88R2436 JAM-F

By:  Bonnen H.B. No. 4484

A BILL TO BE ENTITLED

AN ACT

relating to the ownership of the pore space underlying the surface of land and to the use of that space for the geologic storage of carbon dioxide; authorizing a fee.

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

SECTION 1.  Section 382.502(d), Health and Safety Code, is amended to read as follows:

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

SECTION 2.  Section 91.802, Natural Resources Code, is amended to read as follows:

Sec. 91.802.  LAW APPLICABLE TO GEOLOGIC STORAGE FACILITIES AND ASSOCIATED INJECTION WELLS. (a) In this section, "[~~anthropogenic~~] carbon dioxide injection well" has the meaning assigned by Section 27.002, Water Code.

(b)  If a well is authorized as or converted to a [~~an anthropogenic~~] carbon dioxide injection well for geologic storage, Subchapter C-1, Chapter 27, Water Code, applies to the well.

(c)  A conversion of a [~~an anthropogenic~~] carbon dioxide injection well from use for enhanced recovery operations to use for geologic storage is not considered to be a change in the purpose of the well.

SECTION 3.  The heading to Chapter 121, Natural Resources Code, is amended to read as follows:

CHAPTER 121. OWNERSHIP AND STEWARDSHIP OF [~~ANTHROPOGENIC~~] CARBON DIOXIDE

SECTION 4.  Section 121.001, Natural Resources Code, is amended by amending Subdivision (1) and adding Subdivisions (1-a), (1-b), and (2-a) to read as follows:

(1)  "Anthropogenic carbon dioxide[~~,~~]" means:

(A)  carbon dioxide that would otherwise have been released into the atmosphere that has been:

(i)  stripped, segregated, or divided from any other fluid stream; or

(ii)  captured from an emissions source, including:

(a)  an advanced clean energy project as defined by Section 382.003, Health and Safety Code, or another type of electric generation facility; or

(b)  an industrial source of emissions;

(B)  any incidental associated substance derived from the source material for, or from the process of capturing, carbon dioxide described by Paragraph (A); and

(C)  any substance added to carbon dioxide described by Paragraph (A) to enable or improve the process of injecting the carbon dioxide [~~"anthropogenic carbon dioxide injection well," and "geologic storage facility" have the meanings assigned by Section 27.002, Water Code~~].

(1-a)  "Carbon dioxide" means the chemical compound composed of one carbon and two oxygen atoms. The term includes:

(A)  anthropogenic carbon dioxide;

(B)  naturally occurring carbon dioxide;

(C)  carbon dioxide captured directly from the atmosphere; and

(D)  phases, mixtures, and combinations of carbon dioxide, whether fluid, liquid, or gaseous, stripped, segregated, or divided from any other fluid stream thereof, together with incidental associated substances derived from the source materials and the capture process and any substances added to the stream to enable or improve the injection process.

(1-b)  "Carbon dioxide injection well" means an injection well used to inject or transmit carbon dioxide into a geologic storage facility.

(2-a)  "Geologic storage" and "geologic storage facility" have the meanings assigned by Section 27.002, Water Code.

SECTION 5.  Sections 121.002, 121.003, and 121.004, Natural Resources Code, are amended to read as follows:

Sec. 121.002.  OWNERSHIP OF [~~ANTHROPOGENIC~~] CARBON DIOXIDE. (a) This section does not apply to [~~anthropogenic~~] carbon dioxide injected for the primary purpose of enhanced recovery operations.

(b)  Except when title to the stored carbon dioxide and the geologic storage facility has been transferred to the state under Section 124.004(a) and unless [~~Unless~~] otherwise expressly provided by a contract, bill of sale, deed, mortgage, deed of trust, or other legally binding document or by other law, [~~anthropogenic~~] carbon dioxide stored in a geologic storage facility is considered to be the property of the storage operator or the storage operator's heirs, successors, or assigns.

(c)  Unless otherwise expressly provided by contract, bill of sale, deed, mortgage, deed of trust, or other legally binding document or by other law [~~Absent a final judgment of wilful abandonment rendered by a court or a regulatory determination of closure or abandonment~~], [~~anthropogenic~~] carbon dioxide stored in a geologic storage facility is not considered to be the property of the owner of the surface or mineral estate in the land in which the [~~anthropogenic~~] carbon dioxide is stored or of a person claiming under the owner of the surface or mineral estate.

(d)  Except when title to the stored carbon dioxide and the geologic storage facility has been transferred to the state under Section 124.004(a), the [~~The~~] owner, as designated by Subsection (b) [~~or (c)~~], of the [~~anthropogenic~~] carbon dioxide stored in a geologic storage facility, or the owner's heirs, successors, or assigns, may produce, take, extract, or otherwise possess [~~anthropogenic~~] carbon dioxide stored in the facility.

Sec. 121.003.  [~~ANTHROPOGENIC~~] CARBON DIOXIDE STORAGE TRUST FUND. (a) The [~~anthropogenic~~] carbon dioxide storage trust fund is created as a special fund in the state treasury.

(b)  The [~~anthropogenic~~] carbon dioxide storage trust fund is an interest-bearing fund. Interest earned on money in the fund shall be deposited to the credit of the fund.

(c)  Fees collected by the commission under Subchapter C-1, Chapter 27, Water Code, penalties imposed for violations of that subchapter or rules adopted under that subchapter, [~~and~~] funds received by the commission from financial responsibility mechanisms under Section 27.073, Water Code, grants, donations, and amounts allocated from any source, public or private, for the purposes of this chapter, and fees for the transfer of title to the stored carbon dioxide and the geologic storage facilities to the state as described by Section 124.005 shall be deposited to the credit of the [~~anthropogenic~~] carbon dioxide storage trust fund.

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

(d)  The [~~anthropogenic~~] carbon dioxide storage trust fund may be used by the commission only for:

(1)  permitting, inspecting, monitoring, investigating, recording, and reporting on geologic storage facilities and associated [~~anthropogenic~~] carbon dioxide injection wells;

(2)  long-term monitoring of geologic storage facilities and associated [~~anthropogenic~~] carbon dioxide injection wells;

(3)  remediation of [~~mechanical problems associated with~~] geologic storage facilities and associated [~~anthropogenic~~] carbon dioxide injection wells;

(4)  resolution of mechanical problems associated with, and repairing mechanical leaks at, geologic storage facilities and associated carbon dioxide injection wells;

(5)  plugging abandoned [~~anthropogenic~~] carbon dioxide injection wells used for geologic storage;

(6)  training and technology transfer related to [~~anthropogenic~~] carbon dioxide injection and geologic storage; [~~and~~]

(7)  compliance and enforcement activities related to geologic storage and associated [~~anthropogenic~~] carbon dioxide injection wells; and

(8)  costs, expenses, or claims arising from the state's ownership of the stored carbon dioxide and the geologic storage facility after the transfer of title to the stored carbon dioxide and geologic storage facility to the state under Section 124.004(a).

Sec. 121.004.  EXTRACTION OF STORED [~~ANTHROPOGENIC~~] CARBON DIOXIDE. (a) The commission shall adopt rules allowing [~~anthropogenic~~] carbon dioxide stored in a geologic storage facility to be extracted for a commercial or industrial use.

(b)  The commission has jurisdiction over the extraction of [~~anthropogenic~~] carbon dioxide stored in a geologic storage facility.

SECTION 6.  Subtitle D, Title 3, Natural Resources Code, is amended by adding Chapters 124 and 125 to read as follows:

CHAPTER 124.  STATE RESPONSIBILITY FOR LONG-TERM STORAGE OF CARBON DIOXIDE

Sec. 124.001.  DEFINITIONS. In this chapter:

(1)  "Carbon dioxide," "carbon dioxide injection well," "commission," and "storage operator" have the meanings assigned by Section 121.001.

(2)  "Geologic storage" and "geologic storage facility" have the meanings assigned by Section 27.002, Water Code.

Sec. 124.002.  APPLICABILITY. (a) This chapter applies only to the permanent sequestration of carbon dioxide in a geologic storage facility.

(b)  This chapter does not apply to a storage operator or geologic storage facility owner who provides written notice that the owner or operator does not intend to apply to the commission to transfer title to the stored carbon dioxide and the geologic storage facility to the state under Section 124.003(a).

Sec. 124.003.  APPLICATION FOR TRANSFER OF TITLE AND CUSTODY TO STATE. (a) After a storage operator or geologic storage facility owner receives a certificate of closure from the commission under rules adopted under Section 27.047(1)(I), Water Code, a storage operator or geologic storage facility owner may apply to the commission to transfer title to the stored carbon dioxide and the geologic storage facility to the state.

(b)  Not later than the 60th day after the date an application is received under this section, the commission shall consider the application and respond to the applicant. The commission shall approve the application if:

(1)  a waiting period of at least 10 years has passed since the storage operator or geologic storage facility owner received a certificate of closure;

(2)  the storage operator or geologic storage facility owner is in full compliance with all applicable laws governing the injection and geologic storage of the carbon dioxide, including any rules adopted under Section 27.047(1)(I), Water Code; and

(3)  the stored carbon dioxide and the geologic storage facility are stable and not expected to endanger any underground source of drinking water.

(c)  The commission may require less than a 10-year waiting period under Subsection (b)(1) if the commission determines that period is not necessary.

Sec. 124.004.  RELEASE; TRANSFER OF TITLE TO STATE. (a) On approval of the application by the commission under Section 124.003(b) and payment of the fee under Section 124.005, title to the stored carbon dioxide and the geologic storage facility is immediately transferred to the state. Title acquired by the state under this subsection includes all rights, interests in, and responsibilities associated with the stored carbon dioxide and the geologic storage facility. A party may not transfer to the state, and the state may not accept, any property interests or rights that the party does not own or have legal authority to transfer.

(b)  After title is acquired by the state under Subsection (a), all responsibility and potential liability associated with the stored carbon dioxide and the geologic storage facility is transferred to the state.

(c)  After title is acquired by the state under Subsection (a), the storage operator, the geologic storage facility owner, the person holding title to the carbon dioxide under Section 121.002, and all persons who generated any stored carbon dioxide are released from all regulatory requirements and liability associated with the stored carbon dioxide and the geologic storage facility.

(d)  Subsections (b) and (c) do not apply if the commission determines, after notice and a hearing, that a person intentionally concealed or misrepresented material facts related to an application under Section 124.003(b).

(e)  If a performance bond or other form of financial security submitted under Section 27.073, Water Code, has a duration that extends beyond the date of the issuance of the certificate of closure, that performance bond or other form of financial security shall be released.

(f)  The state, through the commission, shall assume responsibility for monitoring the stored carbon dioxide until the federal government assumes responsibility for the management and monitoring of the stored carbon dioxide.

Sec. 124.005.  FEE FOR TRANSFER OF TITLE TO STORED CARBON DIOXIDE TO STATE. On approval by the commission of an application under Section 124.003(b), the storage operator or geologic storage facility owner shall pay an additional per-ton fee for deposit to the credit of the carbon dioxide storage trust fund established under Section 121.003. The commission by rule shall determine the amount of the fee, which may not exceed the amount of the costs, expenses, or claims described by Section 121.003(d)(8) reasonably expected to be incurred by or presented to the state.

Sec. 124.006.  STATE ACCESS. After title to the stored carbon dioxide and the geologic storage facility is transferred to the state under Section 124.004(a), the state, through the commission, assumes all access and ancillary related rights the storage operator or geologic storage facility owner had to the geologic storage facility.

Sec. 124.007.  LIMITATION OF STATE RESPONSIBILITY. (a) This chapter does not:

(1)  alter or diminish the commission's defenses to liability already established under existing law; or

(2)  create any liability or responsibility on the part of the commission to pay any costs under Section 121.003(d) from any source other than the carbon dioxide storage trust fund established under Section 121.003.

(b)  The commission may not make payments for costs associated with the activities described by Section 121.003(d) if the amount of money in the carbon dioxide storage trust fund is insufficient to pay the costs.

CHAPTER 125.  INTEGRATION OF PORE SPACE FOR DEVELOPMENT OF GEOLOGIC STORAGE FACILITY

Sec. 125.001.  PURPOSE. The purposes of this chapter are to protect correlative rights, conserve the natural resources of this state, and enforce compliance with all applicable state and federal laws in order to facilitate and optimize the use and production of energy resources in this state, including the use of the pore space within the state for carbon dioxide sequestration.

Sec. 125.002.  APPLICABILITY. This chapter applies only to the permanent sequestration of carbon dioxide in a geologic storage facility.

Sec. 125.003.  DEFINITIONS. In this chapter:

(1)  "Carbon dioxide," "carbon dioxide injection well," and "commission," have the meanings assigned by Section 121.001.

(2)  "Geologic storage" and "geologic storage facility" have the meanings assigned by Section 27.002, Water Code.

(3)  "Pore space" means the subsurface materials and geologic structures beneath the surface, including voids and cavities, to be used for the storage of carbon dioxide.

(4)  "Storage operator" means the person designated under an integration order issued by the commission under Section 125.008 to conduct geologic storage operations.

Sec. 125.004.  INTEGRATION OF PORE SPACE FOR DEVELOPMENT OF GEOLOGIC STORAGE FACILITY. (a) A pore space owner whose pore space is located in a proposed geologic storage facility may integrate the owner's interests to develop the pore space as a proposed geologic storage facility.

(b)  If all of the owners of the pore space do not agree to the integration of their interests, a pore space owner or proposed storage operator may file an application with the commission requesting an order under this chapter for the integration of all interests and for the development of the pore space as a proposed geologic storage facility.

Sec. 125.005.  RULES. The commission shall adopt rules and procedures reasonably required for the performance of its powers, duties, and functions under this chapter.

Sec. 125.006.  HEARING REQUIRED. Promptly after receiving the completed application, the commission shall set the matter for hearing. The hearing must be scheduled to be held on a date not later than the 60th day after the date the completed application is filed with the commission.

Sec. 125.007.  NOTICE OF APPLICATION AND HEARING. (a) Notice of the application and the time and place of the hearing on the application must be mailed, postage prepaid, not later than the 31st day before the date of the hearing, to each owner of the surface estate, mineral estate, or pore space in the proposed geologic storage facility and to each owner of the surface estate, mineral estate, or pore space adjacent to the proposed geologic storage facility.

(b)  Notice of the application and the time and place of the hearing must be published once a week for two consecutive weeks in a newspaper of general circulation authorized by law to publish legal notices in the county or counties in which the land involved is located. The first publication must be made not later than the 15th day before the date of the hearing.

(c)  Typographical errors in a notice that are not material to the purpose of the notice do not affect the validity of the notice.

Sec. 125.008.  INTEGRATION ORDER; EFFECT OF OPERATIONS. (a) The commission shall issue an integration order if the commission finds that:

(1)  the application meets all of the statutory and regulatory requirements for the issuance of the integration order;

(2)  the geologic storage facility into which the carbon dioxide is injected is suitable for or capable of being made suitable for storing the carbon dioxide;

(3)  with proper safeguards, both groundwater and surface water can be adequately protected;

(4)  the injection of carbon dioxide into the geologic storage facility will not endanger or injure human health or safety;

(5)  the injection and geologic storage of carbon dioxide will not endanger or injure any oil, gas, or other mineral formation in any material respect, or has been addressed in an arrangement between the applicant and the mineral lessee or mineral owner;

(6)  the applicant has obtained the consent of the owners representing at least 60 percent of the ownership of the pore space, based on the surface acreage of the proposed geologic storage facility;

(7)  the applicant has made a fair and reasonable offer to integrate the nonconsenting pore space owners' interests; and

(8)  all pore space owners who did not consent to integrate their interests in order to develop the pore space as a proposed geologic storage facility but who are or will be subject to an integration order are or will be equitably compensated for the appurtenant and reasonable use of the pore space and surface.

(b)  To amend an integration order in order to change the size of a geologic storage facility, the storage operator must demonstrate to the commission that the operator has obtained the consent of the owners representing at least 60 percent of the ownership of the pore space, based on the surface acreage of the proposed geologic storage facility as described in the amended order.

(c)  An unknown or unlocatable pore space owner is considered to have consented to integrate the owner's interest, provided that the proposed storage operator complied with the notice requirements under Section 125.007(b). An unknown or unlocatable pore space owner is eligible for equitable compensation under Section 125.008(a)(8).

(d)  An offer made to integrate the nonconsenting pore space owners' interests is considered fair and reasonable under Section 125.008(a)(7) if it is made in a similar manner as the offer made to the other owners of pore space in the geologic storage facility, taking into account any material differences in circumstances.

