

2023 Regular Session

HOUSE BILL NO. 571

BY REPRESENTATIVE SCHEXNAYDER

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

ENERGY: Provides relative to carbon capture and sequestration

1 AN ACT

2 To amend and reenact the heading of Subpart A-3 of Part II of Chapter 2 of Subtitle I of

3 Title 30 of the Louisiana Revised Statutes of 1950, R.S. 30:209(4)(e)(introductory

4 paragraph), 1105(A), 1109(A), 1110(C)(introductory paragraph) and (1)(introductory

5 paragraph) and (f) and (g), (E)(2), (F), (G), and (H) and to enact R.S. 30:6(H) and

6 149, the heading of Subpart A-4 of Part II of Chapter 2 of Subtitle I of Title 30 of the

7 Louisiana Revised Statutes of 1950, R.S. 30:209.2, 1104.1, 1107.1, 1109(G),

8 1110(C)(1)(h) and (I), and 1112, and R.S. 56:30.5, relative to carbon capture and

9 sequestration; to provide for notice to parishes regarding certain well permit

10 applications, State Mineral and Energy Board operating agreements, and geophysical

11 surveys related to carbon dioxide sequestration; to provide for the distribution of

12 funds received by the state for the storage of carbon dioxide; to provide relative to

13 certificates of completion of injection operations; to provide relative to release from

14 liability; to provide relative to the Carbon Dioxide Geologic Storage Trust Fund; to

15 provide for collections of fees for the fund; to provide for uses of the fund; to provide

16 for recordation of notices of geologic storage agreements; to provide for an effective

17 date; and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. The heading of Subpart A-3 of Part II of Chapter 2 of Subtitle I of Title
3 30 of the Louisiana Revised Statutes of 1950, R.S. 30:209(4)(e)(introductory paragraph),
4 1105(A), 1109(A), 1110(C)(introductory paragraph) and (1)(introductory paragraph) and (f)
5 and (g), (E)(2), (F), (G), and (H) are hereby amended and reenacted and R.S. 30:6(H) and
6 149, the heading of Subpart A-4 of Part II of Chapter 2 of Subtitle I of Title 30 of the
7 Louisiana Revised Statutes of 1950, R.S. 30:209.2, 1104.1, 1107.1, 1109(G), 1110(C)(1)(h)
8 and (I), and 1112 are hereby enacted to read as follows:

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

11 * * *

12 H. When an application for any permit to construct or drill a Class V or
13 Class VI well related to the geologic sequestration of carbon dioxide becomes
14 complete, the commissioner shall notify the governing authority of any parish
15 included in the permit application. The notice to the governing authority of the
16 parish shall be made no later than the date on which public notice is issued in
17 accordance with applicable law or regulations. Such notice may be made by
18 electronic mail to the parish president, police jury president, or mayor-president,
19 depending on the form of parish government.

20 * * *

21 SUBPART A-3. DISTRIBUTION OF FUNDS FROM STORAGE OF CARBON

22 DIOXIDE

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

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

28 B. Any revenues collected by the office of mineral resources pursuant to any
29 contractual agreement for the storage of carbon dioxide beneath state-owned land or

1 water bottoms shall be immediately forwarded to the state treasurer for deposit into
 2 the state treasury. After complying with the provisions of Article VII, Section 9(B)
 3 of the Constitution of Louisiana relative to the Bond Security and Redemption Fund,
 4 the state treasurer shall remit the funds as follows:

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

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

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

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

20 SUBPART ~~A-3~~ A-4. LOUISIANA ROYALTY RELIEF

21 DRY HOLE CREDIT PROGRAM

22 * * *

23 §209. State Mineral and Energy Board; authority

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

26 * * *

27 (4)

28 * * *

1 (e) Upon a two-thirds vote of the members of the State Mineral and Energy
 2 Board and after notification to the governing authority of the affected parish, which
 3 may be made by electronic mail to the parish president, police jury president, or
 4 mayor-president, depending on the form of parish government, and a public hearing
 5 conducted by a hearing officer appointed by the assistant secretary for the office of
 6 mineral resources in ~~the~~ each affected parish pursuant to R.S. 30:6, enter into
 7 operating agreements whereby the state receives a share of revenues from the storage
 8 of oil, natural gas, liquid or liquefied hydrocarbons, or carbon dioxide, in whole or
 9 in part, as may be agreed upon by the parties, and assumes all or a portion of the risk
 10 of the cost of the activity in those situations where the board determines it is in the
 11 best interest of the state either in equity or in the promotion of conservation to do so,
 12 such as but not limited to the following illustrations:

13 * * *

14 §209.2. Storage of carbon dioxide; distribution of funds

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

19 B. Any revenues collected by the office of mineral resources pursuant to any
 20 contractual agreement for the storage of carbon dioxide beneath state-owned land or
 21 water bottoms shall be immediately forwarded to the state treasurer for deposit into
 22 the state treasury. After complying with the provisions of Article VII, Section 9(B)
 23 of the Constitution of Louisiana relative to the Bond Security and Redemption Fund,
 24 the state treasurer shall remit the funds as follows:

25 (1) Thirty percent of the revenue shall be remitted to the Mineral and Energy
 26 Operation Fund. The revenue remitted to the Mineral and Energy Operation Fund
 27 under this Subsection shall be in lieu of any other revenues collected pursuant to any
 28 contractual agreement for the storage of carbon dioxide beneath the state-owned land

1 or water bottoms that is required by law to be remitted to the Mineral and Energy
2 Operation Fund.

3 (2) Thirty percent of the revenue shall be remitted to the governing authority
4 of the parish located in a specific area of interest. If the specific area of interest is
5 located in more than one parish, the monies shall be divided between the parishes in
6 proportion to the amount of property located in each parish pursuant to the
7 contractual agreement.

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

9 C. Nothing in this Section shall impact existing constitutional or statutory
10 dedications from funds collected by the office of mineral resources on behalf of a
11 state department or an agency as defined in R.S. 30:151.

12 * * *

13 §1104.1. Environmental analysis

14 A. The applicant for a permit for a Class VI injection well shall submit an
15 environmental analysis as part of the permit application.

16 B. The environmental analysis required by this Section shall be used to
17 satisfy the public trustee requirements of Article IX, Section 1 of the Constitution of
18 Louisiana and shall address the following questions regarding the proposed permit
19 activity:

20 (1) Have the potential and real adverse environmental effects of the proposed
21 permit activity been avoided to the maximum extent possible?

22 (2) Does a cost-benefit analysis of the environmental impact costs versus the
23 social and economic benefits of the proposed activities demonstrate that the latter
24 outweighs the former?

25 (3) Are there alternative activities which would offer more protection to the
26 environment than the proposed activity without unduly curtailing non-environmental
27 benefits?

28 (4) Are there alternative sites which would offer more protection to the
29 environment than the proposed site without unduly curtailing non-environmental
30 benefits?

1 (5) Are there mitigating measures which would offer more protection to the
2 environment than the proposed activity without unduly curtailing non-environmental
3 benefits?

4 §1105. Hearings; notice; rules of procedures; emergency; service of process; public
5 records; request for hearings; orders and compliance orders

6 A. All public hearings under this ~~Part~~ Chapter shall be conducted pursuant
7 to the provisions of R.S. 30:6. In addition to the requirements of R.S. 30:6, any
8 notice required pursuant to this Chapter shall also be provided to the governing
9 authority of any affected parish. Such notice may be made by electronic mail to the
10 parish president, police jury president, or mayor-president, depending on the form
11 of parish government.

12 * * *

13 §1107.1. Reporting; record keeping

14 A. The owner or operator of a permitted Class VI well shall provide
15 quarterly reports to the commissioner containing, at a minimum, the following:

16 (1) Any changes to the physical, chemical, and other relevant characteristics
17 of the carbon dioxide stream from the proposed operating data or parameters.

18 (2) Monthly average, maximum, and minimum values for injection pressure,
19 flow rate and volume, and annular pressure.

20 (3) The monthly volume or mass of the carbon dioxide stream injected over
21 the reporting period and the volume injected cumulatively over the life of the project.

22 (4) Additional reporting as required by applicable administrative rules.

23 B. At a minimum, the owner or operator of a permitted Class VI well shall
24 provide a report within twenty-four hours of the occurrence of any of the following:

25 (1) Evidence that the injected carbon dioxide stream or associated pressure
26 front may endanger an underground source of drinking water.

27 (2) Noncompliance with a permit condition, or malfunction of the injection
28 system, which may cause fluid migration into or between underground sources of
29 drinking water.

1 (3) Failure to maintain mechanical integrity.

