

ACT No. 326

2021 Regular Session

HOUSE BILL NO. 572

BY REPRESENTATIVES WHITE, BISHOP, BOURRIAQUE, COUSSAN, DEVILLIER, EMERSON, FREEMAN, HARRIS, JONES, LARVADAIN, MACK, SCHEXNAYDER, AND THOMPSON AND SENATORS BOUIE, FESI, HENSGENS, HEWITT, AND WHITE

1 AN ACT

2 To amend and reenact R.S. 30:23(A), (B)(introductory paragraph), (1), (2), and (4), (C), and
3 (D)(1), 1103(3) through (12), and 1110(C)(3) and (E)(5) and to enact R.S.
4 30:1103(13), 1104(F), and 1110(F)(7), relative to the underground storage of
5 hydrogen, nitrogen, ammonia, compressed air, or noble gases in underground
6 reservoirs and salt domes; to include hydrogen, nitrogen, ammonia, compressed air,
7 and noble gases as substances that can be stored in underground reservoirs and salt
8 domes; to provide for definitions; to provide for the "reasons for confidentiality"
9 requirements as it relates to certain business records; to provide relative to the
10 Carbon Dioxide Geologic Storage Trust Fund; to provide for certain fee amounts; to
11 authorize contracts for professional services; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 30:23(A), (B)(introductory paragraph), (1), (2), and (4), (C), and
14 (D)(1), 1103(3) through (12), and 1110(C)(3) and (E)(5) are hereby amended and reenacted
15 and R.S. 30:1103(13), 1104(F), and 1110(F)(7) are hereby enacted to read as follows:

16 §23. Underground storage of liquid or gaseous hydrocarbons or ~~both or both,~~ carbon
17 dioxide, hydrogen, nitrogen, ammonia, compressed air, or noble gases not
18 otherwise prohibited by law

19 A. The underground storage of liquid or gaseous hydrocarbons, ~~or~~ carbon
20 dioxide, hydrogen, nitrogen, ammonia, compressed air, or noble gases not otherwise
21 prohibited by law will permit the accumulation of large quantities of such liquid or

1 gaseous hydrocarbons, carbon dioxide, hydrogen, nitrogen, ammonia, compressed
 2 air, or noble gases not otherwise prohibited by law for orderly withdrawal in times
 3 of greater demand, it being deemed in the public interest to have a supply of such
 4 ~~hydrocarbons~~ substances readily available for consumption. The underground
 5 storage of carbon dioxide which provides more uniform withdrawal from various gas
 6 or oil fields is in the public interest and for a public purpose.

7 B. Except as to liquid or gas hydrocarbon, storage ~~or~~ carbon dioxide,
 8 hydrogen, nitrogen, ammonia, compressed air, or noble gas storage projects begun
 9 before the effective date of this Section, and prior to authorizing the use of any salt
 10 dome cavity for the storage of liquid or gaseous hydrocarbons or carbon dioxide, the
 11 assistant secretary, after public hearing pursuant to the provisions of R.S. 30:6, shall
 12 have found all of the following:

13 (1) That the area of the salt dome sought to be used for the injection, storage,
 14 and withdrawal of liquid or gaseous hydrocarbons, ~~or~~ carbon dioxide, hydrogen,
 15 nitrogen, ammonia, compressed air, or noble gases not otherwise prohibited by law
 16 is suitable and feasible for such use.

17 (2) That the use of the salt dome cavity for the storage of liquid or gaseous
 18 hydrocarbons, ~~or~~ carbon dioxide, hydrogen, nitrogen, ammonia, compressed air, or
 19 noble gases not otherwise prohibited by law will not contaminate other formations
 20 containing fresh water, oil, gas, or other commercial mineral deposits, except salt.

21 * * *

22 (4) That temporary loss of jobs caused by the storage of liquid or gaseous
 23 hydrocarbons, ~~or~~ carbon dioxide, hydrogen, nitrogen, ammonia, compressed air, or
 24 noble gases not otherwise prohibited by law will be corrected by compensation,
 25 finding of new employment, or other provisions made for displaced labor.

