

By: Representative Powell

To: Energy

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1214

1 AN ACT TO AMEND SECTION 53-11-3, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE LEGISLATIVE FINDINGS REGARDING GEOLOGIC SEQUESTRATION
3 OF CARBON DIOXIDE; TO AMEND SECTION 53-11-5, MISSISSIPPI CODE OF
4 1972, TO REVISE THE DEFINITION OF RESERVOIR; TO AMEND SECTION
5 53-11-9, MISSISSIPPI CODE OF 1972, TO CLARIFY THE STATE OIL AND
6 GAS BOARD'S AUTHORITY WHEN ENTERING AN ORDER APPROVING A GEOLOGIC
7 SEQUESTRATION FACILITY; TO PROVIDE FOR A METHOD FOR THE BOARD TO
8 ENTER A PRELIMINARY TECHNICAL ORDER APPROVING ANY PROPOSED
9 GEOLOGIC SEQUESTRATION OF CARBON DIOXIDE WHEN A MAJORITY INTEREST
10 HAS NOT CONSENTED; TO AMEND SECTION 53-11-11, MISSISSIPPI CODE OF
11 1972, TO EXTEND THE TIME PERIOD DURING WHICH A MAJORITY INTEREST
12 MUST HAVE APPROVED IN WRITING OR THE ORDER REQUIRING UNIT
13 OPERATION IS AUTOMATICALLY REVOKED; TO AMEND SECTION 53-11-31,
14 MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF INTERESTED
15 PERSON REGARDING APPEALS TO CHANCERY COURT; TO AMEND SECTION
16 11-27-47, MISSISSIPPI CODE OF 1972, TO REVISE THE EMINENT DOMAIN
17 LAWS FOR PIPELINES AND APPLIANCES TO GRANT THE RIGHT OF EMINENT
18 DOMAIN TO ENTITIES FOR THE PURPOSE OF TRANSPORTING OR CONVEYING
19 CARBON DIOXIDE AND OTHER GASEOUS SUBSTANCES IN CONNECTION WITH THE
20 GEOLOGIC SEQUESTRATION OF CARBON DIOXIDE AND OTHER GASEOUS
21 SUBSTANCES AND ANY ASSOCIATED CARBON CAPTURE AND GEOLOGIC
22 SEQUESTRATION FACILITY PROJECTS; AND FOR RELATED PURPOSES.

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

24 **SECTION 1.** Section 53-11-3, Mississippi Code of 1972, is
25 amended as follows:

26 53-11-3. (1) It is declared to be in the public interest
27 for a public purpose and the policy of Mississippi that:



28 (a) The geologic sequestration of carbon dioxide will
29 benefit the citizens of the state and the state's environment.

30 (b) Carbon dioxide is a valuable commodity to the
31 citizens of the state.

32 (c) Geologic sequestration of carbon dioxide may allow
33 for orderly withdrawal as appropriate or necessary, thereby
34 allowing carbon dioxide to be available for commercial,
35 industrial, or other uses, including the use of carbon dioxide for
36 enhanced recovery of oil and gas.

37 (d) The state has substantial and valuable oil and gas
38 reserves not producible by traditional recovery techniques, but
39 which may be producible by enhanced recovery methods.

40 (e) The enhanced recovery of oil and gas by the
41 injection of carbon dioxide into oil and gas reservoirs is a
42 proven enhanced recovery method which results in additional
43 production of oil and gas in the State of Mississippi and the
44 sequestration of carbon dioxide.

45 (f) It is for the public benefit and in the public
46 interest that the maximum amount of the state's oil and gas
47 reserves be produced to the extent that it is economically and
48 technologically feasible.

49 (g) It is for the public benefit and in the public
50 interest that, to the extent that it is economically and
51 technologically feasible, carbon dioxide be injected into and
52 stored in oil and gas reservoirs and other geologic formations in



53 a manner protective of waters of the state as defined in Section
54 49-17-5(f).

55 (h) Providing at the election of the operator for a
56 current or former enhanced oil or gas recovery project to qualify
57 as a geologic sequestration project for the incidental storage of
58 carbon dioxide will encourage enhanced oil or gas recovery
59 projects and geologic sequestration projects and will be
60 beneficial to the citizens of this state and will serve the public
61 interest.

62 (i) Geologic sequestration of carbon dioxide is an
63 emerging industry that has the potential to provide jobs,
64 investment, and other economic opportunities for the people of
65 Mississippi, and is a valuable incentive for Mississippi to
66 attract new industry.

