the
2 contractual agreement.

3 (3) The remaining revenue shall be deposited into the state general fund.

4 C. Nothing in this Section shall impact existing constitutional or statutory
5 dedications from funds collected by the office of mineral resources on behalf of an
6 agency as defined in R.S. 30:151 or 171.

7 * * *

8 §1109. Cessation of storage operations; limited liability release

9 A.(1) ~~For~~ Fifty years after cessation of injection into a storage facility, or
10 any other time frame established on a site-specific basis by ~~rule~~ application of the
11 rules regarding the time frame for a storage operator's post-injection site care and site
12 closure plan, ~~after cessation of injection into a storage facility~~, the commissioner
13 shall issue a certificate of completion of injection operations, upon a showing by the
14 current storage operator ~~that the~~ of all of the following:

15 (a) The reservoir is reasonably expected to retain mechanical integrity, ~~and~~
16 ~~the~~

17 (b) The carbon dioxide will reasonably remain emplaced, ~~at which time.~~

18 (c) The storage facility does not pose an endangerment to underground
19 sources of drinking water, or the health and safety of the public.

20 (d) The current storage operator has complied with all applicable regulations
21 related to post-injection monitoring and the issuance of the certificate of completion
22 of injection operations.

23 (e) The storage facility has been closed in accordance with all applicable
24 regulations related to site closure.

25 (2) Upon issuance of the certificate of completion of injection operations,
26 ownership to the remaining project including the stored carbon dioxide transfers to
27 the state.

28 (3) Upon the issuance of the certificate of completion of injection operations,
29 the storage operator, all generators of any injected carbon dioxide, all owners of

1 carbon dioxide stored in the storage facility, and all owners otherwise having any
2 interest in the storage facility, shall be released from any and all future duties or
3 obligations under this Chapter and any and all liability associated with or related to
4 that storage facility which arises after the issuance of the certificate of completion
5 of injection operations. The release from duties or obligations under this Chapter
6 shall not apply to a current or former owner or operator of a storage facility when
7 such duties or obligations arise from that owner or operator's noncompliance with
8 applicable underground injection control regulations prior to issuance of the
9 certificate of completion of injection operations.

10 ~~(2)~~(4) Provided the provisions pertaining to site-specific trust accounts are
11 not applicable, such release from liability will not apply to the owner or last operator
12 of record of a storage facility if the Carbon Dioxide Geologic Storage Trust Fund has
13 been depleted of funds such that it contains inadequate funds to address or remediate
14 any duty, obligation, or liability that may arise after issuance of the certificate of
15 completion of injection operations.

16 ~~(3)~~ ~~Such release from liability will~~ (5) The release provided in Paragraphs
17 (3) and (4) of this Subsection shall not apply to the any owner of a storage facility,
18 any storage operator, any operator of a or operator of a storage facility, carbon
19 dioxide transmission pipeline, or the any generator of the carbon dioxide being
20 handled by either the storage facility or carbon dioxide transmission pipeline if it is
21 demonstrated that any such owner, storage operator, operator, or generator
22 intentionally and knowingly concealed or intentionally and knowingly
23 misrepresented material facts related to the mechanical integrity of the storage
24 facility or the chemical composition of any injected carbon dioxide. In addition,
25 upon the issuance of the certificate of completion of injection operations, any
26 performance bonds posted by the operator shall be released and continued
27 monitoring of the site, including remediation of any well leakage, shall become the
28 principal responsibility of the Carbon Dioxide Geologic Storage Trust Fund.

1 the first day of the second month following the certification, except that the
2 commissioner shall resume collecting the fees on receipt of a certification from the
3 ~~treasurer~~ secretary of the Department of Natural Resources that, based on the
4 expenditures or commitments to expend monies, the fund has fallen below four
5 million dollars for ~~the~~ that storage operator facility. ~~If at any time the balance in the~~
6 ~~trust fund exceeds an authorized amount determined by multiplying five million~~
7 ~~dollars by the number of active and completed storage facilities within the state, the~~
8 ~~collection of fees from the operators of storage facilities that have already~~
9 ~~contributed five million dollars to the trust fund will be suspended until such time~~
10 ~~as the balance in the trust fund falls below such authorized amount, at which time~~
11 ~~they will be reinstated.~~

12 (g) Notwithstanding the total number of storage facilities owned or operated
13 by a storage operator, once ten million dollars has been contributed to the fund by
14 a storage operator, the fee assessment to that storage operator under this Section shall
15 cease until such time as funds begin to be expended for any storage facility owned
16 or operated by that storage operator. The secretary of the Department of Natural
17 Resources shall certify to the commissioner the date on which the balance in the fund
18 for a storage operator equals or exceeds ten million dollars. The fund fees shall not
19 be collected or required to be paid on or after the first day of the second month
20 following the certification, except that the commissioner shall resume collecting the
21 fees upon receipt of a certification from the secretary of the Department of Natural
22 Resources that, based on the expenditures or commitments to expend monies, the
23 fund has fallen below eight million dollars for that storage operator.