2 C. Owners or operators of Class VI wells shall retain records as required by
3 applicable administrative rules.

4 * * *

5 §1109. Cessation of storage operations; limited liability release

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

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

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

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

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

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

22 (2) Upon issuance of the certificate of completion of injection operations,
23 ownership to the remaining project including the stored carbon dioxide transfers to
24 the state.

25 (3) Upon the issuance of the certificate of completion of injection operations,
26 the storage operator, all generators of any injected carbon dioxide, all owners of
27 carbon dioxide stored in the storage facility, and all owners otherwise having any
28 interest in the storage facility, shall be released from any and all future duties or
29 obligations under this Chapter and any and all liability, other than contractual

1 obligations and criminal liability, associated with or related to that storage facility
 2 which arises after the issuance of the certificate of completion of injection
 3 operations. The release from duties or obligations under this Chapter shall not apply
 4 to a current or former owner or operator of a storage facility when such duties or
 5 obligations arise from that owner or operator's noncompliance with applicable laws
 6 and regulations, including underground injection control regulations, prior to
 7 issuance of the certificate of completion of injection operations, nor shall it apply
 8 when the commissioner determines that there is fluid migration for which the
 9 operator is responsible that causes or threatens imminent and substantial
 10 endangerment to an underground source of drinking water.

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

17 ~~(3)~~ Such release from liability will (5) The release provided in Paragraphs
 18 (3) and (4) of this Subsection shall not apply to the any owner of a storage facility,
 19 any storage operator, any operator of a or operator of a storage facility, carbon
 20 dioxide transmission pipeline, or the any generator of the carbon dioxide being
 21 handled by either the storage facility or carbon dioxide transmission pipeline if it is
 22 demonstrated that any such owner, storage operator, operator, or generator
 23 intentionally and knowingly concealed or intentionally and knowingly
 24 misrepresented material facts related to the mechanical integrity of the storage
 25 facility or the chemical composition of any injected carbon dioxide or if the
 26 commissioner determines that the operator provided deficient or erroneous
 27 information that was material and relied upon by the commissioner to support
 28 approval of site closure or issuance of a certificate of completion of injection
 29 operations. In addition, upon the issuance of the certificate of completion of

1 injection operations, ~~any performance bonds posted by the operator shall be released~~
 2 ~~and~~ continued monitoring of the site, including remediation of any well leakage,
 3 shall become the principal responsibility of the Carbon Dioxide Geologic Storage
 4 Trust Fund.

5 ~~(4)~~ (6) It is the intent of this Section that the state shall not assume or have
 6 any liability by the mere act of assuming ownership of a storage facility after
 7 issuance of a certificate of completion of injection operations.

8 * * *

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

16 * * *

17 §1110. Carbon Dioxide Geologic Storage Trust Fund

18 * * *

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

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

25 * * *

26 (f) Once a ~~storage operator has contributed five million dollars to the trust~~
 27 ~~fund~~ five million dollars has been contributed to the fund for a storage facility, the
 28 fee assessments to that storage ~~operator~~ facility under this Section shall cease until
 29 such time as funds begin to be expended for ~~monitoring and caretaking of any~~

1 ~~completed that~~ storage facility. The ~~treasurer of the state of Louisiana~~ secretary of
2 the Department of Natural Resources shall certify; to the commissioner; the date on
3 which the balance in the fund for a storage ~~operator~~ facility equals or exceeds five
4 million dollars. The fund fees shall not be collected or required to be paid on or after
5 the first day of the second month following the certification, except that the
6 commissioner shall resume collecting the fees on receipt of a certification from the
7 ~~treasurer~~ secretary of the Department of Natural Resources that, based on the
8 expenditures or commitments to expend monies, the fund has fallen below four
9 million dollars for ~~the~~ that storage ~~operator~~ facility. ~~If at any time the balance in the~~
10 ~~trust fund exceeds an authorized amount determined by multiplying five million~~
11 ~~dollars by the number of active and completed storage facilities within the state, the~~
12 ~~collection of fees from the operators of storage facilities that have already~~
13 ~~contributed five million dollars to the trust fund will be suspended until such time~~
14 ~~as the balance in the trust fund falls below such authorized amount, at which time~~
15 ~~they will be reinstated.~~

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

28 (g) (h) At the end of each fiscal year, the fee may be redetermined by the
29 commissioner based upon the estimated cost of administering and enforcing this

1 Chapter for the upcoming year divided by the tonnage of carbon dioxide expected
 2 to be injected during the upcoming year. The total fee assessed shall be sufficient
 3 to assure a balance in the fund not to exceed five million dollars for any active
 4 storage facility within the state at the beginning of each fiscal year. Any amount
 5 received that exceeds the annual balance required shall be deposited in the fund, but
 6 appropriate credits shall be given against future fees or fees associated with other
 7 storage facilities operated by the same storage operator.

