

1-1 By: Paddie (Senate Sponsor - Hancock) H.B. No. 1284  
 1-2 (In the Senate - Received from the House April 20, 2021;  
 1-3 May 13, 2021, read first time and referred to Committee on Natural  
 1-4 Resources & Economic Development; May 19, 2021, reported favorably  
 1-5 by the following vote: Yeas 7, Nays 0; May 19, 2021, sent to  
 1-6 printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15	X			
1-16	X			
1-17	X			

1-18 A BILL TO BE ENTITLED  
 1-19 AN ACT

1-20 relating to the regulation of the injection and geologic storage of  
 1-21 carbon dioxide in this state.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 382.501, Health and Safety Code, is  
 1-24 amended by adding Subdivisions (5) and (6) to read as follows:

1-25 (5) "Offshore" has the meaning assigned by Section  
 1-26 27.040, Water Code.

1-27 (6) "Railroad commission" means the Railroad  
 1-28 Commission of Texas.

1-29 SECTION 2. Section 382.502, Health and Safety Code, is  
 1-30 amended to read as follows:

1-31 Sec. 382.502. RULES; ENFORCEMENT. (a) The railroad  
 1-32 commission by rule may adopt standards for the location,  
 1-33 construction, maintenance, monitoring, and operation of a carbon  
 1-34 dioxide repository.

1-35 (b) If the United States Environmental Protection Agency  
 1-36 issues requirements regarding carbon dioxide sequestration, the  
 1-37 railroad commission shall ensure that the construction,  
 1-38 maintenance, monitoring, and operation of the carbon dioxide  
 1-39 repository under this subchapter comply with those requirements.

1-40 (c) Subchapter F, Chapter 27, Water Code, applies to the  
 1-41 civil, administrative, or criminal enforcement of a rule adopted by  
 1-42 the railroad commission under this section in the same manner as  
 1-43 Subchapter F, Chapter 27, Water Code, applies to the civil,  
 1-44 administrative, or criminal enforcement of a rule adopted by the  
 1-45 railroad commission under Chapter 27, Water Code.

1-46 (d) A penalty collected under this section shall be  
 1-47 deposited to the credit of the anthropogenic carbon dioxide storage  
 1-48 trust fund established under Section 121.003, Natural Resources  
 1-49 Code.

1-50 SECTION 3. Section 382.506, Health and Safety Code, is  
 1-51 amended by amending Subsections (a) and (b) and adding Subsection  
 1-52 (e) to read as follows:

1-53 (a) The railroad commission by rule may establish standards  
 1-54 for the measurement, monitoring, and verification of the permanent  
 1-55 storage status of the carbon dioxide in the carbon dioxide  
 1-56 repository.

1-57 (b) The bureau shall review any ~~perform the~~ measurement,  
 1-58 monitoring, and verification of the permanent storage status of  
 1-59 carbon dioxide in the carbon dioxide repository performed by  
 1-60 another person at the direction of the state.

1-61 (e) The board may use revenue from the fee authorized by

2-1 Section 382.505 to contract with the bureau to perform the  
 2-2 functions described by this section.

2-3 SECTION 4. Section 382.509, Health and Safety Code, is  
 2-4 amended to read as follows:

2-5 Sec. 382.509. RATES FOR TRANSPORTATION. Neither the  
 2-6 railroad commission nor the board may establish or regulate the  
 2-7 rates charged for the transportation of carbon dioxide to the  
 2-8 carbon dioxide repository.

2-9 SECTION 5. Section 121.003, Natural Resources Code, is  
 2-10 amended by amending Subsections (c) and (d) and adding Subsection  
 2-11 (c-1) to read as follows:

2-12 (c) Fees collected by the commission under Subchapter C-1,  
 2-13 Chapter 27, Water Code, [~~and~~] penalties imposed for violations of  
 2-14 that subchapter or rules adopted under that subchapter, and funds  
 2-15 received by the commission from financial responsibility  
 2-16 mechanisms under Section 27.073, Water Code, shall be deposited to  
 2-17 the credit of the anthropogenic carbon dioxide storage trust fund.

2-18 (c-1) Penalties imposed for violations of commission rules  
 2-19 adopted under Section 382.502, Health and Safety Code, shall be  
 2-20 deposited to the credit of the anthropogenic carbon dioxide storage  
 2-21 trust fund.

2-22 (d) The anthropogenic carbon dioxide storage trust fund may  
 2-23 be used by the commission only for:

2-24 (1) permitting, inspecting, monitoring,  
 2-25 investigating, recording, and reporting on geologic storage  
 2-26 facilities and associated anthropogenic carbon dioxide injection  
 2-27 wells;

2-28 (2) long-term monitoring of geologic storage  
 2-29 facilities and associated anthropogenic carbon dioxide injection  
 2-30 wells;

2-31 (3) remediation of mechanical problems associated  
 2-32 with geologic storage facilities and associated anthropogenic  
 2-33 carbon dioxide injection wells;

2-34 (4) repairing mechanical leaks at geologic storage  
 2-35 facilities;

2-36 (5) plugging abandoned anthropogenic carbon dioxide  
 2-37 injection wells used for geologic storage;

2-38 (6) training and technology transfer related to  
 2-39 anthropogenic carbon dioxide injection and geologic storage; and

2-40 (7) compliance and enforcement activities related to  
 2-41 geologic storage and associated anthropogenic carbon dioxide  
 2-42 injection wells.

2-43 SECTION 6. Sections 202.0545(c), (d), (f), and (h), Tax  
 2-44 Code, are amended to read as follows:

2-45 (c) To qualify for the tax rate reduction under this  
 2-46 section, the operator must:

2-47 (1) apply to the comptroller for the reduction and  
 2-48 include with the application any information and documentation that  
 2-49 the comptroller may require; and

2-50 (2) apply for a certification from[+  
 2-51 [~~(A)~~] the Railroad Commission of Texas[, ~~if~~  
 2-52 ~~carbon dioxide used in the project is to be sequestered in an oil or~~  
 2-53 ~~natural gas reservoir,~~

2-54 [~~(B)~~ the Texas Commission on Environmental  
 2-55 ~~Quality, if carbon dioxide used in the project is to be sequestered~~  
 2-56 ~~in a geological formation other than an oil or natural gas~~  
 2-57 ~~reservoir, or~~

2-58 [~~(C)~~ both the Railroad Commission of Texas and  
 2-59 ~~the Texas Commission on Environmental Quality if both Paragraphs~~  
 2-60 ~~(A) and (B) apply].~~

2-61 (d) The Railroad Commission of Texas [~~An agency to which an~~  
 2-62 ~~operator applies for a certification under Subsection (c)(2)] may  
 2-63 issue a [~~the~~] certification under Subsection (c)(2) only if the  
 2-64 commission [~~agency~~] finds that, based on substantial evidence,  
 2-65 there is a reasonable expectation that:~~

2-66 (1) at least 99 percent of the carbon dioxide  
 2-67 sequestered as required by Subsection (a)(4) will remain  
 2-68 sequestered for at least 1,000 years; and

2-69 (2) the operator's planned sequestration program will

3-1 include appropriately designed monitoring and verification  
 3-2 measures that will be employed for a period sufficient to  
 3-3 demonstrate whether the sequestration program is performing as  
 3-4 expected.

3-5 (f) The comptroller shall approve the application if the  
 3-6 operator submits the certification [~~or certifications~~] required by  
 3-7 Subsection (c)(2) and if the comptroller determines that the oil is  
 3-8 otherwise eligible under this section.

3-9 (h) The comptroller and[~~and~~] the Railroad Commission of  
 3-10 Texas[~~, and the Texas Commission on Environmental Quality~~] may  
 3-11 adopt rules and establish procedures to implement and administer  
 3-12 this section.

3-13 SECTION 7. Subchapter C-1, Chapter 27, Water Code, is  
 3-14 amended by adding Section 27.040 to read as follows:

3-15 Sec. 27.040. DEFINITION. In this subchapter, "offshore"  
 3-16 means the area in the Gulf of Mexico seaward of the coast that is  
 3-17 within three marine leagues of the coast.

3-18 SECTION 8. Sections 27.041(a) and (c), Water Code, are  
 3-19 amended to read as follows:

3-20 (a) The [~~Except as provided by Subsection (b), the~~] railroad  
 3-21 commission has jurisdiction over the onshore and offshore injection  
 3-22 and geologic storage of carbon dioxide in this state[~~, and the~~  
 3-23 ~~injection of carbon dioxide into, a reservoir that is initially or~~  
 3-24 ~~may be productive of oil, gas, or geothermal resources or a saline~~  
 3-25 ~~formation directly above or below that reservoir].~~

3-26 (c) The [~~Except as provided by Subsection (b), the~~] railroad  
 3-27 commission has jurisdiction over a well used for the purpose  
 3-28 provided by Subsection (a) regardless of whether the well was  
 3-29 initially completed for that purpose or was initially completed for  
 3-30 another purpose and is converted to the purpose provided by  
 3-31 Subsection (a).

