

SENATE BILL No. 131

DIGEST OF INTRODUCED BILL

Citations Affected: IC 14-39-2; IC 36-7-4-1016.

Synopsis: Carbon sequestration. Provides that a carbon sequestration project that stores carbon dioxide generated outside a county and transported to the carbon sequestration project located in another county may not be undertaken unless the project is approved by the appropriate county legislative body or plan commission.

Effective: July 1, 2024.

Niemeyer

January 9, 2024, read first time and referred to Committee on Utilities.



Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

SENATE BILL No. 131

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 14-39-2-2, AS ADDED BY P.L.163-2022,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]: Sec. 2. (a) The following definitions apply throughout
4 this chapter.

- 5 (b) "Carbon dioxide" has the meaning set forth in IC 14-39-1-1.
6 (c) "Carbon dioxide injection well" refers to a well that is used to
7 inject carbon dioxide into a reservoir for carbon sequestration pursuant
8 to a UIC Class VI permit.
9 (d) "Carbon dioxide plume" means the extent of an underground
10 three-dimensional injected carbon dioxide stream.
11 (e) "Carbon sequestration" means the underground storage of carbon
12 dioxide in a reservoir.
13 (f) "Carbon sequestration project" means any project that involves
14 the underground storage of carbon dioxide in a reservoir pursuant to at
15 least one (1) UIC Class VI permit.
16 (g) "**Legislative body**" means the following:
17 (1) **The board of county commissioners, for a county not**



- 1 **subject to IC 36-2-3.5 or IC 36-3-1.**
 2 **(2) The county council, for a county subject to IC 36-2-3.5.**
 3 **(3) The city-county council, for a consolidated city or county**
 4 **having a consolidated city.**
 5 ~~(g)~~ **(h)** "Mineral lessee" means a lessee identified by the records of
 6 the recorder of deeds for each county containing a portion of the
 7 proposed reservoir who holds an interest in minerals on real property
 8 that are located above, below, or within the proposed reservoir that has
 9 been severed from the surface estate by:
 10 (1) grant;
 11 (2) exception;
 12 (3) reservation;
 13 (4) lease; or
 14 (5) any other means.
 15 ~~(h)~~ **(i)** "Mineral owner" means an owner identified by the records of
 16 the recorder of deeds for each county containing a portion of the
 17 proposed reservoir who holds an interest in minerals on real property
 18 that are located above, below, or within the proposed reservoir that has
 19 been severed from the surface estate by:
 20 (1) grant;
 21 (2) exception;
 22 (3) reservation;
 23 (4) lease; or
 24 (5) any other means.
 25 **(j) "Plan commission" means a plan commission established**
 26 **under IC 36-7-4.**
 27 ~~(i)~~ **(k)** "Pore space" means subsurface cavities or voids that can be
 28 used as a storage space for carbon dioxide.
 29 ~~(j)~~ **(l)** "Pore space owner" means:
 30 (1) a person;
 31 (2) a trust;
 32 (3) a corporation; or
 33 (4) another entity;
 34 that has title to, a right to, or an interest in pore space.
 35 ~~(k)~~ **(m)** "Reservoir" means a subsurface:
 36 (1) sedimentary stratum;
 37 (2) formation;
 38 (3) aquifer;
 39 (4) cavity; or
 40 (5) void;
 41 that is naturally or artificially created for the use of, or is capable of
 42 being made suitable for, injecting and storing carbon dioxide.



1 ~~(h)~~ **(n)** "Storage facility" means the subsurface area consisting of the
 2 extent of a carbon dioxide plume which is required to be delineated on
 3 an approved UIC Class VI permit or an amendment to a UIC Class VI
 4 permit of a storage operator.

5 ~~(m)~~ **(o)** "Storage operator" means:

- 6 (1) a person;
- 7 (2) a trust;
- 8 (3) a corporation; or
- 9 (4) another entity;

10 that operates a carbon sequestration project.

