



Reprinted
February 26, 2019

SENATE BILL No. 442

DIGEST OF SB 442 (Updated February 25, 2019 4:39 pm - DI 55)

Citations Affected: Noncode.

Synopsis: Underground storage of carbon dioxide. Urges the legislative council to assign to an appropriate interim study committee for the 2019 interim the task of studying the geologic storage of carbon dioxide.

Effective: Upon passage.

**Ford Jon, Zay, Messmer, Niezgodski,
Tallian, Breaux**

January 14, 2019, read first time and referred to Committee on Environmental Affairs.
January 29, 2019, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.
February 21, 2019, amended, reported favorably — Do Pass.
February 25, 2019, read second time, amended, ordered engrossed.

SB 442—LS 6818/DI 55



First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 442

A BILL FOR AN ACT concerning natural resources.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. [EFFECTIVE UPON PASSAGE] (a) **The legislative**
2 **council is urged to assign to an appropriate interim study**
3 **committee the task of studying the geologic storage of carbon**
4 **dioxide, including the following:**
5 (1) **The suitability of storing carbon dioxide and other**
6 **substances in the subsurface geologic strata beneath Indiana's**
7 **surface.**
8 (2) **The right to inject and store carbon dioxide and other**
9 **substances.**
10 (3) **The owner of any stored carbon dioxide or other**
11 **substances beneath the surface.**
12 (4) **The requirements to gain authority of pooling of pore**
13 **space.**
14 (5) **The financial responsibility when a problem associated**
15 **with a Class VI well creates a danger to human health or the**

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1 environment.
2 (6) The adequate testing and monitoring requirements
3 imposed for a Class VI well.
4 (7) The financial exposure to the state if the state becomes the
5 owner of all carbon dioxide and other substances stored
6 underground.
7 (b) This SECTION expires December 31, 2019.
8 SECTION 2. An emergency is declared for this act.



COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 442, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, delete lines 5 through 38.

Page 4, delete lines 2 through 6, begin a new paragraph and insert:

"Sec. 1. As used in this chapter, "pore space" means the voids in one (1) or more subsurface geologic strata that:

- (1) are located beneath the surface of a particular tract of land;**
- (2) are suitable for the storage of carbon dioxide;**
- (3) in their natural and undisturbed state, are not:**
 - (A) oil bearing formations; or**
 - (B) gas bearing formations; and**
- (4) are located below the base of the Ordovician formations, as defined by the Indiana geological and water survey established by IC 21-47-2."**

Page 4, delete lines 13 through 15, begin a new paragraph and insert:

"Sec. 3. As used in this chapter, "reservoir" means a portion of one (1) or more subsurface geologic strata that:

- (1) in their natural and undisturbed state, are not:**
 - (A) oil bearing formations; or**
 - (B) gas bearing formations; and**
- (2) are located below the base of the Ordovician formations, as defined by the Indiana geological and water survey established by IC 21-47-2;**

that is suitable for the injection and storage of carbon dioxide."

Page 5, line 21, after "Sec. 9." insert "(a)".

Page 5, line 34, delete "pooled." and insert **"pooled and all persons known to possess a fee simple estate or leasehold estate in minerals of the pore space proposed to be pooled."**

Page 6, line 10, delete "applies" and insert **"applies:"**.

Page 6, delete lines 11 through 14, begin a new line triple block indented and insert:

"(i) may submit written comments to the director of the division of oil and gas of the department concerning the prospective storage operator's application for the pooling of pore space at the address set forth in the notice within twenty (20) days after the publication date of the notice; and



(ii) may attend the hearing on the prospective storage operator's application for a pooling order; and".

Page 6, between lines 16 and 17, begin a new line block indented and insert:

"(4) Satisfy the notification requirements of subsections (b) and (c).

(b) A prospective storage operator must serve a written notification describing the proposed underground storage of carbon dioxide personally or by certified mail to each of the following:

(1) Each person who controls:

(A) a well for oil and gas purposes, including a well having temporary abandonment status under 312 IAC 29-33;

(B) a well for oil and gas purposes that is not yet in production; and

(C) an unexpired permit to drill a well for oil and gas purposes;

if the location of the well is not more than one-fourth (1/4) mile from the tract of land that the prospective storage operator intends to use for the underground storage of carbon dioxide.

(2) The permittee of an underground mine permitted under IC 14-34 if the location of the underground mine is not more than one-fourth (1/4) mile from the tract of land that the prospective storage operator intends to use for the underground storage of carbon dioxide.

(3) A person who files a map under 312 IAC 29-17-1(c) showing the location of commercially minable coal resources if the location of the coal resources is not more than one-fourth (1/4) mile from the tract of land that the prospective storage operator intends to use for the underground storage of carbon dioxide.

(4) Each person who controls an underground gas storage or underground petroleum storage reservoir identified under 312 IAC 29-18-1 if the location of the reservoir is not more than one-fourth (1/4) mile from the tract of land that the prospective storage operator intends to use for the underground storage of carbon dioxide.

(5) Each person having a surface or subsurface property interest (including fee simple or leasehold estate in minerals) in:

(A) the pore space proposed to be pooled; or



(B) a tract of land located not more than one-fourth (1/4) mile from the tract of land that the prospective storage operator intends to use for the underground storage of carbon dioxide.