67 (j) It is the public policy of Mississippi and the
68 purpose of this chapter to provide for a coordinated statewide
69 program related to the geologic sequestration of carbon dioxide in
70 reservoirs defined in this chapter; to provide procedures, in a
71 manner fair to all interests, for the cooperative management of
72 surface and subsurface property interests to ensure the maximum
73 use of natural resources; and to also fulfill the state's primary
74 responsibility for assuring compliance with the federal Safe
75 Drinking Water Act, including any amendments thereto related to
76 the underground injection of carbon dioxide for geologic
77 sequestration.



78 (k) It is for the public benefit and in the public
79 interest to promote projects for the secure geologic storage of
80 carbon dioxide.

81 (2) The board shall have jurisdiction and authority over all
82 persons and property necessary to enforce effectively the
83 provisions of this chapter relating to the geologic sequestration
84 of carbon dioxide streams and subsequent withdrawal of stored
85 carbon dioxide streams. The board, on behalf of the State of
86 Mississippi, shall seek primacy from the U.S. Environmental
87 Protection Agency for Class VI underground injection control
88 wells. The board shall enforce the law pursuant to Section
89 49-17-1 et seq. and shall serve as the permitting agency for Class
90 VI underground injection control wells; and is authorized to
91 promulgate such rules and regulations as are necessary for the
92 development and administration of the Class VI underground
93 injection control well program consistent with federal statutes,
94 rules and regulations pertaining to geologic sequestration of
95 carbon dioxide streams and assessment of fees for the development
96 and administration of the Class VI underground injection control
97 well program. Underground formations or strata used for the
98 geologic sequestration of carbon dioxide that are not included in
99 the term "reservoir" as defined in this chapter shall also be
100 subject to the jurisdiction of the board. The board has primacy
101 for Class II underground injection control wells and will have
102 jurisdiction and authority over Class II underground injection



103 control wells converted to Class VI underground injection control
104 wells and Class VI underground injection control wells within
105 reservoirs as defined in this chapter. All rules, regulations and
106 standards promulgated by the board shall be consistent with the
107 requirements of federal statutes, rules and regulations related to
108 Class VI underground injection control wells.

109 **SECTION 2.** Section 53-11-5, Mississippi Code of 1972, is
110 amended as follows:

111 53-11-5. As used in this chapter, the following terms shall
112 have the meanings ascribed unless the context clearly indicates
113 otherwise:

114 (a) "Board" means the State Oil and Gas Board created
115 by Section 53-1-5.

116 (b) "Carbon dioxide" means: (i) naturally occurring
117 carbon dioxide; (ii) geologically sourced carbon dioxide; (iii)
118 anthropogenic carbon dioxide; or (iv) carbon dioxide stream. The
119 term includes phases of carbon dioxide, whether fluid, liquid or
120 gaseous, stripped, segregated, or divided from any other fluid
121 stream thereof.

122 (c) "Carbon dioxide stream" means carbon dioxide that
123 has been captured from an emission source (e.g., a power plant),
124 plus incidental associated substances derived from the source
125 materials and the capture process, and any substances added to the
126 stream to enable or improve the injection process. This paragraph
127 (c) does not apply to any carbon dioxide stream that meets the



128 definition of hazardous waste under federal environmental laws and
129 regulations.

130 (d) "Class VI underground injection control wells"
131 means wells that are not experimental in nature, that are used for
132 geologic sequestration of a carbon dioxide stream, either alone or
133 in combination with injection of carbon dioxide in other forms,
134 and which inject beneath the lowermost formation containing an
135 underground source of drinking water.

136 (e) "Department" means the Mississippi Department of
137 Environmental Quality created by Section 49-2-4.

138 (f) "Enhanced oil or gas recovery project" means
139 secondary recovery, pressure maintenance, repressuring operations,
140 cycling operations, water-flooding operations, injection of carbon
141 dioxide or other gaseous substances or any combination thereof, or
142 any other form of effort calculated to increase the ultimate
143 recovery of oil or gas or both from a reservoir.

144 (g) "Gas" has the same meaning as provided in Section
145 53-1-3(d).

146 (h) "Geologic sequestration" means the long-term
147 containment of a gaseous, liquid, or supercritical carbon dioxide
148 stream in subsurface geologic formations. For purposes of this
149 chapter, "storage" and "sequestration" have the same meaning.
150 This term does not apply to carbon dioxide capture or transport.



151 (i) "Geologic sequestration facility" means a facility
152 that receives and contains or sequesters carbon dioxide, or has
153 done so, including:

154 (i) The reservoir into which carbon dioxide is
155 injected;

156 (ii) Sequestration wells, monitoring wells,
157 underground equipment, and surface buildings and equipment
158 utilized in geologic sequestration, owned by or under the control
159 of the storage operator; and

160 (iii) Other property identified by the board as
161 part of the facility.

