

1 THE STATE SENATE
2 Monday, February 25, 2008

3 Committee Substitute for
4 Senate Bill No. 1765

5 COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1765 - By: MYERS, BINGMAN
6 and CRUTCHFIELD of the Senate and DeWITT of the House.

7 [geologic storage of carbon dioxide - authorizing agency to
8 promulgate rules regulating carbon dioxide storage
9 activities - effective date]

10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

14 This act shall be known and may be cited as the "Geologic
15 Storage of Carbon Dioxide Act".

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

19 A. The Oklahoma Legislature declares that:

20 1. The geologic storage of carbon dioxide will benefit the
21 citizens of the state and the state's environment by reducing
22 greenhouse gas emissions;

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

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

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

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

1 the provisions of this act and regulate geologic storage of carbon
2 dioxide.

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

6 As used in this act:

7 1. "Carbon dioxide" means anthropogenically sourced carbon
8 dioxide of sufficient purity and quality as to not compromise the
9 safety and efficiency of the reservoir to effectively contain the
10 carbon dioxide;

11 2. "Oil or gas" means oil, natural gas, or gas condensate;

12 3. "Reservoir" means any subsurface sedimentary stratum,
13 formation, aquifer, or cavity or void, whether natural or
14 artificially created, including oil and gas reservoirs, saline
15 formations and coal seams, suitable for or capable of being made
16 suitable for the injection and storage of carbon dioxide therein;

17 4. "Storage facility" means the underground reservoir,
18 underground equipment, and surface buildings and equipment utilized
19 in the storage operation, excluding pipelines used to transport the
20 carbon dioxide from one or more capture facilities to the storage
21 and injection site. The underground reservoir component of the
22 storage facility includes any necessary and reasonable areal buffer
23 and subsurface monitoring zones designated by the State Regulatory

1 Agency for the purpose of ensuring the safe and efficient operation
2 of the storage facility for the storage of carbon dioxide and shall
3 be chosen to protect against pollution, invasion, and escape or
4 migration of carbon dioxide;

5 5. "Storage operator" means any person, corporation,
6 partnership, limited liability company, or other entity authorized
7 by the State Regulatory Agency to operate a storage facility;

8 6. "Geologic storage" means permanent or short-term underground
9 storage of carbon dioxide in a reservoir.

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

13 A. The use of a reservoir as a storage facility for carbon
14 dioxide is hereby authorized, provided that the State Regulatory
15 Agency shall first enter an order or permit, after public notice and
16 hearing, approving such proposed geologic storage of carbon dioxide
17 and designating the horizontal and vertical boundaries of the
18 geologic storage facility. In order to establish a storage facility
19 for carbon dioxide, the State Regulatory Agency shall find as
20 follows:

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

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

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

10 4. That the proposed storage will not unduly endanger human
11 health and the environment.

12 B. Upon the State Regulatory Agency's issuance of an order of
13 approval or permit as set forth above, said order or permit, or a
14 certified copy thereof, shall be filed for record in the district
15 court of the county or counties in which the storage facility is to
16 be located.

17 C. Prior to commencing injection of carbon dioxide, the storage
18 operator shall record in the county or counties in which the storage
19 facility is located, and with the State Regulatory Agency, a
20 certificate, entitled "Certificate of Operation of Storage
21 Facility", which shall contain a statement that the storage operator
22 has acquired by eminent domain or otherwise all necessary ownership

1 rights with respect to the storage facility, and the date upon which
2 the storage facility shall be effective.

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

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

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

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

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

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

19 For the purpose of funding the administration and enforcement of
20 this act relating to geologic storage of carbon dioxide by the State
21 Regulatory Agency during the operational phase of the storage
22 facility, and for the purpose of compliance inspections including
23 the expense of inspecting, testing, and monitoring the geologic

1 storage facility, there is hereby levied on the storage operator a
2 per ton fee collected as a percentage of the fee authorized in
3 Section 6 of this act which shall be deposited in the appropriate
4 state agency's revolving fund. The State Regulatory Agency or its
5 rulemaking authority shall determine the applicable percentage. The
6 State Regulatory Agency may utilize these monies as it deems
7 appropriate solely for administering and enforcing the provisions of
8 this act.

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

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

1 the operator shall be released and continued monitoring of the site,
2 including remediation of any well leakage, shall become the
3 responsibility of the Carbon Dioxide Storage Facility Trust Fund.

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

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

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

15 COMMITTEE REPORT BY: COMMITTEE ON ENERGY & ENVIRONMENT, dated
16 2-21-08 - DO PASS, As Amended and Coauthored.