

By: Representative Powell

To: Energy

HOUSE BILL NO. 1214
(As Sent to Governor)

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; AND FOR RELATED
16 PURPOSES.

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

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

20 53-11-3. (1) It is declared to be in the public interest
21 for a public purpose and the policy of Mississippi that:

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

24 (b) Carbon dioxide is a valuable commodity to the
25 citizens of the state.



26 (c) Geologic sequestration of carbon dioxide may allow
27 for orderly withdrawal as appropriate or necessary, thereby
28 allowing carbon dioxide to be available for commercial,
29 industrial, or other uses, including the use of carbon dioxide for
30 enhanced recovery of oil and gas.

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

34 (e) The enhanced recovery of oil and gas by the
35 injection of carbon dioxide into oil and gas reservoirs is a
36 proven enhanced recovery method which results in additional
37 production of oil and gas in the State of Mississippi and the
38 sequestration of carbon dioxide.

39 (f) It is for the public benefit and in the public
40 interest that the maximum amount of the state's oil and gas
41 reserves be produced to the extent that it is economically and
42 technologically feasible.

43 (g) It is for the public benefit and in the public
44 interest that, to the extent that it is economically and
45 technologically feasible, carbon dioxide be injected into and
46 stored in oil and gas reservoirs and other geologic formations in
47 a manner protective of waters of the state as defined in Section
48 49-17-5(f).

49 (h) Providing at the election of the operator for a
50 current or former enhanced oil or gas recovery project to qualify



51 as a geologic sequestration project for the incidental storage of
52 carbon dioxide will encourage enhanced oil or gas recovery
53 projects and geologic sequestration projects and will be
54 beneficial to the citizens of this state and will serve the public
55 interest.

56 (i) Geologic sequestration of carbon dioxide is an
57 emerging industry that has the potential to provide jobs,
58 investment, and other economic opportunities for the people of
59 Mississippi, and is a valuable incentive for Mississippi to
60 attract new industry.

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

72 (k) It is for the public benefit and in the public
73 interest to promote projects for the secure geologic storage of
74 carbon dioxide.



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



100 standards promulgated by the board shall be consistent with the
101 requirements of federal statutes, rules and regulations related to
102 Class VI underground injection control wells.

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

105 53-11-5. As used in this chapter, the following terms shall
106 have the meanings ascribed unless the context clearly indicates
107 otherwise:

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

110 (b) "Carbon dioxide" means: (i) naturally occurring
111 carbon dioxide; (ii) geologically sourced carbon dioxide; (iii)
112 anthropogenic carbon dioxide; or (iv) carbon dioxide stream. The
113 term includes phases of carbon dioxide, whether fluid, liquid or
114 gaseous, stripped, segregated, or divided from any other fluid
115 stream thereof.

116 (c) "Carbon dioxide stream" means carbon dioxide that
117 has been captured from an emission source (e.g., a power plant),
118 plus incidental associated substances derived from the source
119 materials and the capture process, and any substances added to the
120 stream to enable or improve the injection process. This paragraph
121 (c) does not apply to any carbon dioxide stream that meets the
122 definition of hazardous waste under federal environmental laws and
123 regulations.



124 (d) "Class VI underground injection control wells"
125 means wells that are not experimental in nature, that are used for
126 geologic sequestration of a carbon dioxide stream, either alone or
127 in combination with injection of carbon dioxide in other forms,
128 and which inject beneath the lowermost formation containing an
129 underground source of drinking water.

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

132 (f) "Enhanced oil or gas recovery project" means
133 secondary recovery, pressure maintenance, repressuring operations,
134 cycling operations, water-flooding operations, injection of carbon
135 dioxide or other gaseous substances or any combination thereof, or
136 any other form of effort calculated to increase the ultimate
137 recovery of oil or gas or both from a reservoir.

138 (g) "Gas" has the same meaning as provided in Section
139 53-1-3(d).

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

145 (i) "Geologic sequestration facility" means a facility
146 that receives and contains or sequesters carbon dioxide, or has
147 done so, including:



148 (i) The reservoir into which carbon dioxide is
149 injected;

150 (ii) Sequestration wells, monitoring wells,
151 underground equipment, and surface buildings and equipment
152 utilized in geologic sequestration, owned by or under the control
153 of the storage operator; and

154 (iii) Other property identified by the board as
155 part of the facility.

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

167 (j) "Oil" has the same meaning as provided in Section
168 53-1-3(c).