162 The reservoir component of the geologic sequestration
163 facility includes any necessary and reasonable buffer and
164 subsurface monitoring zones designated by the board for the
165 purpose of ensuring the safe and efficient operation of the
166 geologic sequestration facility for the containment or
167 sequestration of carbon dioxide and shall be chosen to protect
168 against escape or migration of carbon dioxide. Nothing in this
169 definition shall prevent orderly withdrawal of the contained
170 carbon dioxide as appropriate or necessary to allow carbon dioxide
171 to be available for enhanced oil or gas recovery projects or other
172 authorized commercial, and industrial uses.

173 (j) "Oil" has the same meaning as provided in Section
174 53-1-3(c).



175 (k) "Oil and gas reservoir" shall mean a pool or field
176 as defined in Section 53-1-3(e) and (f).

177 (l) "Owner," except when used in the phrases "working
178 owner" or "royalty owner," shall have its ordinary, accepted
179 meaning.

180 (m) "Person" means any natural person, corporation,
181 association, partnership, limited liability company, or other
182 entity, receiver, executor, administrator, fiduciary or
183 representative of any kind.

184 (n) "Reservoir" means oil and gas reservoirs and
185 formations above and below oil and gas reservoirs suitable for or
186 capable of being made suitable for the injection and storage of
187 carbon dioxide therein, or any other geologic formation suitable
188 for or capable of being made suitable for the injection and
189 storage of carbon dioxide therein, but only those formations for
190 which the boundaries have been or can be delineated as provided in
191 this chapter.

192 (o) "Royalty owner" means any person who possesses an
193 interest in production of oil, gas or other commercial minerals,
194 but who is not a "working owner" as defined in this section.

195 (p) "Safe Drinking Water Act" means the Safe Drinking
196 Water Act, as amended, Title 42, Chapter 6A, Subchapter XII (42
197 USCS Section 300(f) et seq.).

198 (q) "Sequestration" means geologic sequestration as
199 used in this chapter and may include the incidental storage of



200 carbon dioxide associated with enhanced oil recovery or gas
201 recovery project operations.

202 (r) "State" means the State of Mississippi.

203 (s) "Storage operator" means the person authorized by
204 the board to operate a geologic sequestration facility.

205 (t) "Underground source of drinking water" means an
206 aquifer or portion of an aquifer that supplies any public water
207 system or that contains a sufficient quantity of ground water to
208 supply a public water system, and currently supplies drinking
209 water for human consumption, or that contains fewer than ten
210 thousand (10,000) milligrams per liter total dissolved solids and
211 is not an exempted aquifer.

212 (u) "Working owner" means the person who has the right
213 to drill into and produce from any pool of oil, gas or other
214 commercial minerals, and to appropriate the production either for
215 himself or for himself and another or others.

216 **SECTION 3.** Section 53-11-9, Mississippi Code of 1972, is
217 amended as follows:

218 53-11-9. (1) The board may enter an order, after notice and
219 hearing pursuant to the provisions of Sections 53-1-19 through
220 53-1-37, approving any proposed geologic sequestration of carbon
221 dioxide. The board shall be authorized to issue an order upon
222 finding the following:



223 (a) That the reservoir sought to be used as a reservoir
224 for the injection, storage and withdrawal of carbon dioxide is
225 suitable and feasible for such use and in the public interest;

226 (b) That a majority interest, as provided in this
227 chapter, have consented to such use in writing, or in the event
228 that a majority has not consented, for the purpose of a
229 preliminary technical order under this subsection (1) that must
230 subsequently meet the requirements of Section 53-11-11(3), upon a
231 showing by the storage operator that it has made a good-faith
232 effort to obtain such majority consent, and that all nonconsenting
233 owners are or will be equitably compensated;

234 (c) That there is no reasonable risk that the use of
235 the reservoir for the storage of carbon dioxide will injure or
236 endanger other formations containing fresh water, oil, gas or
237 other commercial mineral deposits;

238 (d) That there is no reasonable risk that the proposed
239 storage will endanger human lives or cause a hazardous condition
240 to property; and

241 (e) In the case of a reservoir that may contain oil,
242 gas or other commercial minerals, that either:

243 (i) The reservoir has been substantially depleted
244 of all volumes of reservoir oil, gas or other commercial minerals
245 and the requirements of Sections 53-11-11 and 53-11-13 have been
246 satisfied; or



247 (ii) The reservoir has a greater value or utility
248 as a reservoir for carbon dioxide storage than for the production
249 of the remaining volumes of reservoir oil, gas, condensate or
250 other commercial mineral, if any, and the requirements of Sections
251 53-11-11 and 53-11-13 have been satisfied.