24 (g)(h) At the end of each fiscal year, the fee may be redetermined by the
25 commissioner based upon the estimated cost of administering and enforcing this
26 Chapter for the upcoming year divided by the tonnage of carbon dioxide expected
27 to be injected during the upcoming year. The total fee assessed shall be sufficient
28 to assure a balance in the fund not to exceed five million dollars for any active
29 storage facility within the state at the beginning of each fiscal year. Any amount

1 received that exceeds the annual balance required shall be deposited in the fund, but
2 appropriate credits shall be given against future fees or fees associated with other
3 storage facilities operated by the same storage operator.

4 * * *

5 E. The fund shall be used solely for the following purposes:

6 * * *

7 (2) Remediation associated with, arising from, or related to the site,
8 including remediation of property and of any mechanical problems associated with
9 remaining wells and surface site infrastructure.

10 * * *

11 F. No additional purposes for use of the fund may be added unless approved
12 by a two-thirds vote of the elected members of each house of the legislature.

13 F.G. The commissioner is authorized to enter into agreements and contracts
14 and to expend money in the fund for the following purposes:

15 * * *

16 (3) To remediate any mechanical problems associated with remaining wells
17 or site infrastructure, or any other remediation associated with, arising from, or
18 related to the site, including remediation of property.

19 * * *

20 G.H. The commissioner shall keep accurate accounts of all receipts and
21 disbursements related to the administration of the fund and site-specific trust funds
22 and shall make a specific annual report addressing the administration of the funds to
23 the Senate Committee on Natural Resources, the House Committee on Natural
24 Resources and Environment, and the Senate Committee on Environmental Quality
25 before March first.

26 H.I. Every five years the commissioner shall submit a report to the Senate
27 Committee on Natural Resources, the House Committee on Natural Resources and
28 Environment, and the Senate Committee on Environmental Quality before March
29 first, that assesses the effectiveness of the fund and other related provisions in this

1 Part and provides such other information as may be requested by the legislature to
2 allow the legislature to assess the effectiveness of this Chapter.

3 * * *

4 §1112. Notice of geologic storage agreements; recordation

5 A. (1) In lieu of recording an agreement for the geologic storage of carbon
6 dioxide or any amendment or modification thereof, as provided by Civil Code
7 Article 3338, a party may record a notice of geologic storage agreement, signed by
8 the grantor who executed the agreement.

9 (2) Recordation of a notice makes the geologic storage agreement and any
10 subsequent amendment or modification effective as to third persons to the same
11 extent as recordation of the instrument.

12 (3) The notice of geologic storage agreement shall contain the following:

13 (a) A declaration that the property is subject to the geologic storage
14 agreement, and the names and addresses of the parties who executed the agreement.

15 (b) A description of the surface and depths covered by the geologic storage
16 agreement.

17 (c) The effective date of the geologic storage agreement, its term, and the
18 provisions of any other extensions and renewals of the term provided for in the
19 agreement.

20 (d) A description of any restrictions on drilling through or otherwise
21 penetrating the carbon dioxide storage reservoir for purposes of exploring,
22 developing, or producing minerals from or below the reservoir.

23 B.(1) A change in a geologic storage agreement with respect to any matter
24 that is required to be included in a notice of geologic storage agreement pursuant to
25 Subsection A of this Section is not effective to a third person unless the parties
26 record a signed amendment to the notice that describes the change.

27 (2) Notwithstanding Paragraph (1) of this Subsection, if the change is a
28 transfer of a party's rights, the parties may either:

1 (a) Record an amendment to the notice signed by the transferor and
2 transferee evidencing the transfer; or

3 (b) Record the instrument transferring the party's rights.

4 C. The effect of recordation of a notice of geologic storage agreement ceases
5 on occurrence of either of the following:

6 (1) Upon recordation of an instrument signed by the parties to the agreement
7 or their successors declaring that the geologic storage agreement has terminated.

8 (2) On the date that the geologic storage agreement may finally terminate as
9 set forth in the notice of geologic storage agreement.

10 D. The provisions of this Section authorizing the filing of a notice of
11 geologic storage agreement are remedial and shall be applied retroactively to any
12 notice of geologic storage agreement theretofore filed for record which is in
13 substantial compliance with the provisions of Subsection A of this Section, and such
14 a notice shall affect third persons as of the date of recordation.

