



Reprinted  
February 1, 2022

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## SENATE BILL No. 265

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DIGEST OF SB 265 (Updated January 31, 2022 5:19 pm - DI 55)

**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 physical injury to a person, an animal, or tangible property. Provides that recovery by a public utility for any effect of the carbon dioxide pilot project on the sources of the public water supply used by the public utility is not prohibited or limited.

**Effective:** July 1, 2022.

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**Ford Jon, Messmer, 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.  
January 31, 2022, read second time, amended, ordered engrossed.

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SB 265—LS 6880/DI 55





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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 been issued a permit for the underground injection**  
 9 **and permanent geologic sequestration of carbon dioxide by**  
 10 **the United States Environmental Protection Agency under the**  
 11 **federal Safe Drinking Water Act (42 U.S.C. 300f et seq.).**
- 12 SECTION 3. IC 14-39-1-14.1 IS ADDED TO THE INDIANA  
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 14 [EFFECTIVE JULY 1, 2022]: **Sec. 14.1. (a) This section applies to a**  
 15 **civil action filed after June 30, 2022.**
- 16 (b) **As used in this section, a "carbon sequestration claim"**  
 17 **means a civil action alleging actual or potential infringement of,**  
 18 **interference with, or damage to real or personal property rights or**  
 19 **interests arising from:**
- 20 (1) **the operation of the carbon sequestration pilot project; or**  
 21 (2) **the actual or potential presence or migration in the**  
 22 **subsurface of injectate from the carbon sequestration pilot**  
 23 **project.**
- 24 (c) **A person may not maintain a carbon sequestration claim**  
 25 **unless the person pleads and proves:**
- 26 (1) **actual interference with the reasonable use of the person's**  
 27 **property; or**
- 28 (2) **direct physical injury to a person, an animal, or tangible**  
 29 **property.**
- 30 (d) **This section does not prohibit or limit recovery by a public**  
 31 **utility for any effect of the carbon dioxide pilot project on the**  
 32 **sources of the public water supply used by the public utility.**



## 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

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SENATE MOTION

Madam President: I move that Senate Bill 265 be amended to read as follows:

Page 2, line 8, delete "submitted an application for" and insert "**been issued**".

Page 2, line 10, delete "to be issued".

Page 2, line 29, delete "and tangible physical damage to the person's" and insert "**physical injury to a person, an animal, or tangible**".

Page 2, delete lines 31 through 34, begin a new paragraph and insert:

**"(d) This section does not prohibit or limit recovery by a public utility for any effect of the carbon dioxide pilot project on the sources of the public water supply used by the public utility."**

Renumber all SECTIONS consecutively.

(Reference is to SB 265 as printed January 25, 2022.)

FORD JON

