

AN ACT

relating to the regulation of the injection and geologic storage of carbon dioxide in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 382.501, Health and Safety Code, is amended by adding Subdivisions (5) and (6) to read as follows:

(5) "Offshore" has the meaning assigned by Section 27.040, Water Code.

(6) "Railroad commission" means the Railroad Commission of Texas.

SECTION 2. Section 382.502, Health and Safety Code, is amended to read as follows:

Sec. 382.502. RULES; ENFORCEMENT. (a) The railroad commission by rule may adopt standards for the location, construction, maintenance, monitoring, and operation of a carbon dioxide repository.

(b) If the United States Environmental Protection Agency issues requirements regarding carbon dioxide sequestration, the railroad commission shall ensure that the construction, maintenance, monitoring, and operation of the carbon dioxide repository under this subchapter comply with those requirements.

(c) Subchapter F, Chapter 27, Water Code, applies to the civil, administrative, or criminal enforcement of a rule adopted by the railroad commission under this section in the same manner as

1 Subchapter F, Chapter 27, Water Code, applies to the civil,
2 administrative, or criminal enforcement of a rule adopted by the
3 railroad commission under Chapter 27, Water Code.

4 (d) A penalty collected under this section shall be
5 deposited to the credit of the anthropogenic carbon dioxide storage
6 trust fund established under Section 121.003, Natural Resources
7 Code.

8 SECTION 3. Section 382.506, Health and Safety Code, is
9 amended by amending Subsections (a) and (b) and adding Subsection
10 (e) to read as follows:

11 (a) The railroad commission by rule may establish standards
12 for the measurement, monitoring, and verification of the permanent
13 storage status of the carbon dioxide in the carbon dioxide
14 repository.

15 (b) The bureau shall review any [~~perform the~~] measurement,
16 monitoring, and verification of the permanent storage status of
17 carbon dioxide in the carbon dioxide repository performed by
18 another person at the direction of the state.

19 (e) The board may use revenue from the fee authorized by
20 Section 382.505 to contract with the bureau to perform the
21 functions described by this section.

22 SECTION 4. Section 382.509, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 382.509. RATES FOR TRANSPORTATION. Neither the
25 railroad commission nor the board may establish or regulate the
26 rates charged for the transportation of carbon dioxide to the
27 carbon dioxide repository.

1 SECTION 5. Section 121.003, Natural Resources Code, is
2 amended by amending Subsections (c) and (d) and adding Subsection
3 (c-1) to read as follows:

4 (c) Fees collected by the commission under Subchapter C-1,
5 Chapter 27, Water Code, ~~and~~ penalties imposed for violations of
6 that subchapter or rules adopted under that subchapter, and funds
7 received by the commission from financial responsibility
8 mechanisms under Section 27.073, Water Code, shall be deposited to
9 the credit of the anthropogenic carbon dioxide storage trust fund.

10 (c-1) Penalties imposed for violations of commission rules
11 adopted under Section 382.502, Health and Safety Code, shall be
12 deposited to the credit of the anthropogenic carbon dioxide storage
13 trust fund.

14 (d) The anthropogenic carbon dioxide storage trust fund may
15 be used by the commission only for:

16 (1) permitting, inspecting, monitoring,
17 investigating, recording, and reporting on geologic storage
18 facilities and associated anthropogenic carbon dioxide injection
19 wells;

20 (2) long-term monitoring of geologic storage
21 facilities and associated anthropogenic carbon dioxide injection
22 wells;

23 (3) remediation of mechanical problems associated
24 with geologic storage facilities and associated anthropogenic
25 carbon dioxide injection wells;

26 (4) repairing mechanical leaks at geologic storage
27 facilities;

1 (5) plugging abandoned anthropogenic carbon dioxide
2 injection wells used for geologic storage;

3 (6) training and technology transfer related to
4 anthropogenic carbon dioxide injection and geologic storage; and

5 (7) compliance and enforcement activities related to
6 geologic storage and associated anthropogenic carbon dioxide
7 injection wells.