252 (2) Approval of a geologic sequestration facility by the
253 board shall provide full and complete authority for the
254 construction, equipping and operation of the geologic
255 sequestration facility without need of further action or grant by
256 any person.

257 (* * *3) Neither injection nor an order of the board shall
258 affect ownership of the carbon dioxide or inhibit the voluntary
259 conveyance of title to the carbon dioxide by the owner. The board
260 may issue any necessary order to protect the title of an owner to
261 carbon dioxide injected into a geologic sequestration facility.
262 The carbon dioxide shall not be subject to the right of any person
263 other than the owner of the carbon dioxide to produce, take,
264 reduce to possession, or otherwise interfere with or exercise any
265 control thereover. The owner of the carbon dioxide shall have no
266 right to gas, liquid hydrocarbons, salt or other commercial
267 minerals in any stratum or portion thereof not determined by the
268 board to constitute an approved sequestration reservoir which are
269 not otherwise owned or leased by the owner.

270 **SECTION 4.** Section 53-11-11, Mississippi Code of 1972, is
271 amended as follows:



272 53-11-11. (1) Upon application by an operator to unitize
273 for a geologic sequestration facility in an oil or gas reservoir
274 that is not unitized either under this chapter or by board order
275 under the provisions of * * * Section 53-3-103 or 53-3-155, after
276 notice as provided in Section 53-3-115, the board shall hold a
277 hearing to consider the operation of the reservoir for the storage
278 of carbon dioxide to determine whether the predominant result of
279 the injection operations will be the storage of carbon dioxide or
280 will result in an increase in the ultimate recovery of oil or gas,
281 or both, from the proposed geologic sequestration facility. After
282 the hearing the board may:

283 (a) Determine from the evidence that the reservoir has
284 more value as a geologic sequestration facility than as an
285 enhanced oil or gas recovery project, and as a result, the board
286 shall enter an order for the operation of the unit as a geologic
287 sequestration facility upon making the additional findings set
288 forth in Section 53-11-13.

289 (b) Determine from the evidence that the predominant
290 result of the injection operations will be an increase in the
291 ultimate recovery of oil or gas or both, and as a result, the
292 board shall not approve the application for a geologic
293 sequestration facility. However, this shall not prevent the
294 board, upon application of the operator, from approving operation
295 of an existing enhanced oil or gas recovery project simultaneously
296 as a geologic sequestration project, recognizing the incidental



297 storage of carbon dioxide under the provisions set forth in
298 Section 53-11-15(1) (d) .

299 (2) Upon application by an operator to unitize for a
300 geologic sequestration facility in any other nonoil, nongas or
301 noncommercial mineral-bearing reservoir that needs to be unitized,
302 after notice as provided, the board shall hold a hearing to
303 consider the evidence, and shall enter an order for the operation
304 of the reservoir as a geologic sequestration facility upon making
305 the findings set forth in Sections 53-11-9(1) and 53-11-13.

306 (3) An order requiring unit operations of a geologic
307 sequestration facility shall be effective only when the unit for
308 the geologic sequestration facility and the agreements
309 incorporating the pertinent provisions of Section 53-11-15 have
310 been signed, ratified, adopted or approved in writing by a
311 majority interest of the surface interest, on the basis of, and in
312 proportion to, the surface acreage content of the unit area, and,
313 if separately owned, a majority interest of all rights of the
314 subsurface reservoir, on the basis of and in proportion to the
315 surface acreage content of the unit area, and the board has made a
316 finding to that effect, either in the order or in a supplemental
317 order.

318 (4) If the board finds under Section 53-11-9(1) (e) that a
319 reservoir has been substantially depleted of commercially
320 recoverable quantities of oil or gas or other commercial minerals
321 or that the reservoir has greater utility as a reservoir for