26 * * *

27 C. After having made the findings required in Subsection B of this Section,
 28 the commissioner shall transmit a copy of the application, together with his findings,
 29 to the natural resources committees of the Senate and House of Representatives.
 30 These committees, meeting jointly, shall consider the facts surrounding the

1 application and the findings of the commissioner and may hold public hearings
2 thereon. Based upon its deliberations, the committees, acting jointly, may submit a
3 report and recommendations to the commissioner within fifteen days after receipt of
4 the application. After consideration of any recommendations so made, the
5 commissioner may issue all necessary orders providing that liquid or gaseous
6 hydrocarbons, ~~or carbon dioxide, hydrogen, nitrogen, ammonia, compressed air, or~~
7 noble gases not otherwise prohibited by law, previously reduced to possession and
8 which are subsequently injected and stored in a salt dome cavity, shall at all times
9 be deemed the property of the injector, his successors, or assigns, subject to the
10 provisions of any contract between the owner or owners of the solid mineral or land
11 overlying the area affected as determined by the commissioner of conservation; and
12 providing further that in no event shall the owner of the surface of the lands or water
13 bottoms or of any mineral interest under or adjacent to which such salt dome cavity
14 may lie, or any other person, be entitled to any right or claim in or to such liquid or
15 gaseous hydrocarbons, ~~or carbon dioxide, hydrogen, nitrogen, ammonia, compressed~~
16 air, or noble gases not otherwise prohibited by law stored therein, including the right
17 to produce, take, reduce to possession, waste, or otherwise interfere with or exercise
18 any control thereover. The commissioner shall issue necessary orders, rules, and
19 regulations for the protection from pollution of any salt dome cavity used for storage
20 of liquid or gaseous hydrocarbons ~~or, carbon dioxide, hydrogen, nitrogen, ammonia,~~
21 compressed air, or noble gases not otherwise prohibited by law, or any adjacent
22 strata or formation; and such rules and regulations as may be necessary pertaining
23 to surface storage facilities for the protection of the environment, drilling into any
24 salt dome for the creation of cavities, and equipping of same for the injection,
25 storage, and withdrawal of liquid or gaseous hydrocarbons, ~~or carbon dioxide,~~
26 hydrogen, nitrogen, ammonia, compressed air, or noble gases not otherwise
27 prohibited by law. Subject to the exception provided in Subsection B of this Section,
28 the commissioner shall not allow the use of any salt dome in the state of Louisiana
29 for the purposes mentioned herein until such time as he has prepared and
30 promulgated the regulations required herein according to the Louisiana

1 Administrative Procedure Act, ~~R.S. 49:951~~ R.S. 49:950 et seq. In addition, the
 2 commissioner shall issue necessary orders, rules, and regulations for the protection
 3 of the rights of owners of parts of the salt dome which are adjacent to any part
 4 thereof sought to be used for the storage of liquid or gaseous hydrocarbon
 5 hydrocarbons, or carbon dioxide, hydrogen, nitrogen, ammonia, compressed air, or
 6 noble gases not otherwise prohibited by law storage.

7 D.(1) In furtherance of the development of comprehensive energy policy for
 8 the state, the secretary of the Department of Natural Resources shall determine the
 9 feasibility of initiating projects, by the state or by contract on behalf of the state, for
 10 the storage of emergency supplies of state-owned oil and gas, ~~or carbon dioxide,~~
 11 hydrogen, nitrogen, ammonia, compressed air, or noble gas not otherwise prohibited
 12 by law. Such determination shall include consideration of the techniques, costs,
 13 quantities of oil and gas, ~~or carbon dioxide,~~ hydrogen, nitrogen, ammonia,
 14 compressed air, or noble gas not otherwise prohibited by law available for such
 15 purpose and priorities for allocation in time of emergency.

* * *

17 §1103. Definitions

18 Unless the context otherwise requires, the words defined in this Section have
 19 the following meaning when found in this Chapter:

* * *

21 (3) "Confidential business information" means any information accepted or
 22 determined by the United States Environmental Protection Agency to be subject to
 23 confidential treatment.

24 ~~(3)~~(4) "Gas" has the same meaning as provided in R.S. 30:3.

