

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 28, 2023

TO: Honorable Brian Birdwell, Chair, Senate Committee on Natural Resources & Economic Development

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB2107 by Nichols (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.), **As Introduced**

The fiscal implications of the bill cannot be determined because the volume of carbon dioxide to be sequestered as well as the number of storage facilities and associated fees that would be established are unknown.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The bill would amend Chapter 121 of the Natural Resources Code as it relates to ownership and stewardship of anthropogenic carbon dioxide. The bill would recodify the definition of anthropogenic carbon dioxide in Chapter 27 of the Water Code, expand definitions of carbon dioxide, and clarify ownership of stored carbon dioxide and geologic storage facilities under certain conditions. The bill would rename the Anthropogenic Carbon Dioxide Storage Trust Fund to Carbon Dioxide Storage Trust Fund and would allow grants, donations, and fees for the transfer of title to the stored carbon dioxide and the geologic storage facilities to the state to be deposited to the fund. The bill would expand the allowable uses of money in the fund.

The bill would amend the Natural Resources Code by adding Chapter 124 to provide for a process for applying to transfer title of stored carbon dioxide and geologic storage facilities to the state after the owner or operator receives a certificate of closure from the Railroad Commission (RRC). Upon review and approval of the owner or operator's application and receipt of a per-ton fee payment, the state would assume the title for the stored carbon dioxide and the geologic storage facility and the RRC would monitor the stored carbon dioxide until the federal government assumes that responsibility per the provisions of the bill.

The bill would amend the Natural Resources Code by adding Chapter 125 to protect correlative rights and conserve natural resources in the integration of subsurface pore space for the development of a geologic storage facility to permanently sequestered carbon dioxide. The bill establishes a process for an owner of pore space to apply to the RRC application requesting an order for the integration of all interests and for the development of the pore space as a proposed geologic storage facility if all owners of the space do not agree to the integration of their interests. The bill would amend Chapter 5 of the Property Code to declare ownership of pore space underlying the surface of land to be vested in and owned by the owner of the surface estate of the land under certain conditions.

A request for transfer of title could not occur prior to the RRC issuing a certificate of closure for a carbon dioxide geologic storage facility. According to the agency, no such facility has yet been permitted and as such, there would be no facility qualifying for the provisions of the bill. The agency anticipates no significant fiscal impact during the five-year period after the effective date of the bill and indicates that the cost of rulemaking could be absorbed within existing agency resources.

Based on information provided by the Comptroller of Public Accounts and the RRC, the fiscal impact to the state from additional authorized sources of funds to the Carbon Dioxide Trust Fund cannot be determined because the timing and amount of fees, grants, donations, and allocations that would be dedicated to the Fund as

well as expenditures that would be made from the Fund are unknown. Additionally, the volume of carbon dioxide to be sequestered is unknown.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 455 Railroad Commission

LBB Staff: JMc, MOc, MW, EJ