8 * * *

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

10 * * *

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

14 * * *

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

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

19 (1) To fund research and development in connection with carbon
 20 sequestration technology and methods.

21 (2) To monitor any remaining surface facilities and wells.

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

25 (4) To repair mechanical leaks at the storage facility.

26 (5) To contract with a private legal entity pursuant to this Chapter.

27 (6) To plug and abandon remaining wells except for those wells to be used
 28 as observation wells.

1 (7) To contract for professional services to assist with permit or application
2 reviews.

3 G. H. The commissioner shall keep accurate accounts of all receipts and
4 disbursements related to the administration of the fund and site-specific trust funds
5 and shall make a specific annual report addressing the administration of the funds to
6 the Senate Committee on Natural Resources, the House Committee on Natural
7 Resources and Environment, and the Senate Committee on Environmental Quality
8 before March first.

9 H. I. Every five years the commissioner shall submit a report to the Senate
10 Committee on Natural Resources, the House Committee on Natural Resources and
11 Environment, and the Senate Committee on Environmental Quality before March
12 first, that assesses the effectiveness of the fund and other related provisions in this
13 ~~Part Chapter~~ and provides such other information as may be requested by the
14 legislature to allow the legislature to assess the effectiveness of this Chapter.

15 * * *

16 §1112. Notice of geologic storage agreements; recordation

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

21 (2) Recordation of a notice shall make the geologic storage agreement and
22 any subsequent amendment or modification effective as to third persons to the same
23 extent as recordation of the instrument.

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

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

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

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

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

7 B.(1) A change in a geologic storage agreement with respect to any matter
8 that is required to be included in a notice of geologic storage agreement pursuant to
9 Subsection A of this Section is not effective as to third persons unless the parties
10 record a signed amendment to the notice that describes the change.

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

13 (a) Record an amendment to the notice signed by the transferor and
14 transferee evidencing the transfer.

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

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

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

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

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

27 E. The grantee of any recorded notice of geologic storage agreement shall
28 notify the governing authority of the parish in which the instrument is recorded
29 within thirty days after recordation. Such notice may be made by electronic mail to

1 the parish president, police jury president, or mayor-president, depending on the
2 form of parish government.

3 Section 2. R.S. 56:30.5 is hereby enacted to read as follows:

4 §30.5. Notice to parish governing authorities

5 An applicant seeking a permit or permission to operate for geophysical and
6 geological surveys related to exploration for the geologic sequestration of carbon
7 dioxide shall notify the governing authority of the parish within which the proposed
8 survey is to occur in accordance with rules promulgated by the department. Such
9 notice may be made by electronic mail to the parish president, police jury president,
10 or mayor-president, depending on the form of parish government.

11 Section 3. If any provision of this Act or the application thereof is held invalid, such
12 invalidity shall not affect other provisions or applications of this Act which can be given
13 effect without the invalid provisions or applications, and to this end the provisions of this
14 Act are hereby declared severable.

15 Section 4. This Act shall become effective upon signature by the governor or, if not
16 signed by the governor, upon expiration of the time for bills to become law without signature
17 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
18 vetoed by the governor and subsequently approved by the legislature, this Act shall become
19 effective on the day following such approval.

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 Re-Reengrossed

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 governing authority of any affected 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 to the parish president, police jury president, or mayor-president, depending on the form of parish government.

Proposed law further provides that any time notice is required under the La. Geologic Sequestration of Carbon Dioxide Act, notice must also be provided to the governing authority affected parishes and that such notice may be made by email to the parish president, police jury president, or mayor-president, depending on the form of parish government.

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 governing authority of any affected parish be given notice, which may be made by email to the parish president, police jury president, or mayor-president, depending on the form of parish government. Further 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 governing authority of any parish where the proposed surveys would occur in accordance with rules promulgated by the department.

ENVIRONMENTAL ANALYSIS

Proposed law requires the submission of an environmental analysis as part of the application for a Class VI injection well permit.