25 ~~(4)~~(5) "Geologic storage" means the long-or short-term underground storage
 26 of carbon dioxide in a reservoir.

27 ~~(5)~~(6) "Interested person" means any person who presently owns an interest
 28 within the area of, or proximate to, the tracts directly affected by the storage facility.

29 ~~(6)~~(7) "Office" means the office of conservation, Department of Natural
 30 Resources.

1 ~~(7)~~(8) "Oil" has the same meaning as provided in R.S. 30:3.

2 ~~(8)~~(9) "Person" means any natural person, corporation, association,
3 partnership, limited liability company, or other entity, receiver, tutor, curator,
4 executor, administrator, fiduciary, or representative of any kind.

5 ~~(9)~~(10) "Reservoir" means that portion of any underground geologic stratum,
6 formation, aquifer, or cavity or void, whether natural or artificially created, including
7 oil and gas reservoirs, salt domes or other saline formations, and coal and coalbed
8 methane seams, suitable for or capable of being made suitable for the injection and
9 storage of carbon dioxide therein.

10 ~~(10)~~(11) "Storage facility" means the underground reservoir, carbon dioxide
11 injection wells, monitoring wells, underground equipment, and surface buildings and
12 equipment utilized in the storage operation. The underground reservoir component
13 of the storage facility includes any necessary and reasonable aerial buffer and
14 subsurface monitoring zones designated by the commissioner for the purpose of
15 ensuring the safe and efficient operation of the storage facility for the storage of
16 carbon dioxide and shall be chosen to protect against pollution, and escape or
17 migration of carbon dioxide.

18 ~~(11)~~(12) "Storage operator" means the person authorized by the
19 commissioner to operate a storage facility. A storage operator can, but need not be,
20 the owner of carbon dioxide injected into a storage facility. Ownership of carbon
21 dioxide and use of geologic storage is a matter of private contract between the
22 storage operator and owner, shipper, or generator of carbon dioxide, as applicable.

23 ~~(12)~~(13) "Waste" in addition to its ordinary meaning, means "physical
24 waste" as that term is generally understood in the storage industry.

25 §1104. Duties and powers of the commissioner; rules and regulations; permits

26 * * *

27 F. The commissioner of conservation, in order to facilitate orderly
28 application reviews in conjunction with the United States Environmental Protection
29 Agency (EPA) and in anticipation of being granted primary enforcement authority
30 from the EPA, shall adopt and apply the "Reasons of business confidentiality"

1 defined in 40 CFR 2.201(e) in the same manner and to the same extent as the EPA,
2 and shall not treat any confidential business information contained within the permit
3 applications as a public record. The commissioner shall promulgate any rules or
4 regulations necessary to implement the provisions of this Subsection.

5 * * *

6 §1110. Carbon Dioxide Geologic Storage Trust Fund

7 * * *

8 C. The commissioner is hereby authorized to levy on storage operators the
9 following fees or costs for the purpose of funding the fund:

10 * * *

11 (3) An application fee payable to the office of conservation, in a form and
12 schedule prescribed by the office of conservation, by industries under the jurisdiction
13 of the office of conservation. The commissioner may, by rule in accordance with the
14 Administrative Procedure Act, ~~increase any application fee to an amount not in~~
15 ~~excess of eight and one-half percent above the amount charged for the fee on July~~
16 ~~1, 2010; charge a fee that shall not exceed the actual or anticipated cost to the state~~
17 for the review of the permit or application.

18 * * *

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

20 * * *

21 (5)(a) ~~Administration of this Chapter by the commissioner in an amount not~~
22 ~~to exceed seven hundred fifty thousand dollars each fiscal year.~~

23 (b) ~~The Oil and Gas Regulatory Fund created by R.S. 30:21 may be used for~~
24 ~~the administration of this Chapter as authorized by this Paragraph until June 30,~~
25 ~~2014. Any such payments from the Oil and Gas Regulatory Fund shall be repaid~~
26 ~~from the Carbon Dioxide Storage Trust Fund by June 30, 2018.~~

27 * * *

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

30 * * *

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

3

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____