15 E. The grantee of any recorded notice of geologic storage agreement shall
16 notify the chief executive officer of the parish in which the instrument is recorded
17 within thirty days after recordation. Such notice may be made by electronic mail.

18 * * *

19 Section 2. Part II of Chapter 6 of Subtitle II of Title 47 of the Louisiana Revised
20 Statutes of 1950, comprised of R.S. 47:651, is hereby enacted to read as follows:

21 PART II. CARBON DIOXIDE EXTRACTION

22 §651. Tax on carbon dioxide extraction

23 A. There shall be a tax levied upon the extraction of carbon dioxide when the
24 extraction occurs subsequent to the storage of carbon dioxide in accordance with the
25 Louisiana Geologic Sequestration of Carbon Dioxide Act. The rate of the tax shall
26 be equal to twenty cents per ton extracted from the storage facility.

27 B. The tax shall be due by the owner at the time of the extraction in the
28 manner prescribed by the Department of Revenue. The tax shall be reported and paid
29 by the owner on or before the twentieth day of the month following the month to

1 which the tax is applicable. The department may promulgate rules in accordance
2 with the Administrative Procedure Act as are necessary to implement the provisions
3 of this Part.

4 C. All taxes collected by the Department of Revenue pursuant to this Part
5 shall be immediately forwarded to the state treasurer for deposit into the state
6 treasury. After complying with the provisions of Article VII, Section 9(B) of the
7 Constitution of Louisiana relative to the Bond Security and Redemption Fund, the
8 state treasurer shall remit seventy-five percent of the tax levied pursuant to this Part
9 to the governing authority of the parish in which the extraction occurs. If the storage
10 facility from which the carbon dioxide is extracted is located in more than one
11 parish, the monies shall be divided between the parishes in proportion to the amount
12 of property located in each parish.

13 D. This Part shall not apply to the extraction of carbon dioxide which was
14 injected pursuant to a secondary, tertiary, or enhanced oil and gas recovery project
15 or to the extraction of carbon dioxide for operational or safety purposes.

16 Section 3. R.S. 56:30.5 is hereby enacted to read as follows:

17 §30.5. Notice to parish governing authorities

18 An applicant seeking a permit or permission to operate for geophysical and
19 geological surveys related to exploration for the geologic sequestration of carbon
20 dioxide shall notify the chief executive officer of the parish within which the
21 proposed survey is to occur in accordance with rules promulgated by the department.

22 Section 4. If any provision of this Act or the application thereof is held invalid, such
23 invalidity shall not affect other provisions or applications of this Act which can be given
24 effect without the invalid provisions or applications, and to this end the provisions of this
25 Act are hereby declared severable.

26 Section 5.(A) This Section and Sections 1, 2, 3, and 4 of this Act shall become
27 effective upon signature of this Act by the governor or, if not signed by the governor, upon
28 expiration of the time for bills to become law without signature by the governor, as provided
29 by Article III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the

1 governor and subsequently approved by the legislature, this Section and Sections 1, 2, 3, and
2 4 of this Act shall become effective on the day following such approval.

3 (B) Section 2 of this Act shall become effective if and when the Department of
4 Natural Resources promulgates rules for the extraction of carbon dioxide which was stored
5 in accordance with the Louisiana Geologic Sequestration of Carbon Dioxide 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 571 Original

2023 Regular Session

Schexnayder

Abstract: Provides relative to the regulation of carbon capture and sequestration.

NOTICE REQUIREMENTS

Present law provides procedures for notice and hearings by the office of conservation.

Proposed law retains present law and adds that the commissioner must notify the chief executive officer of the parish of completed applications for Class V or Class VI well permits related to the geologic sequestration of carbon dioxide at the same time that notice is required to be published and that such notice may be by email.

Present law imposes requirements on the State Mineral and Energy Board to enter into operating agreements for the storage of carbon dioxide, including a public hearing in the affected parish.

Proposed law adds a requirement that the chief executive officer of any affected parish be given notice, which may be made by email, requires that a hearing be held in each parish affected, and provides that the assistant secretary for the office of mineral resources may appoint a hearing officer to conduct the required public hearings.

Present law gives the La. Dept. of Wildlife and Fisheries authority to regulate geophysical and geological surveys.

Proposed law requires an applicant seeking to conduct geophysical and geological surveys related to exploration for carbon dioxide sequestration to notify the chief executive officer of any parish where the proposed surveys would occur in accordance with rules promulgated by the department.

DISTRIBUTION OF FUNDS

Proposed law provides for the following allocation of funds collected by the office of mineral resources from any contractual agreements for the storage of carbon dioxide on state-owned lands or water bottoms:

- (1) 30% will be remitted to the Mineral and Energy Operation Fund.
- (2) 30% will be remitted to parishes included in the agreement. If one or more parishes is included in the agreement, the 30% will be divided based on the amount of land in each parish included in the agreement.