Proposed law requires the environmental analysis to address the following questions:

- (1) Have the potential and real adverse environmental effects of the proposed permit activity been avoided to the maximum extent possible?
- (2) Does a cost-benefit analysis of the environmental impact costs versus the social and economic benefits of the proposed project demonstrate that the latter outweighs the former?
- (3) Are there alternative projects which would offer more protection to the environment than the proposed project without unduly curtailing non-environmental benefits?
- (4) Are there alternative sites which would offer more protection to the environment than the proposed site without unduly curtailing non-environmental benefits?
- (5) Are there mitigating measures which would offer more protection to the environment than the proposed project without unduly curtailing non-environmental benefits?

REPORTING AND RECORDKEEPING

Proposed law requires the owner or operator of a Class VI injection well to provide quarterly reports on the following:

- (1) Any changes to the physical, chemical, and other relevant characteristics of the carbon dioxide stream from the proposed operating data.
- (2) Monthly average, maximum, and minimum values for injection pressure, flow rate and volume, and annular pressure.

- (3) The monthly volume or mass of the carbon dioxide stream injected over the reporting period and the volume injected cumulatively over the life of the project.
- (4) Additional reporting as required by applicable administrative rules.

Proposed law requires the owner or operator of a Class VI injection well to report the following occurrences within 24 hours:

- (1) Evidence that the injected carbon dioxide stream or associated pressure front may endanger an underground source of drinking water.
- (2) Noncompliance with a permit condition, or malfunction of the injection system, which may cause fluid migration into or between underground sources of drinking water.
- (3) Failure to maintain mechanical integrity.

Proposed law further requires owners and operators to retain records as required by administrative rules.

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 must 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.

Present law provides exceptions to the liability release for the following circumstances:

- (1) Funds in the Carbon Dioxide Geologic Storage Trust Fund become inadequate.

- (2) Where an owner intentionally or knowingly conceals or misrepresents material facts related to the mechanical integrity of a storage facility or the chemical composition of any injected carbon dioxide.

Proposed law adds that the liability release will not apply when the duties or obligations arise from any of the following:

- (1) Contractual obligations.
- (2) Criminal liability.
- (3) Noncompliance with applicable laws or regulations, including underground injection control regulations, prior to issuance of the certificate of completion of injection operations.
- (4) Where an operator is responsible for fluid migration that endangers an underground source of drinking water.
- (5) Where an operator provides deficient or erroneous information material to a decision on site closure or the issuance of a certificate of completion.

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 governing authority in the parish in which the notice is recorded within 30 days after recordation and authorizes the notice to be made by email. Requires the notice be sent via email to the president of the political subdivision.

Effective upon signature of the 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.), 1105(A), 1109(A), 1110(C)(intro. para.) and (1)(intro. para.) and (f) and (g), (E)(2), (F), (G), 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, 1104.1, 1107.1, 1109(G), 1110(C)(1)(h) and (I), and 1112, and R.S. 56:30.5)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Natural Resources and Environment to the original bill:

1. Require that notice be provided to parish "governing authorities" rather than parish "chief executive officers".
2. Specify particular parish officials that may be sent notice by electronic mail.
3. Add a new section of law that requires applicants for Class VI injection wells to submit an environmental analysis for the purpose of satisfying the public trustee requirements of Art. IX, Sec. 1 of the La. Constitution.
4. Add an overarching provision regarding notice to affected parishes by providing that any time notice is required under the La. Geologic Sequestration of Carbon Dioxide Act, notice must also be provided to affected parishes.
5. Add a new section of law that requires quarterly reporting of certain data by owners and operators of Class VI injection wells, reporting within twenty-four hours of certain triggers, and record keeping per administrative regulation.
6. Add exceptions to the application of liability release provisions for owners and operators that are issued a certificate of completion of injection for contractual obligations, criminal liability, where an operator is responsible for fluid migration that endangers an underground source of drinking water, and where an operator provides deficient or erroneous information material to a decision on site closure or the issuance of a certificate of completion.
7. Restores a provision of present law which states that the state does not assume liability for a completed storage facility by assuming ownership following the issuance of a certificate of completion.

8. Make technical changes.

The Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill:

1. Make technical changes.

The House Floor Amendments to the reengrossed bill:

1. Remove provisions which would have enacted a carbon dioxide extraction tax.
2. Make all sections of the Act effective upon the governor's signature.
3. Make technical changes.