11 ~~(n)~~ **(p)** "Surface or subsurface property interest owner" means a
 12 property interest owner identified by the records of the recorder of
 13 deeds for each county containing a portion of the proposed storage
 14 facility who holds a fee simple interest or other freehold interest in the
 15 surface or subsurface of the property, which may include mineral
 16 rights. The term does not include the owner of a right-of-way, an
 17 easement, or a leasehold.

18 ~~(o)~~ **(q)** "UIC Class VI permit" means a permit issued under the
 19 federal Safe Drinking Water Act's Underground Injection Control
 20 program that allows:

- 21 (1) a person;
- 22 (2) a trust;
- 23 (3) a corporation; or
- 24 (4) another entity;

25 to operate a carbon dioxide injection well.

26 ~~(p)~~ **(r)** "Underground storage of carbon dioxide" means the injection
 27 and storage of carbon dioxide into underground strata and formations
 28 pursuant to at least one (1) UIC Class VI permit.

29 SECTION 2. IC 14-39-2-5, AS ADDED BY P.L.163-2022,
 30 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2024]: Sec. 5. (a) Carbon sequestration projects are authorized
 32 in Indiana for the purposes of:

- 33 (1) injecting carbon dioxide into the pore space of an underground
 34 storage facility through at least one (1) carbon dioxide injection
 35 well pursuant to a UIC Class VI permit; and
- 36 (2) employing the underground storage of carbon dioxide.

37 (b) A storage operator may not operate a carbon sequestration
 38 project in Indiana without:

- 39 (1) a UIC Class VI permit; and
- 40 (2) a valid permit issued by the department.

41 (c) If a carbon sequestration project is owned by an entity other than
 42 the storage operator, the storage operator shall be responsible for



1 obtaining a permit for a carbon sequestration project under subsection
 2 (b). A permit for a carbon sequestration project may be transferred or
 3 assigned from one (1) storage operator to another storage operator.

4 (d) An individual may apply to the department for a permit for a
 5 carbon sequestration project in a form and manner prescribed by the
 6 department.

7 (e) An application under subsection (d) must include the following:

8 (1) A filing fee of one thousand dollars (\$1,000).

9 (2) The signature of the applicant.

10 (3) A statement verifying that the information submitted is true,
 11 accurate, and complete to the best of applicant's knowledge.

12 (4) Information illustrating that the applicant has the financial,
 13 managerial, and technical ability to construct, operate, and
 14 maintain a carbon sequestration project.

15 (5) Information illustrating that the applicant or the contractors or
 16 subcontractors of the applicant have the requisite expertise in
 17 constructing, operating, and maintaining a carbon sequestration
 18 project.

19 (6) Documentation to the department describing the scope of the
 20 proposed carbon sequestration project.

21 (7) A statement describing how the applicant will construct,
 22 operate, and maintain the proposed carbon sequestration project
 23 in accordance with applicable local, state, and federal law,
 24 including federal and state safety regulations and rules governing
 25 the construction, operation, and maintenance of the carbon
 26 sequestration project, and related facilities and equipment, to
 27 ensure the safety of the carbon sequestration project employees
 28 and the public.

29 (8) A statement that the interests of a mineral lessee or mineral
 30 owner will not be adversely affected. If a mineral owner or
 31 mineral lessee is adversely affected, the adversely affected
 32 mineral owner or mineral lessee and the applicant may enter into
 33 an agreement under section 4 of this chapter.

34 **(9) A certified copy of:**

35 **(A) the approval of the plan commission under section**
 36 **5.5(1) of this chapter; or**

37 **(B) the ordinance adopted by the legislative body under**
 38 **section 5.5(2) of this chapter.**

39 SECTION 3. IC 14-39-2-5.5 IS ADDED TO THE INDIANA CODE
 40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 41 1, 2024]: **Sec. 5.5. A person may not undertake a carbon**
 42 **sequestration project that stores carbon dioxide generated outside**



1 a county and transported to the carbon sequestration project
 2 located in another county unless the project is approved in a public
 3 meeting as follows:

4 (1) If the carbon sequestration project is located in an area
 5 that is subject to the jurisdiction of a plan commission under
 6 IC 36-7-4, the carbon sequestration project must be approved
 7 by the plan commission. A plan commission may not delegate
 8 the authority of the plan commission to approve a carbon
 9 sequestration project to an administrator, hearing officer,
 10 committee, or staff.

