By:  LaMantia S.B. No. 2439

A BILL TO BE ENTITLED

AN ACT

relating to capturing and storing carbon dioxide.

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

SECTION 1. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 100B to read as follows:

CHAPTER 100B. LIMITED LIABILITY FOR CAPTURING AND STORING CARBON DIOXIDE

Sec. 100B.001.  DEFINITIONS. In this chapter:

(1)  "Captured carbon dioxide" means carbon dioxide from any source that, through human effort or means, is seized for the purpose of sequestering the carbon dioxide with the intent of permanently preventing the carbon dioxide from being released into the atmosphere, including carbon dioxide that is:

(A)  captured from the atmosphere;

(B)  stripped, segregated, or divided from a fluid stream; or

(C)  captured from an emissions source, including from:

(i)  an advanced clean energy project as defined by Section 382.003, Health and Safety Code;

(ii)  an electric generation facility; or

(iii)  an industrial source of emissions.

(2)  "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 from the atmosphere; and

(D)  phases, mixtures, and combinations of carbon dioxide that include:

(i)  a substance incidentally derived from the source materials for or process of capturing the carbon dioxide;

(ii)  a substance added to the carbon dioxide stream to enable or improve storage of the carbon dioxide; and

(iii)  a substance incidentally captured with carbon dioxide captured from the atmosphere.

(3)  "Geologic storage" means the underground storage of carbon dioxide in a reservoir.

(4)  "Geologic storage facility" means the underground reservoir, underground equipment, injection wells, and surface buildings and equipment used or to be used for the geologic storage of carbon dioxide and all surface and subsurface rights and appurtenances necessary to the operation of a facility for the geologic storage of 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.

(5)  "Reservoir" has the meaning assigned by Section 27.002, Water Code.

(6)  "Stored carbon dioxide" means captured carbon dioxide that is being transported or temporarily or permanently stored.

Sec. 100B.002.  CAPTURED OR STORED CARBON DIOXIDE NOT NUISANCE.  (a)  Stored carbon dioxide is not:

(1)  a pollutant; or

(2)  a nuisance, including a public nuisance, under common law or the laws of this state, including Chapter 125.

(b)  A person may not bring a nuisance action or similar cause of action on the basis that captured carbon dioxide, stored carbon dioxide, or a process associated with capturing or storing carbon dioxide constitutes a nuisance.

SECTION 3.  Chapter 100B, Civil Practice and Remedies Code, as added by this Act, is an exercise of authority under Section 66(c), Article III, Texas Constitution, and takes effect only if this Act receives a vote of three-fifths of all the members elected to each house, as provided by Subsection (e) of that section.

SECTION 4.  The changes in law made by this Act apply only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrued before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5.  This Act takes effect September 1, 2023.