322 carbon dioxide storage and that the remaining conditions of
323 Section 53-11-9(1) have been satisfied; or if the board finds that
324 a nonoil, nongas or noncommercial mineral-bearing reservoir
325 satisfies the conditions of Section 53-11-9(1) (a) through (d) and
326 all other conditions the board shall require have been satisfied,
327 the board shall issue an order approving the reservoir for the
328 injection and storage of carbon dioxide in connection with
329 operation of a geologic sequestration facility. An order
330 approving any geologic sequestration facility shall be effective
331 only when the storage rights agreement has been signed, ratified,
332 adopted or approved in writing by a majority interest of the
333 surface interest, on the basis of, and in proportion to, the
334 surface acreage content of the unit area under the terms of the
335 order; and, if separately owned, a majority interest of all rights
336 in the underground reservoir, on the basis of, and in proportion
337 to, the surface acreage content of the unit area. If oil, gas or
338 commercial minerals are expected to be produced and sold or used
339 in connection with the geologic sequestration facility in a
340 depleted oil, gas or commercial mineral-bearing reservoir, or such
341 a reservoir that has greater utility as a geologic sequestration
342 facility, then a majority interest of all working owners of such
343 oil, gas or commercial minerals, on the basis of, and in
344 proportion to, the surface acreage content of the unit area under
345 the terms of the order, must also consent to the allocation of the



346 production in writing before an order approving the geologic
347 sequestration facility shall be effective.

348 (5) In the event the required percentages set forth in this
349 section have not signed, ratified or approved the respective
350 agreements within * * * twenty-four (24) months from and after the
351 date of the order, the order requiring unit operation shall be
352 automatically revoked.

353 **SECTION 5.** Section 53-11-31, Mississippi Code of 1972, is
354 amended as follows:

355 53-11-31. Any interested person, as defined in this section,
356 adversely affected by any provision or section of this chapter
357 within the jurisdiction of the board or by any rule, regulation or
358 order made by the board thereunder, or by any act done or
359 threatened thereunder, may obtain court review and seek relief by
360 appeal to the Chancery Court of the First Judicial District of
361 Hinds County, Mississippi, or the chancery court of the county in
362 which the land involved, or any part thereof, is situated. The
363 term "interested person" * * * means all mineral and royalty
364 owners, mineral lessees, if any, and the owners of surface on
365 which injection or reinjection wells and other surface equipment
366 connected with a geologic sequestration facility is or will be
367 situated. Any interested party may appeal to the chancery court
368 of the county in which the land involved or any part thereof is
369 situated, if appeal is demanded within thirty (30) days from the



370 date that the rule, regulation or order of the board is filed for
371 record in the office of the board.

372 The appeal may be taken by filing notice of the appeal with
373 the board, whereupon the board shall, under its certificate,
374 transmit to the court appealed to all documents and papers on file
375 in the matter, together with a transcript of the record, which
376 documents and papers together with said transcript of the record
377 shall be transmitted to the clerk of the chancery court of the
378 county to which the appeal is taken.

379 Except as otherwise provided in this section, the appeal
380 otherwise shall be made in accordance with the provisions of
381 Sections 53-1-39 and 53-1-41.

382 **SECTION 6.** Section 11-27-47, Mississippi Code of 1972, is
383 amended as follows:

384 11-27-47. All companies, associations of persons,
385 municipalities, associations of municipalities, public utility
386 districts authorized by and under the laws of the State of
387 Mississippi, or natural gas districts, incorporated or organized
388 for the purpose of building or constructing pipelines and
389 appliances for the conveying and distribution of oil or gas,
390 including carbon dioxide or other gaseous substances for use in
391 connection with secondary or tertiary recovery projects located
392 within the State of Mississippi for the enhanced recovery of
393 liquid or gaseous hydrocarbons, or for the purpose of transporting
394 or conveying carbon dioxide and other gaseous substances in



395 connection with the geologic sequestration of carbon dioxide and
396 other gaseous substances and any associated carbon capture and
397 geologic sequestration facility projects, or for the purpose of
398 constructing, maintaining and operating lines for transmitting
399 electricity for lighting, heating and power purposes, or for the
400 purpose of constructing, maintaining and operating lines and
401 appliances, for storing, transmitting and distributing water and
402 for transmitting, treating and disposing of sewage, are hereby
403 empowered to exercise the right of eminent domain in the manner
404 now provided by law, and to build and construct the said pipelines
405 and appliances along or across highways, waters, railroads, canals
406 and public lands, above or below ground, but not in a manner to be
407 dangerous to persons or property, nor to interfere with the common
408 use of such roads, waters, railroads, canals and public lands.

409 The board of supervisors of any county through which any such
410 line may pass shall have the power to regulate, within its
411 respective limits, the manner in which such lines and appliances
412 shall be constructed and maintained on and above the highways and
413 bridges of the county. All such companies, associations of
414 persons, municipalities, associations of municipalities, public
415 utility districts authorized by and under the laws of the State of
416 Mississippi or natural gas districts shall be responsible in
417 damages for any injury caused by such construction or use thereof.

418 **SECTION 7.** This act shall take effect and be in force from
419 and after July 1, 2022.