11 (2) If the carbon sequestration project is located in an area
 12 that is not subject to the jurisdiction of a plan commission
 13 under IC 36-7-4, the carbon sequestration project must be
 14 approved by an ordinance adopted by the legislative body.

15 SECTION 4. IC 36-7-4-1016, AS AMENDED BY P.L.130-2014,
 16 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2024]: Sec. 1016. (a) Final decisions of the board of zoning
 18 appeals under:

19 (1) the 900 series of this chapter (administrative appeals,
 20 exceptions, uses, and variances); or

21 (2) section 1015 of this chapter (appeals of commitment
 22 modifications or terminations);

23 are considered zoning decisions for purposes of this chapter and are
 24 subject to judicial review in accordance with the 1600 series of this
 25 chapter.

26 (b) The following decisions of the plan commission are considered
 27 zoning decisions for purposes of this chapter and are subject to judicial
 28 review in the same manner as that provided for the appeal of a final
 29 decision of the board of zoning appeals under subsection (a):

30 (1) A final decision under the 700 series of this chapter
 31 (subdivision control).

32 (2) A final decision under section 1015 of this chapter (appeal of
 33 a commitment modification or termination).

34 (3) A final decision under the 1400 series of this chapter
 35 (development plans).

36 (4) A final decision under the 1500 series of this chapter (planned
 37 unit development), when authority to make a final decision is
 38 delegated to the plan commission by the legislative body under
 39 section 1511 of this chapter.

40 (c) Notwithstanding subsection (b)(2), decisions of a legislative
 41 body under section 1015(b)(6) or 1015(b)(10) of this chapter are not
 42 considered zoning decisions for purposes of this chapter and are not



1 subject to judicial review in accordance with the 1600 series of this
2 chapter.

3 (d) Final decisions of preservation commissions under IC 36-7-11,
4 IC 36-7-11.1, IC 36-7-11.2, or IC 36-7-11.3 (certificates of
5 appropriateness) are considered zoning decisions for purposes of this
6 chapter and are subject to judicial review in the same manner as that
7 provided for the appeal of a final decision of the board of zoning
8 appeals under subsection (a).

9 (e) Final decisions of zoning administrators under IC 14-28-4-18
10 (improvement location permits within flood plain areas) are considered
11 zoning decisions for purposes of this chapter and are subject to judicial
12 review in the same manner as that provided for the appeal of a final
13 decision of the board of zoning appeals under subsection (a).

14 **(f) Final decisions of plan commissions under IC 14-39-2-5.5(1)**
15 **concerning carbon sequestration projects are considered zoning**
16 **decisions for purposes of this chapter and are subject to judicial**
17 **review in the same manner as that provided for the appeal of a**
18 **final decision of the board of zoning appeals under subsection (a).**

19 ~~(f)~~ (g) The following actions are legislative acts and are not
20 considered zoning decisions for purposes of this chapter:

- 21 (1) Adopting or approving a comprehensive plan under the 500
22 series of this chapter.
23 (2) Certifying with or without a recommendation a proposal under
24 the 600 series of this chapter.
25 (3) Adopting, rejecting, or amending a zoning ordinance under
26 the 600 series of this chapter.
27 (4) Adopting, rejecting, or amending an impact fee ordinance
28 under the 1300 series of this chapter.
29 (5) Designating a zoning district where a development plan is
30 required under the 1400 series of this chapter.
31 (6) Adopting, rejecting, or amending a PUD district ordinance
32 under the 1500 series of this chapter.
33 (7) Adopting, rejecting, or amending a flood plain zoning
34 ordinance under IC 14-28-4.
35 (8) Certifying a recommendation, or modifying or terminating a
36 commitment, under section 1015(b)(6) or 1015(b)(10) of this
37 chapter.