(e)  A final integration order entered by the commission under this section, unless modified or overturned by a final order from a court, shall be considered final and conclusive as to all facts, findings, and conclusions contained in the order for all purposes and as to all parties notified and their heirs, successors, and assigns.

SECTION 7.  Subchapter A, Chapter 5, Property Code, is amended by adding Section 5.0015 to read as follows:

Sec. 5.0015.  OWNERSHIP OF PORE SPACE UNDERLYING THE SURFACE. (a) Unless expressly modified, reserved, or altered by a deed, conveyance, lease, or contract, the ownership of the pore space underlying the surface of land is declared to be vested in and owned by the owner or owners of the surface estate of the land.

(b)  This section does not change the common law existing on the effective date of this section as it relates to the relationship between the mineral and surface estates.

SECTION 8.  Sections 27.002(19), (20), (22), and (23), Water Code, are amended to read as follows:

(19)  "Carbon [~~Anthropogenic carbon~~] dioxide" has the meaning assigned by Section 121.001, Natural Resources Code [~~:~~

[~~(A)  means:~~

[~~(i)  carbon dioxide that would otherwise have been released into the atmosphere that has been:~~

[~~(a)  stripped, segregated, or divided from any other fluid stream; or~~

[~~(b)  captured from an emissions source, including:~~

[~~(1)  an advanced clean energy project as defined by Section 382.003, Health and Safety Code, or another type of electric generation facility; or~~

[~~(2)  an industrial source of emissions;~~

[~~(ii)  any incidental associated substance derived from the source material for, or from the process of capturing, carbon dioxide described by Subparagraph (i); and~~

[~~(iii)  any substance added to carbon dioxide described by Subparagraph (i) to enable or improve the process of injecting the carbon dioxide; and~~

[~~(B)  does not include naturally occurring carbon dioxide that is recaptured, recycled, and reinjected as part of enhanced recovery operations~~].

(20)  "Carbon [~~Anthropogenic carbon~~] dioxide injection well" means an injection well used to inject or transmit [~~anthropogenic~~] carbon dioxide into a reservoir.

(22)  "Geologic storage" means the underground storage of [~~anthropogenic~~] carbon dioxide in a storage facility [~~reservoir~~].

(23)  "Geologic storage facility" means the portion of the underground reservoir, subsurface stratum, formation, cavity, or void, whether natural or artificially created, underground equipment, injection wells, and surface buildings and equipment used or to be used for the geologic storage of [~~anthropogenic~~] carbon dioxide and all surface and subsurface rights and appurtenances necessary to the operation of a facility for the geologic storage of [~~anthropogenic~~] carbon dioxide. The term includes any reasonable and necessary areal buffer and subsurface monitoring zones, pressure fronts, and other areas as may be necessary for this state to receive delegation of any federal underground injection control program relating to the storage of carbon dioxide. The term does not include a pipeline used to transport carbon dioxide from the facility at which the carbon dioxide is captured to the geologic storage facility. The storage of carbon dioxide incidental to or as part of enhanced recovery operations does not in itself automatically render a facility a geologic storage facility.

SECTION 9.  The heading to Subchapter C-1, Chapter 27, Water Code, is amended to read as follows:

SUBCHAPTER C-1.  GEOLOGIC STORAGE AND ASSOCIATED INJECTION OF [~~ANTHROPOGENIC~~] CARBON DIOXIDE

SECTION 10.  Section 27.043(a), Water Code, is amended to read as follows:

(a)  A person may not begin drilling or operating a [~~an anthropogenic~~] carbon dioxide injection well for geologic storage or constructing or operating a geologic storage facility regulated under this subchapter without first obtaining the necessary permits from the railroad commission.

SECTION 11.  Section 27.045, Water Code, is amended to read as follows:

Sec. 27.045.  FEES. (a) The railroad commission may impose fees to cover the cost of:

(1)  permitting, monitoring, and inspecting [~~anthropogenic~~] carbon dioxide injection wells for geologic storage and geologic storage facilities; and

(2)  enforcing and implementing this subchapter and rules adopted by the railroad commission under this subchapter.

(b)  Fees collected by the railroad commission under this section shall be deposited to the credit of the [~~anthropogenic~~] carbon dioxide storage trust fund established under Section 121.003, Natural Resources Code.