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



171 (1) "Owner," except when used in the phrases "working
172 owner" or "royalty owner," shall have its ordinary, accepted
173 meaning.

174 (m) "Person" means any natural person, corporation,
175 association, partnership, limited liability company, or other
176 entity, receiver, executor, administrator, fiduciary or
177 representative of any kind.

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

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

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

192 (q) "Sequestration" means geologic sequestration as
193 used in this chapter and may include the incidental storage of
194 carbon dioxide associated with enhanced oil recovery or gas
195 recovery project operations.



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

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

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

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

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

212 53-11-9. (1) The board may enter an order, after notice and
213 hearing pursuant to the provisions of Sections 53-1-19 through
214 53-1-37, approving any proposed geologic sequestration of carbon
215 dioxide. The board shall be authorized to issue an order upon
216 finding the following:

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



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

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

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

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

237 (i) The reservoir has been substantially depleted
238 of all volumes of reservoir oil, gas or other commercial minerals
239 and the requirements of Sections 53-11-11 and 53-11-13 have been
240 satisfied; or

241 (ii) The reservoir has a greater value or utility
242 as a reservoir for carbon dioxide storage than for the production
243 of the remaining volumes of reservoir oil, gas, condensate or



244 other commercial mineral, if any, and the requirements of Sections
245 53-11-11 and 53-11-13 have been satisfied.

246 (2) Approval of a geologic sequestration facility by the
247 board shall provide full and complete authority for the
248 construction, equipping and operation of the geologic
249 sequestration facility without need of further action or grant by
250 any person.

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

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

266 53-11-11. (1) Upon application by an operator to unitize
267 for a geologic sequestration facility in an oil or gas reservoir
268 that is not unitized either under this chapter or by board order



269 under the provisions of * * * Section 53-3-103 or 53-3-155, after
270 notice as provided in Section 53-3-115, the board shall hold a
271 hearing to consider the operation of the reservoir for the storage
272 of carbon dioxide to determine whether the predominant result of
273 the injection operations will be the storage of carbon dioxide or
274 will result in an increase in the ultimate recovery of oil or gas,
275 or both, from the proposed geologic sequestration facility. After
276 the hearing the board may:

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

283 (b) Determine from the evidence that the predominant
284 result of the injection operations will be an increase in the
285 ultimate recovery of oil or gas or both, and as a result, the
286 board shall not approve the application for a geologic
287 sequestration facility. However, this shall not prevent the
288 board, upon application of the operator, from approving operation
289 of an existing enhanced oil or gas recovery project simultaneously
290 as a geologic sequestration project, recognizing the incidental
291 storage of carbon dioxide under the provisions set forth in
292 Section 53-11-15(1) (d) .



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

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

312 (4) If the board finds under Section 53-11-9(1) (e) that a
313 reservoir has been substantially depleted of commercially
314 recoverable quantities of oil or gas or other commercial minerals
315 or that the reservoir has greater utility as a reservoir for
316 carbon dioxide storage and that the remaining conditions of
317 Section 53-11-9(1) have been satisfied; or if the board finds that



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



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

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

349 53-11-31. Any interested person, as defined in this section,
350 adversely affected by any provision or section of this chapter
351 within the jurisdiction of the board or by any rule, regulation or
352 order made by the board thereunder, or by any act done or
353 threatened thereunder, may obtain court review and seek relief by
354 appeal to the Chancery Court of the First Judicial District of
355 Hinds County, Mississippi, or the chancery court of the county in
356 which the land involved, or any part thereof, is situated. The
357 term "interested person" * * * means all mineral and royalty
358 owners, mineral lessees, if any, and the owners of surface on
359 which injection or reinjection wells and other surface equipment
360 connected with a geologic sequestration facility is or will be
361 situated. Any interested party may appeal to the chancery court
362 of the county in which the land involved or any part thereof is
363 situated, if appeal is demanded within thirty (30) days from the
364 date that the rule, regulation or order of the board is filed for
365 record in the office of the board.



366 The appeal may be taken by filing notice of the appeal with
367 the board, whereupon the board shall, under its certificate,
368 transmit to the court appealed to all documents and papers on file
369 in the matter, together with a transcript of the record, which
370 documents and papers together with said transcript of the record
371 shall be transmitted to the clerk of the chancery court of the
372 county to which the appeal is taken.

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

376 **SECTION 6.** This act shall take effect and be in force from
377 and after July 1, 2022.