8 SECTION 6. Sections 202.0545(c), (d), (f), and (h), Tax
9 Code, are amended to read as follows:

10 (c) To qualify for the tax rate reduction under this
11 section, the operator must:

12 (1) apply to the comptroller for the reduction and
13 include with the application any information and documentation that
14 the comptroller may require; and

15 (2) apply for a certification from[+
16 [~~(A)~~] the Railroad Commission of Texas[~~, if~~
17 ~~carbon dioxide used in the project is to be sequestered in an oil or~~
18 ~~natural gas reservoir,~~

19 [~~(B)~~ the Texas Commission on Environmental
20 ~~Quality, if carbon dioxide used in the project is to be sequestered~~
21 ~~in a geological formation other than an oil or natural gas~~
22 ~~reservoir, or~~

23 [~~(C)~~ both the Railroad Commission of Texas and
24 ~~the Texas Commission on Environmental Quality if both Paragraphs~~
25 ~~(A) and (B) apply].~~

26 (d) The Railroad Commission of Texas [~~An agency to which an~~
27 ~~operator applies for a certification under Subsection (c)(2)] may~~

1 issue a [~~the~~] certification under Subsection (c)(2) only if the
2 commission [~~agency~~] finds that, based on substantial evidence,
3 there is a reasonable expectation that:

4 (1) at least 99 percent of the carbon dioxide
5 sequestered as required by Subsection (a)(4) will remain
6 sequestered for at least 1,000 years; and

7 (2) the operator's planned sequestration program will
8 include appropriately designed monitoring and verification
9 measures that will be employed for a period sufficient to
10 demonstrate whether the sequestration program is performing as
11 expected.

12 (f) The comptroller shall approve the application if the
13 operator submits the certification [~~or certifications~~] required by
14 Subsection (c)(2) and if the comptroller determines that the oil is
15 otherwise eligible under this section.

16 (h) The comptroller and [~~7~~] the Railroad Commission of
17 Texas [~~, and the Texas Commission on Environmental Quality~~] may
18 adopt rules and establish procedures to implement and administer
19 this section.

20 SECTION 7. Subchapter C-1, Chapter 27, Water Code, is
21 amended by adding Section 27.040 to read as follows:

22 Sec. 27.040. DEFINITION. In this subchapter, "offshore"
23 means the area in the Gulf of Mexico seaward of the coast that is
24 within three marine leagues of the coast.

25 SECTION 8. Sections 27.041(a) and (c), Water Code, are
26 amended to read as follows:

27 (a) The [~~Except as provided by Subsection (b), the~~] railroad

1 commission has jurisdiction over the onshore and offshore injection
2 and geologic storage of carbon dioxide in this state~~[, and the~~
3 ~~injection of carbon dioxide into, a reservoir that is initially or~~
4 ~~may be productive of oil, gas, or geothermal resources or a saline~~
5 ~~formation directly above or below that reservoir]~~.

6 (c) The ~~[Except as provided by Subsection (b), the]~~ railroad
7 commission has jurisdiction over a well used for the purpose
8 provided by Subsection (a) regardless of whether the well was
9 initially completed for that purpose or was initially completed for
10 another purpose and is converted to the purpose provided by
11 Subsection (a).

12 SECTION 9. Section [27.043](#), Water Code, is amended to read as
13 follows:

14 Sec. 27.043. PERMIT FROM RAILROAD COMMISSION. (a) A person
15 may not begin drilling or operating an anthropogenic carbon dioxide
16 injection well for geologic storage or constructing or operating a
17 geologic storage facility regulated under this subchapter without
18 first obtaining the necessary permits from the railroad commission.

19 (b) The railroad commission may not issue a permit under
20 this subchapter for the conversion of a previously plugged and
21 abandoned Class I injection well, including any associated waste
22 plume, to a Class VI injection well.

