

By: Nichols

S.B. No. 2107

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

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

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

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

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

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

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

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

5 SECTION 4. Section 121.001, Natural Resources Code, is  
6 amended by amending Subdivision (1) and adding Subdivisions (1-a),  
7 (1-b), and (2-a) to read as follows:

8 (1) "Anthropogenic carbon dioxide[~~7~~]" means:

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

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

13 (ii) captured from an emissions source,  
14 including:

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

18 (b) an industrial source of  
19 emissions;

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

23 (C) any substance added to carbon dioxide  
24 described by Paragraph (A) to enable or improve the process of  
25 injecting the carbon dioxide [~~"anthropogenic carbon dioxide~~

26 ~~injection well," and "geologic storage facility" have the meanings~~  
27 ~~assigned by Section 27.002, Water Code].~~

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

3                   (A) anthropogenic carbon dioxide;

4                   (B) naturally occurring carbon dioxide;

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

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

13           (1-b) "Carbon dioxide injection well" means an  
14 injection well used to inject or transmit carbon dioxide into a  
15 geologic storage facility.

16           (2-a) "Geologic storage" and "geologic storage  
17 facility" have the meanings assigned by Section 27.002, Water Code.

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

20           Sec. 121.002. OWNERSHIP OF [~~ANTHROPOGENIC~~] CARBON DIOXIDE.

21           (a) This section does not apply to [~~anthropogenic~~] carbon dioxide  
22 injected for the primary purpose of enhanced recovery operations.

23           (b) Except when title to the stored carbon dioxide and the  
24 geologic storage facility has been transferred to the state under  
25 Section 124.004(a) and unless [~~Unless~~] otherwise expressly  
26 provided by a contract, bill of sale, deed, mortgage, deed of trust,  
27 or other legally binding document or by other law, [~~anthropogenic~~]

1 carbon dioxide stored in a geologic storage facility is considered  
2 to be the property of the storage operator or the storage operator's  
3 heirs, successors, or assigns.

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

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

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

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

26 (c) Fees collected by the commission under Subchapter C-1,  
27 Chapter 27, Water Code, penalties imposed for violations of that

1 subchapter or rules adopted under that subchapter, ~~and~~ funds  
2 received by the commission from financial responsibility  
3 mechanisms under Section 27.073, Water Code, grants, donations, and  
4 amounts allocated from any source, public or private, for the  
5 purposes of this chapter, and fees for the transfer of title to the  
6 stored carbon dioxide and the geologic storage facilities to the  
7 state as described by Section 124.005 shall be deposited to the  
8 credit of the ~~anthropogenic~~ carbon dioxide storage trust fund.

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

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

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

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

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

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

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;  
5 [~~and~~]

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

9 (8) costs, expenses, or claims arising from the  
10 state's ownership of the stored carbon dioxide and the geologic  
11 storage facility after the transfer of title to the stored carbon  
12 dioxide and geologic storage facility to the state under Section  
13 124.004(a).

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

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

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

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

25 Sec. 124.001. DEFINITIONS. In this chapter:

26 (1) "Carbon dioxide," "carbon dioxide injection  
27 well," "commission," and "storage operator" have the meanings

1 assigned by Section 121.001.

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

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

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

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

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

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

26 (2) the storage operator or geologic storage facility  
27 owner is in full compliance with all applicable laws governing the

1 injection and geologic storage of the carbon dioxide, including any  
2 rules adopted under Section 27.047(1)(I), Water Code; and

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

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

9 Sec. 124.004. RELEASE; TRANSFER OF TITLE TO STATE. (a) On  
10 approval of the application by the commission under Section  
11 124.003(b) and payment of the fee under Section 124.005, title to  
12 the stored carbon dioxide and the geologic storage facility is  
13 immediately transferred to the state. Title acquired by the state  
14 under this subsection includes all rights, interests in, and  
15 responsibilities associated with the stored carbon dioxide and the  
16 geologic storage facility. A party may not transfer to the state,  
17 and the state may not accept, any property interests or rights that  
18 the party does not own or have legal authority to transfer.

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

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



1 with the stored carbon dioxide and the geologic storage facility.

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

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

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

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

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

1 storage operator or geologic storage facility owner had to the  
2 geologic storage facility.

3 Sec. 124.007. LIMITATION OF STATE RESPONSIBILITY. (a)

4 This chapter does not:

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

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

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

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

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

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

26 Sec. 125.003. DEFINITIONS. In this chapter:

27 (1) "Carbon dioxide," "carbon dioxide injection

1 well," and "commission," have the meanings assigned by Section  
2 121.001.

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

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

8 (4) "Storage operator" means the person designated  
9 under an integration order issued by the commission under Section  
10 125.008 to conduct geologic storage operations.