- (3) The remaining funds will be deposited into the state general fund.

LIABILITY

Present law allows a storage facility operator to apply for a certificate of completion of injection operations 10 years after injection into a storage facility has ceased, or any other time frame established by rule.

Proposed law changes the time period from 10 years to 50 years, or any other time frame established by rule, after the injection has ceased for a storage operator to apply for a certificate of completion of injection operations.

Proposed law provides for additional criteria the storage operator shall meet to receive the certificate of completion of injection operations.

Present law provides that upon issuance of the certificate of completion of injection operations, all generators of any injected carbon dioxide, owners of carbon dioxide stored in the storage facility, and all owners otherwise having any interest in the storage facility, will be released from any and all duties or obligations under present law and any and all liability associated with or related to that storage facility which arises after the issuance of the certificate of completion of injection operations.

Proposed law adds that the release from the duties or obligations from proposed law will not apply to a current or former owner or operator of a storage facility when the duties or obligations arise from the owner or operator's non-compliance with applicable underground injection control regulations prior to issuance of the certificate of completion of injection operations.

Proposed law requires the commissioner to implement provisions of present law and proposed law in accordance with the federal Safe Drinking Water Act.

CARBON DIOXIDE GEOLOGIC STORAGE TRUST FUND

Present law establishes the Carbon Dioxide Geologic Storage Trust Fund and provides for fees to be collected by the commissioner for deposit into the fund.

Present law authorizes the commissioner to levy a fee on each storage operator based on a rate of tonnage injected over a minimum of 144 months. Present law further provides that fee assessments will be suspended once the balance of the fund associated with that storage operator has reached \$5 million and will be resumed if the balance of the fund falls below \$4 million.

Proposed law authorizes the commissioner to levy the fee under present law on each storage facility, rather than each storage operator, where payments will be suspended once \$5 million has been paid by each facility and resumed if the balance associated with that facility falls below \$4 million.

Proposed law further provides that, regardless of the total number of storage facilities owned or operated by the storage operator, a storage operator's payments will be suspended when they have contributed a total of \$10 million and that the commissioner must resume collecting the fee if the balance of the fund attributable to that operator has fallen below \$8 million.

Present law provides purposes for which the fund shall be used, including remediation of mechanical problems with wells and surface infrastructure.

Proposed law retains the purposes provided under present law and adds remediation associated with, arising from, or related to the site, including property remediation.

Proposed law further provides that no additional uses of the fund may be added to proposed law purposes without a 2/3 vote of the elected members of each house of the legislature.

Present law authorizes the commissioner to spend money in the fund for specified purposes, including remediation of mechanical problems with wells and surface infrastructure.

Proposed law retains the purposes provided under present law and adds remediation associated with, arising from, or related to the site, including property remediation.

RECORDATION

Present law preserves the rights and obligations established in certain instruments related to immovable property against third parties if the instrument is filed in the appropriate mortgage or conveyance records.

Proposed law retains present law and provides the same protection to the rights and obligations in agreements for the geologic storage of carbon dioxide upon filing a notice thereof.

Proposed law requires certain information to be contained in the notice. Proposed law further requires the grantee to notify the chief executive officer in the parish in which the notice is recorded within 30 days after recordation and authorizes the notice to be made by email.

EXTRACTION TAX

Proposed law creates a carbon extraction tax at a rate of 20 cents per ton extracted when the extraction occurs subsequent to the storage of carbon dioxide pursuant to the La. Geologic Sequestration of Carbon Dioxide Act.

Proposed law remits 75% to the governing authority of the parish in which the extracted occurs. Further provides that if the storage facility is located in more than one parish, the revenue will be divided between the parishes based on the amount of property located in each parish.

Proposed law provides that the tax will become effective if and when the Dept. of Natural Resources promulgates rules for the extraction of carbon dioxide which was stored in accordance with the La. Geologic Sequestration of Carbon Dioxide Act.

All other provisions are effective upon signature of governor or lapse of time for gubernatorial action.

(Amends the heading of Subpart A-3 of Part II of Chapter 2 of Subtitle I of Title 30, R.S. 30:209(4)(e)(intro. para.), 1109(A), 1110(C)(introductory paragraph) and (1)(intro. para.) and (f) and (g), (E)(2), (F), (G)(3), and (H); Adds R.S. 30:6(H) and 149, the heading of Subpart A-4 of Part II of Chapter 2 of Subtitle I of Title 30, R.S. 30:209.2, 1109(G), 1110(C)(1)(h) and (I), and 1112, R.S. 47:651, and R.S. 56:30.5)