23 SECTION 10. The heading to Section [27.046](#), Water Code, is
24 amended to read as follows:

25 Sec. 27.046. LETTER OF DETERMINATION FROM RAILROAD
26 COMMISSION.

27 SECTION 11. Subchapter [C-1](#), Chapter [27](#), Water Code, is

1 amended by adding Section 27.0461 to read as follows:

2 Sec. 27.0461. LETTER OF DETERMINATION FROM COMMISSION. A
3 person making an application to the railroad commission for a
4 permit under this subchapter shall submit with the application a
5 letter of determination from the commission concluding that
6 drilling and operating an anthropogenic carbon dioxide injection
7 well for geologic storage or constructing or operating a geologic
8 storage facility will not impact or interfere with any previous or
9 existing Class I injection well, including any associated waste
10 plume, or any other injection well authorized or permitted by the
11 commission.

12 SECTION 12. Section 27.047, Water Code, is amended to read
13 as follows:

14 Sec. 27.047. RULES. The railroad commission shall adopt
15 rules and procedures reasonably required for the performance of its
16 powers, duties, and functions under this subchapter, including
17 rules for:

18 (1) the geologic storage and associated injection of
19 anthropogenic carbon dioxide, including:

- 20 (A) geologic site characterization;
- 21 (B) area of review and corrective action;
- 22 (C) well construction;
- 23 (D) operation;
- 24 (E) mechanical integrity testing;
- 25 (F) monitoring;
- 26 (G) well plugging;
- 27 (H) postinjection site care;

- 1 (I) site closure; and
2 (J) long-term stewardship;
3 (2) the enforcement of this subchapter and rules
4 adopted by the railroad commission under this subchapter; and
5 (3) the collection and administration of:
6 (A) fees imposed under Section 27.045; ~~and~~
7 (B) penalties imposed for a violation of this
8 subchapter or rules adopted by the railroad commission under this
9 subchapter; and
10 (C) funds received from financial responsibility
11 mechanisms under Section 27.073.

12 SECTION 13. Section 27.048(b), Water Code, is amended to
13 read as follows:

14 (b) If rules or regulations adopted to govern the geologic
15 storage and associated injection of anthropogenic carbon dioxide
16 under the federal Safe Drinking Water Act (42 U.S.C. Section 300f et
17 seq.) or another federal statute allow this state to seek primary
18 enforcement authority under the underground injection control
19 program, ~~+~~

20 ~~[(1)] the railroad commission [shall seek primacy to~~
21 ~~administer and enforce the program subject to the jurisdiction~~
22 ~~granted under this subchapter, and~~

23 ~~[(2) this state]~~ shall seek primacy to administer and
24 enforce the program for the geologic storage and associated
25 injection of anthropogenic carbon dioxide in this state, including
26 onshore and offshore geologic storage and associated injection~~+~~
27 ~~and the injection of carbon dioxide into, a saline formation].~~

1 SECTION 14. Section 27.073(b-1), Water Code, is amended to
2 read as follows:

3 (b-1) The railroad commission is authorized to receive
4 funds as the beneficiary of a financial responsibility mechanism
5 established under this chapter for the proper management of an
6 anthropogenic carbon dioxide injection well or geologic storage
7 facility. The funds shall be deposited to the credit of the
8 anthropogenic carbon dioxide storage trust fund established under
9 Section 121.003, Natural Resources Code.

10 SECTION 15. Sections 27.022 and 27.041(b), Water Code, are
11 repealed.

12 SECTION 16. This Act takes effect immediately if it
13 receives a vote of two-thirds of all the members elected to each
14 house, as provided by Section 39, Article III, Texas Constitution.
15 If this Act does not receive the vote necessary for immediate
16 effect, this Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I certify that H.B. No. 1284 was passed by the House on April 20, 2021, by the following vote: Yeas 142, Nays 2, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1284 was passed by the Senate on May 21, 2021, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor