

ESB 1765

THE HOUSE OF REPRESENTATIVES
Tuesday, April 15, 2008

ENGROSSED
Senate Bill No. 1765
As Amended

ENGROSSED SENATE BILL NO. 1765 - By: MYERS, BINGMAN AND CRUTCHFIELD
of the Senate and AKDINS of the House.

[geologic storage of carbon dioxide - authorizing agency to promulgate rules
regulating carbon dioxide storage activities – codification -
effective date]

1 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 3-5-101 of Title 27A, unless there is created a duplication in
3 numbering, reads as follows:

4 This act shall be known and may be cited as the “Geologic Storage of Carbon
5 Dioxide Act”.

6 SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma
7 Statutes as Section 3-5-102 of Title 27A, unless there is created a duplication in
8 numbering, reads as follows:

9 A. The Oklahoma Legislature declares that:

10 1. The geologic storage of carbon dioxide will benefit the citizens of the state and
11 the state’s environment by reducing greenhouse gas emissions;

12 2. Carbon dioxide is a valuable commodity to the citizens of the state; and

1 3. Geologic storage of carbon dioxide gas may allow for the orderly withdrawal as
2 appropriate or necessary, thereby allowing carbon dioxide to be available for commercial,
3 industrial, or other uses, including the use of carbon dioxide for enhanced recovery of oil
4 and gas.

5 B. The regulatory authority to implement the provisions of this act shall be shared
6 in accordance with the environmental responsibilities within the areas of environmental
7 jurisdiction of the Corporation Commission and the Department of Environmental
8 Quality pursuant to the provisions of Section 1-3-101 of Title 27A of the Oklahoma
9 Statutes. For the purposes of this act, references to the State Regulatory Agency shall
10 mean either the Department of Environmental Quality or the Corporation Commission
11 as determined by a memorandum of understanding (M.O.U.) which shall be completed
12 and delivered to the Governor, the President Pro Tempore of the Senate and the Speaker
13 of the House of Representatives no later than November 1, 2008.

14 C. The State Regulatory Agency shall have the jurisdiction and authority over all
15 persons and property necessary to administer and enforce effectively the provisions of
16 this act concerning the geologic storage of carbon dioxide. In exercising such jurisdiction
17 and authority granted to it, the State Regulatory Agency may promulgate and enforce
18 rules and orders as necessary to implement the provisions of this act and regulate
19 geologic storage of carbon dioxide.

20 SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma
21 Statutes as Section 3-5-103 of Title 27A, unless there is created a duplication in
22 numbering, reads as follows:

1 As used in this act:

2 1. “Carbon dioxide” means anthropogenically sourced carbon dioxide of sufficient
3 purity and quality as to not compromise the safety and efficiency of the reservoir to
4 effectively contain the carbon dioxide;

5 2. “Oil or gas” means oil, natural gas, or gas condensate;

6 3. “Reservoir” means any subsurface sedimentary stratum, formation, aquifer, or
7 cavity or void, whether natural or artificially created, including oil and gas reservoirs,
8 saline formations and coal seams, suitable for or capable of being made suitable for the
9 injection and storage of carbon dioxide therein;

10 4. “Storage facility” means the underground reservoir, underground equipment,
11 and surface buildings and equipment utilized in the storage operation, excluding
12 pipelines used to transport the carbon dioxide from one or more capture facilities to the
13 storage and injection site. The underground reservoir component of the storage facility
14 includes any necessary and reasonable areal buffer and subsurface monitoring zones
15 designated by the State Regulatory Agency for the purpose of ensuring the safe and
16 efficient operation of the storage facility for the storage of carbon dioxide and shall be
17 chosen to protect against pollution, invasion, and escape or migration of carbon dioxide;

18 5. “Storage operator” means any person, corporation, partnership, limited liability
19 company, or other entity authorized by the State Regulatory Agency to operate a storage
20 facility;

21 6. “Geologic storage” means permanent or short-term underground storage of
22 carbon dioxide in a reservoir.

1 SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 3-5-104 of Title 27A, unless there is created a duplication in
3 numbering, reads as follows:

4 A. The use of a reservoir as a storage facility for carbon dioxide is hereby
5 authorized, provided that the State Regulatory Agency shall first enter an order or
6 permit, after public notice and hearing, approving such proposed geologic storage of
7 carbon dioxide and designating the horizontal and vertical boundaries of the geologic
8 storage facility. In order to establish a storage facility for carbon dioxide, the State
9 Regulatory Agency shall find as follows:

10 1. That the storage facility and reservoir are suitable and feasible for the injection
11 and storage of carbon dioxide;

12 2. That a good faith effort has been made to obtain the consent of a majority of the
13 owners having property interests substantially affected by the storage facility and that
14 the operator intends to acquire any remaining interest by eminent domain or as
15 otherwise allowed by statute;

16 3. That the use of the storage facility for the geologic storage of carbon dioxide will
17 not contaminate other formations containing fresh water or oil, gas, coal, or other
18 commercial mineral deposits; and

19 4. That the proposed storage will not unduly endanger human health and the
20 environment.