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

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

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

25 Sec. 125.006. HEARING REQUIRED. Promptly after receiving  
26 the completed application, the commission shall set the matter for  
27 hearing. The hearing must be scheduled to be held on a date not

1 later than the 60th day after the date the completed application is  
2 filed with the commission.

3 Sec. 125.007. NOTICE OF APPLICATION AND HEARING. (a)  
4 Notice of the application and the time and place of the hearing on  
5 the application must be mailed, postage prepaid, not later than the  
6 31st day before the date of the hearing, to each owner of the  
7 surface estate, mineral estate, or pore space in the proposed  
8 geologic storage facility and to each owner of the surface estate,  
9 mineral estate, or pore space adjacent to the proposed geologic  
10 storage facility.

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

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

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

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

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

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

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

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

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

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

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

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

1 order.

2 (c) An unknown or unlocatable pore space owner is considered  
3 to have consented to integrate the owner's interest, provided that  
4 the proposed storage operator complied with the notice requirements  
5 under Section 125.007(b). An unknown or unlocatable pore space  
6 owner is eligible for equitable compensation under Section  
7 125.008(a)(8).

8 (d) An offer made to integrate the nonconsenting pore space  
9 owners' interests is considered fair and reasonable under Section  
10 125.008(a)(7) if it is made in a similar manner as the offer made to  
11 the other owners of pore space in the geologic storage facility,  
12 taking into account any material differences in circumstances.

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

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

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

26 (b) This section does not change the common law existing on  
27 the effective date of this section as it relates to the relationship

1 between the mineral and surface estates.

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

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

6 [~~(A) means:~~

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

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

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

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

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

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

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

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

27 (20) "Carbon [~~Anthropogenic carbon~~] dioxide injection

1 well" means an injection well used to inject or transmit  
2 [~~anthropogenic~~] carbon dioxide into a reservoir.

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

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

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

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



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

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

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

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

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

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

17 (b) Fees collected by the railroad commission under this  
18 section shall be deposited to the credit of the ~~[anthropogenic]~~  
19 carbon dioxide storage trust fund established under Section  
20 121.003, Natural Resources Code.

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

23 (a) The railroad commission may not issue a permit under  
24 rules adopted under this subchapter until the railroad commission  
25 issues to the applicant for the permit a letter of determination  
26 stating that drilling and operating the ~~[anthropogenic]~~ carbon  
27 dioxide injection well for geologic storage or operating the

1 geologic storage facility will not injure any freshwater strata in  
2 that area and that the formation or stratum to be used for the  
3 geologic storage facility is not freshwater sand.

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

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

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

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

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

- 24 (A) geologic site characterization;
- 25 (B) area of review and corrective action;
- 26 (C) well construction;
- 27 (D) operation;

- 1 (E) mechanical integrity testing;
- 2 (F) monitoring;
- 3 (G) well plugging;
- 4 (H) postinjection site care;
- 5 (I) site closure, including issuance of a
- 6 certificate of closure; and
- 7 (J) long-term stewardship;
- 8 (2) the enforcement of this subchapter and rules
- 9 adopted by the railroad commission under this subchapter; and
- 10 (3) the collection and administration of:
  - 11 (A) fees imposed under Section 27.045;
  - 12 (B) penalties imposed for a violation of this
  - 13 subchapter or rules adopted by the railroad commission under this
  - 14 subchapter; and
  - 15 (C) funds received from financial responsibility
  - 16 mechanisms under Section 27.073.

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

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

25 (b) If rules or regulations adopted to govern the geologic  
26 storage and associated injection of [~~anthropogenic~~] carbon dioxide  
27 under the federal Safe Drinking Water Act (42 U.S.C. Section 300f et

1 seq.) or another federal statute allow this state to seek primary  
2 enforcement authority under the underground injection control  
3 program, the railroad commission shall seek primacy to administer  
4 and enforce the program for the geologic storage and associated  
5 injection of [~~anthropogenic~~] carbon dioxide in this state,  
6 including onshore and offshore geologic storage and associated  
7 injection.

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

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

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

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

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

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

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

27 SECTION 17. Sections 27.073(a) and (b-1), Water Code, are

1 amended to read as follows:

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

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

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

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

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

22 SECTION 19. Not later than April 1, 2024, the Railroad  
23 Commission of Texas may adopt rules as necessary to allow the  
24 commission to assess a fee or fees in an amount sufficient to  
25 recover any costs incurred by the commission in implementing  
26 Chapter [121](#), Natural Resources Code, as amended by this Act, that  
27 are in addition to the costs incurred by the commission in

1 performing its other functions. This section does not authorize  
2 the commission to assess a fee for performing any function that is  
3 not specific to the implementation of Chapter 121, Natural  
4 Resources Code.

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