3-32 SECTION 9. Section 27.043, Water Code, is amended to read as  
 3-33 follows:

3-34 Sec. 27.043. PERMIT FROM RAILROAD COMMISSION. (a) A person  
 3-35 may not begin drilling or operating an anthropogenic carbon dioxide  
 3-36 injection well for geologic storage or constructing or operating a  
 3-37 geologic storage facility regulated under this subchapter without  
 3-38 first obtaining the necessary permits from the railroad commission.

3-39 (b) The railroad commission may not issue a permit under  
 3-40 this subchapter for the conversion of a previously plugged and  
 3-41 abandoned Class I injection well, including any associated waste  
 3-42 plume, to a Class VI injection well.

3-43 SECTION 10. The heading to Section 27.046, Water Code, is  
 3-44 amended to read as follows:

3-45 Sec. 27.046. LETTER OF DETERMINATION FROM RAILROAD  
 3-46 COMMISSION.

3-47 SECTION 11. Subchapter C-1, Chapter 27, Water Code, is  
 3-48 amended by adding Section 27.0461 to read as follows:

3-49 Sec. 27.0461. LETTER OF DETERMINATION FROM COMMISSION. A  
 3-50 person making an application to the railroad commission for a  
 3-51 permit under this subchapter shall submit with the application a  
 3-52 letter of determination from the commission concluding that  
 3-53 drilling and operating an anthropogenic carbon dioxide injection  
 3-54 well for geologic storage or constructing or operating a geologic  
 3-55 storage facility will not impact or interfere with any previous or  
 3-56 existing Class I injection well, including any associated waste  
 3-57 plume, or any other injection well authorized or permitted by the  
 3-58 commission.

3-59 SECTION 12. Section 27.047, Water Code, is amended to read  
 3-60 as follows:

3-61 Sec. 27.047. RULES. The railroad commission shall adopt  
 3-62 rules and procedures reasonably required for the performance of its  
 3-63 powers, duties, and functions under this subchapter, including  
 3-64 rules for:

3-65 (1) the geologic storage and associated injection of  
 3-66 anthropogenic carbon dioxide, including:

- 3-67 (A) geologic site characterization;
- 3-68 (B) area of review and corrective action;
- 3-69 (C) well construction;

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

4-17 SECTION 13. Section 27.048(b), Water Code, is amended to  
 4-18 read as follows:

4-19 (b) If rules or regulations adopted to govern the geologic  
 4-20 storage and associated injection of anthropogenic carbon dioxide  
 4-21 under the federal Safe Drinking Water Act (42 U.S.C. Section 300f et  
 4-22 seq.) or another federal statute allow this state to seek primary  
 4-23 enforcement authority under the underground injection control  
 4-24 program, ~~[+]~~

4-25 ~~[(1)] the railroad commission [shall seek primacy to~~  
 4-26 ~~administer and enforce the program subject to the jurisdiction~~  
 4-27 ~~granted under this subchapter; and~~

4-28 ~~[(2) this state]~~ shall seek primacy to administer and  
 4-29 enforce the program for the geologic storage and associated  
 4-30 injection of anthropogenic carbon dioxide in this state, including  
 4-31 onshore and offshore geologic storage and associated injection  
 4-32 and the injection of carbon dioxide into, a saline formation].

4-33 SECTION 14. Section 27.073(b-1), Water Code, is amended to  
 4-34 read as follows:

4-35 (b-1) The railroad commission is authorized to receive  
 4-36 funds as the beneficiary of a financial responsibility mechanism  
 4-37 established under this chapter for the proper management of an  
 4-38 anthropogenic carbon dioxide injection well or geologic storage  
 4-39 facility. The funds shall be deposited to the credit of the  
 4-40 anthropogenic carbon dioxide storage trust fund established under  
 4-41 Section 121.003, Natural Resources Code.

4-42 SECTION 15. Sections 27.022 and 27.041(b), Water Code, are  
 4-43 repealed.

4-44 SECTION 16. This Act takes effect immediately if it  
 4-45 receives a vote of two-thirds of all the members elected to each  
 4-46 house, as provided by Section 39, Article III, Texas Constitution.  
 4-47 If this Act does not receive the vote necessary for immediate  
 4-48 effect, this Act takes effect September 1, 2021.

4-49 \* \* \* \* \*