21 B. Upon the State Regulatory Agency's issuance of an order of approval or permit
22 as set forth above, said order or permit, or a certified copy thereof, shall be filed for

1 record in the district court of the county or counties in which the storage facility is to be
2 located.

3 C. Prior to commencing injection of carbon dioxide, the storage operator shall
4 record in the county or counties in which the storage facility is located, and with the
5 State Regulatory Agency, a certificate, entitled “Certificate of Operation of Storage
6 Facility”, which shall contain a statement that the storage operator has acquired by
7 eminent domain or otherwise all necessary ownership rights with respect to the storage
8 facility, and the date upon which the storage facility shall be effective.

9 D. If any depleted pool for any previously established field or producing unit for
10 hydrocarbons is contained within the boundaries of the storage facility, the State
11 Regulatory Agency may in its order of approval or permit for such storage facility order
12 that such field or unit shall be dissolved as of the effective date of the storage facility as
13 set forth in the Certificate of Operation of Storage Facility.

14 SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma
15 Statutes as Section 3-5-105 of Title 27A, unless there is created a duplication in
16 numbering, reads as follows:

17 The State Regulatory Agency shall issue such orders, permits, certificates, or rules
18 including establishment of appropriate and sufficient financial sureties as may be
19 necessary, for the purpose of regulating the drilling, operation, and well plugging and
20 abandonment and removal of surface buildings and equipment of the storage facility to
21 protect the storage facility against pollution, invasion, and the escape or migration of
22 carbon dioxide.

1 SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 3-5-106 of Title 27A, unless there is created a duplication in
3 numbering, reads as follows:

4 There is hereby established the Carbon Dioxide Storage Facility Trust Fund in the
5 State Treasury to be administered by the State Regulatory Agencies pursuant to terms
6 established in the memorandum of understanding required by subsection B of Section 2
7 of this act. Each State Regulatory Agency or its rulemaking authority shall be
8 specifically authorized by subsequent legislation to determine a fee to be placed on each
9 ton of carbon dioxide injected for storage for the purpose of funding the Carbon Dioxide
10 Storage Facility Trust Fund. The trust fund shall be utilized solely for long-term
11 monitoring of the site, including remaining surface facilities and wells, remediation of
12 mechanical problems associated with remaining wells and surface infrastructure,
13 repairing mechanical leaks at the site, and plugging and abandoning remaining wells
14 under the jurisdiction of the State Regulatory Agency for use as observation wells.

15 SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma
16 Statutes as Section 3-5-107 of Title 27A, unless there is created a duplication in
17 numbering, reads as follows:

18 For the purpose of funding the administration and enforcement of this act relating
19 to geologic storage of carbon dioxide by the State Regulatory Agency during the
20 operational phase of the storage facility, and for the purpose of compliance inspections
21 including the expense of inspecting, testing, and monitoring the geologic storage facility,
22 there is hereby levied on the storage operator a per ton fee collected as a percentage of

1 the fee authorized in Section 6 of this act which shall be deposited in the appropriate
2 state agency's revolving fund. The State Regulatory Agency or its rulemaking authority
3 shall determine the applicable percentage. The State Regulatory Agency may utilize
4 these monies as it deems appropriate solely for administering and enforcing the
5 provisions of this act.

6 SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma
7 Statutes as Section 3-5-108 of Title 27A, unless there is created a duplication in
8 numbering, reads as follows:

9 Ten (10) years, or other time frame established by rule, after cessation of storage
10 operations, the State Regulatory Agency shall issue a Certificate of Completion of
11 Injection Operations, upon a showing by the storage operator that the reservoir is
12 reasonably expected to retain mechanical integrity and remain emplaced, at which time
13 ownership to the remaining project including the stored carbon dioxide transfers to the
14 state. Upon the issuance of the Certificate of Completion of Injection Operations, the
15 operator and all generators of any injected carbon dioxide shall be released from all
16 further State Regulatory Agency liability associated with the project. In addition, upon
17 the issuance of the Certificate of Completion of Injection Operations, any performance
18 bonds posted by the operator shall be released and continued monitoring of the site,
19 including remediation of any well leakage, shall become the responsibility of the Carbon
20 Dioxide Storage Facility Trust Fund.

1 SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 3-5-109 of Title 27A, unless there is created a duplication in
3 numbering, reads as follows:

4 The State Regulatory Agency is expressly authorized to promulgate rules to allow
5 conversion of an existing enhanced recovery operation into a storage facility. Upon
6 approval of the conversion of such a project the provisions of this act shall apply.
7 Nothing in this act shall apply to the use of carbon dioxide as a part of or in conjunction
8 with any enhanced recovery methods where the sole purpose of the project is enhanced
9 oil or gas recovery.

10 SECTION 10. This act shall become effective January 1, 2009.

11 COMMITTEE REPORT BY: COMMITTEE ON ENERGY AND TECHNOLOGY, dated
12 04-14-08 - DO PASS, As Amended.