SECTION 12.  Section 27.046(a), Water Code, is amended to read as follows:

(a)  The railroad commission may not issue a permit under rules adopted under this subchapter until the railroad commission issues to the applicant for the permit a letter of determination stating that drilling and operating the [~~anthropogenic~~] carbon dioxide injection well for geologic storage or operating the geologic storage facility will not injure any freshwater strata in that area and that the formation or stratum to be used for the geologic storage facility is not freshwater sand.

SECTION 13.  Section 27.0461, Water Code, is amended to read as follows:

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

SECTION 14.  Section 27.047, Water Code, is amended to read as follows:

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

(1)  the geologic storage and associated injection of [~~anthropogenic~~] carbon dioxide, including:

(A)  geologic site characterization;

(B)  area of review and corrective action;

(C)  well construction;

(D)  operation;

(E)  mechanical integrity testing;

(F)  monitoring;

(G)  well plugging;

(H)  postinjection site care;

(I)  site closure, including issuance of a certificate of closure; and

(J)  long-term stewardship;

(2)  the enforcement of this subchapter and rules adopted by the railroad commission under this subchapter; and

(3)  the collection and administration of:

(A)  fees imposed under Section 27.045;

(B)  penalties imposed for a violation of this subchapter or rules adopted by the railroad commission under this subchapter; and

(C)  funds received from financial responsibility mechanisms under Section 27.073.

SECTION 15.  Section 27.048, Water Code, is amended to read as follows:

Sec. 27.048.  CONSISTENCY WITH AND IMPLEMENTATION OF FEDERAL REQUIREMENTS. (a) Rules adopted by the railroad commission under this subchapter must be consistent with applicable rules or regulations adopted by the United States Environmental Protection Agency or another federal agency governing the injection and geologic storage of [~~anthropogenic~~] carbon dioxide.

(b)  If rules or regulations adopted to govern the geologic storage and associated injection of [~~anthropogenic~~] carbon dioxide under the federal Safe Drinking Water Act (42 U.S.C. Section 300f et seq.) or another federal statute allow this state to seek primary enforcement authority under the underground injection control program, the railroad commission shall seek primacy to administer and enforce the program for the geologic storage and associated injection of [~~anthropogenic~~] carbon dioxide in this state, including onshore and offshore geologic storage and associated injection.

SECTION 16.  Section 27.051(b-1), Water Code, is amended to read as follows:

(b-1)  The railroad commission may issue a permit under Subchapter C-1 if it finds:

(1)  that the injection and geologic storage of [~~anthropogenic~~] carbon dioxide will not endanger or injure any oil, gas, or other mineral formation;

(2)  that, with proper safeguards, both ground and surface fresh water can be adequately protected from carbon dioxide migration or displaced formation fluids;

(3)  that the injection of [~~anthropogenic~~] carbon dioxide will not endanger or injure human health and safety;

(4)  that the reservoir into which the [~~anthropogenic~~] carbon dioxide is injected is suitable for or capable of being made suitable for protecting against the escape or migration of [~~anthropogenic~~] carbon dioxide from the reservoir; and

(5)  that the applicant for the permit meets all of the other statutory and regulatory requirements for the issuance of the permit.

SECTION 17.  Sections 27.073(a) and (b-1), Water Code, are amended to read as follows:

(a)  A person to whom an injection well permit is issued may be required by the commission or railroad commission to maintain a performance bond or other form of financial security to ensure that:

(1)  an abandoned injection well is properly plugged; or

(2)  funds are available for plugging, postinjection site care, and closure of a [~~an anthropogenic~~] carbon dioxide injection well subject to Subchapter C-1.

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

SECTION 18.  Except as provided by Section 19 of this Act, not later than January 1, 2024, the Railroad Commission of Texas shall adopt rules as necessary to implement Chapters 124 and 125, Natural Resources Code, as added by this Act.

SECTION 19.  Not later than April 1, 2024, the Railroad Commission of Texas may adopt rules as necessary to allow the commission to assess a fee or fees in an amount sufficient to recover any costs incurred by the commission in implementing Chapter 121, Natural Resources Code, as amended by this Act, that are in addition to the costs incurred by the commission in performing its other functions. This section does not authorize the commission to assess a fee for performing any function that is not specific to the implementation of Chapter 121, Natural Resources Code.

SECTION 20.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.