(c) The written notification provided under subsection (b):

(1) must specify that a person, within fifteen (15) days after receiving the notification, may submit written comments to the director of the division of oil and gas of the department concerning the prospective storage operator's application for the pooling of pore space; and

(2) must include:

(A) the address to which the person's written comments may be forwarded;

(B) the address from which additional information about the prospective storage operator's application for the pooling of pore space may be obtained; and

(C) instructions for obtaining a copy of the prospective storage operator's application for the pooling of pore space."

Page 6, line 20, delete "and".

Page 6, line 25, after "interest;" insert "**and**

(3) all persons to whom section 9(b)(1) through 9(b)(5) of this chapter applies;".

Page 6, line 26, delete "IC 4-21.5-3-1." and insert "**IC 4-21.5-3-1 or this chapter."**

Page 6, line 29, delete "(a)(1) applies; or" and insert "**(a)(1);"**

Page 6, line 30, delete "(a)(2) applies;" and insert "**(a)(2); or**

(3) section 9(b)(1) through 9(b)(5) of this chapter;".

Page 6, line 31, before "shall" insert "**applies"**.

Page 6, line 41, after "judge," insert "**in light of all written comments submitted before the hearing and all testimony given and written evidence presented at the hearing,"**

Page 7, line 14, delete "apply;" and insert "**apply, and on other property owners and holders of property interests described in section 9(b)(1) through 9(b)(5) of this chapter;"**

Page 8, line 32, delete "oil and gas environmental" and insert "**pore space pooling application"**.

Page 8, line 33, delete "IC 14-37-10-2." and insert "**IC 14-39-2.5-1."**

Page 9, between lines 2 and 3, begin a new paragraph and insert:

"Sec. 16. (a) Except for the provisions of this chapter concerning:



- (1) notice being provided to; and
- (2) the submission of written comments, testimony, and written evidence by;

the holders of interests in extractable mineral resources, nothing in this chapter may be construed to apply to extractable mineral resources.

(b) The rights and requirements of this chapter:

- (1) are subordinate to rights pertaining to oil, gas, and coal reserves; and
- (2) shall in no way adversely affect oil, gas, and coal reserves.

(c) Notwithstanding any other law, nothing in this chapter may be construed to preclude the rights provided under IC 14-37-9.

SECTION 17. IC 14-39-2.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

Chapter 2.5. Carbon Dioxide Storage Fees and Funds

Sec. 1. (a) The pore space pooling application fund is established for the purpose of defraying the expenses of the department described in IC 14-39-2-13(b).

(b) The department shall administer the fund.

(c) The fund consists of the following:

- (1) Fees collected under IC 14-39-2-9 from persons applying for pore space pooling orders.
- (2) Accrued interest and other investment earnings of the fund.
- (3) Gifts, grants, donations, or appropriations from any source.

(d) Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) The expenses of administering the fund shall be paid from money in the fund.

(g) Money in the fund is annually appropriated for the purpose of defraying the expenses of the department described in IC 14-39-2-13(b).

Sec. 2. (a) The definitions in IC 14-39-3 apply throughout this section.

(b) A storage operator that injects carbon dioxide underground at a storage facility shall pay a carbon dioxide storage fee. Subject



to subsection (c), the amount of the fee is ten cents (\$0.10) per metric ton of carbon dioxide injected underground at the storage facility.

(c) When a total of five million dollars (\$5,000,000) has been paid in carbon dioxide storage fees under this section for the injection of carbon dioxide underground at a particular storage facility, the storage operator operating the storage facility is no longer required to pay carbon dioxide storage fees under this section for the injection of carbon dioxide underground at the storage facility.

Sec. 3. (a) The carbon dioxide storage fund is established.

(b) The purpose of the fund is to meet:

- (1) expenses incurred by the state of Indiana in fulfilling monitoring requirements with respect to Class VI wells under IC 14-39-3-13(b);**
- (2) expenses incurred by the state of Indiana for emergency and remedial response with respect to Class VI wells under IC 14-39-3-12(b); and**
- (3) other expenses incurred by the state of Indiana as owner of storage facilities under IC 14-39-3-15.**

(c) The department shall administer the fund.

(d) The fund consists of the following:

- (1) Fees collected under section 2 of this chapter.**
- (2) Accrued interest and other investment earnings of the fund.**
- (3) Gifts, grants, donations, or appropriations from any source.**

(e) Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(f) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(g) The expenses of administering the fund shall be paid from money in the fund.

(h) Money in the fund is annually appropriated for the purposes set forth in subsection (b)."

Page 11, after line 35, begin a new paragraph and insert:

"Sec. 16. (a) Notwithstanding any other law, nothing in this chapter may be construed to apply to extractable mineral resources.

(b) The rights and requirements of this chapter:



(1) are subordinate to rights pertaining to oil, gas, and coal reserves; and

(2) shall in no way adversely affect oil, gas, and coal reserves.

(c) Notwithstanding any other law, nothing in this chapter may be construed to preclude the rights provided under IC 14-37-9."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 442 as introduced.)

MESSMER, Chairperson

Committee Vote: Yeas 8, Nays 3.

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 442, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning natural resources and to make an appropriation.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 442 as printed January 30, 2019.)

MISHLER, Chairperson

Committee Vote: Yeas 10, Nays 2.

SENATE MOTION

Madam President: I move that Senate Bill 442 be amended to read as follows:

Delete the title and insert the following:

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A BILL FOR AN ACT concerning natural resources.

Page 1, delete lines 1 through 15.

Delete pages 2 through 13.

Page 14, delete lines 1 through 35.

Renumber all SECTIONS consecutively.

(Reference is to SB 442 as printed February 22, 2019.)

FORD JON

