



January 25, 2022

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## SENATE BILL No. 265

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DIGEST OF SB 265 (Updated January 24, 2022 11:18 am - DI 140)

**Citations Affected:** IC 14-8; IC 14-39.

**Synopsis:** Carbon sequestration pilot project. Changes the description of the carbon sequestration pilot project that is authorized under current law. Eliminates the requirement that the operator of the carbon sequestration pilot project be designated by the director of the department of natural resources. Defines "carbon sequestration claim" as a civil action alleging actual or potential infringement of, interference with, or damage to real or personal property rights or interests arising from: (1) the operation of the carbon sequestration pilot project; or (2) the actual or potential presence or migration in the subsurface of injectate from the carbon sequestration pilot project. Provides that a person may not maintain a carbon sequestration claim unless the person pleads and proves: (1) actual interference with the reasonable use of the person's property; or (2) direct and tangible physical damage to the person's property. Provides that a person asserting a carbon sequestration claim may not recover damages for the diminution of the value of the person's real property due solely to any perceived risk associated with the operation of the carbon sequestration pilot project.

**Effective:** July 1, 2022.

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### Ford Jon, Niezgodski

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January 10, 2022, read first time and referred to Committee on Environmental Affairs.  
January 24, 2022, reported favorably — Do Pass.

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SB 265—LS 6880/DI 55





January 25, 2022

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

## SENATE BILL No. 265

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

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

1 SECTION 1. IC 14-8-2-34.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2022]: **Sec. 34.5. "Carbon sequestration claim", for purposes of**  
4 **IC 14-39-1-14.1, has the meaning set forth in IC 14-39-1-14.1(b).**  
5 SECTION 2. IC 14-39-1-3.5, AS ADDED BY P.L.291-2019,  
6 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7 JULY 1, 2022]: Sec. 3.5. (a) This chapter authorizes the establishment  
8 of a carbon sequestration pilot project ~~(1)~~ that will:  
9 ~~(A)~~ **(1)** capture carbon dioxide at ~~the proposed ammonia plant to~~  
10 ~~be located~~ **generated in connection with the production of**  
11 **hydrogen** at 444 West Sanford Avenue, West Terre Haute,  
12 Indiana; ~~and~~  
13 ~~(B)~~ **(2)** inject the carbon dioxide underground through one (1) or  
14 more injection wells **located in Indiana** pursuant to a Class VI  
15 well permit issued by the United States Environmental Protection  
16 Agency; and  
17 ~~(2)~~ **(3)** ~~that will~~ employ the underground ~~storage~~ **injection** of

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- 1 carbon dioxide as an alternative to releasing the carbon dioxide  
 2 into the air.
- 3 (b) The director shall designate the operator of the carbon  
 4 sequestration pilot project according to the shall be the first facility  
 5 in Indiana that:
- 6 (1) has the characteristics of the pilot project set forth in  
 7 subsection (a); and
- 8 (2) has submitted an application for a permit for the  
 9 underground injection and permanent geologic sequestration  
 10 of carbon dioxide to be issued by the United States  
 11 Environmental Protection Agency under the federal Safe  
 12 Drinking Water Act (42 U.S.C. 300f et seq.).
- 13 SECTION 3. IC 14-39-1-14.1 IS ADDED TO THE INDIANA  
 14 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 15 [EFFECTIVE JULY 1, 2022]: **Sec. 14.1. (a) This section applies to a**  
 16 **civil action filed after June 30, 2022.**
- 17 (b) As used in this section, a "carbon sequestration claim"  
 18 means a civil action alleging actual or potential infringement of,  
 19 interference with, or damage to real or personal property rights or  
 20 interests arising from:
- 21 (1) the operation of the carbon sequestration pilot project; or  
 22 (2) the actual or potential presence or migration in the  
 23 subsurface of injectate from the carbon sequestration pilot  
 24 project.
- 25 (c) A person may not maintain a carbon sequestration claim  
 26 unless the person pleads and proves:
- 27 (1) actual interference with the reasonable use of the person's  
 28 property; or  
 29 (2) direct and tangible physical damage to the person's  
 30 property.
- 31 (d) A person asserting a carbon sequestration claim may not  
 32 recover damages for the diminution of the value of the person's  
 33 real property due solely to any perceived risk associated with the  
 34 operation of the carbon sequestration pilot project.



COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 265, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 265 as introduced.)

MESSMER, Chairperson

Committee Vote: Yeas 10, Nays 1

