



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB1500

Introduced 2/4/2025, by Sen. Michael W. Halpin

SYNOPSIS AS INTRODUCED:

415 ILCS 185/15

Amends the Safety and Aid for the Environment in Carbon Capture and Sequestration Act. In provisions regarding integration and unitization of ownership interests and just compensation for nonconsenting pore space owners, provides that such compensation shall be no less than the average total payment package provided to similarly situated consenting pore space owners (rather than provided in agreements during the previous 365 days to similarly situated pore space owners). Removes provisions requiring the compensation to exclude incentives provided to consenting pore space owners prior to the initiation of injection. Removes provisions requiring the compensation to include any operations term or injection term payments made upon or after the initiation of injection provided to consenting pore space owners in consideration of allowing use of their pore space for sequestration of carbon dioxide.

LRB104 09218 BDA 19275 b

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Safety and Aid for the Environment in
5 Carbon Capture and Sequestration Act is amended by changing
6 Section 15 as follows:

7 (415 ILCS 185/15)

8 Sec. 15. Integration and unitization of ownership
9 interests.

10 (a) If at least 2 pore space owners own pore space located
11 within a proposed sequestration facility, the owners may agree
12 to integrate the owners' interests to develop the pore space
13 as a proposed sequestration facility for the underground
14 sequestration of carbon dioxide.

15 (b) If all of the pore space owners within a proposed or
16 permitted sequestration facility do not agree to integrate the
17 pore space owners' interests, the sequestration operator may
18 petition the Department of Natural Resources to issue an order
19 requiring the pore space owners to integrate their interests
20 and authorizing the sequestration operator or sequestration
21 facility permit holder to develop and use the integrated pore
22 space as a sequestration facility for carbon sequestration.
23 Such an order for unitization and integration of pore space

1 may only be issued if the sequestration operator has obtained
2 the rights from pore space owners of pore space underlying at
3 least 75% of the surface area above the proposed sequestration
4 facility. The petition shall include, but is not limited to:

5 (1) the name and address of the petitioners;

6 (2) the property index numbers or legal descriptions
7 for the parcels of property and a geologic description of
8 the pore space within the proposed or permitted
9 sequestration facility;

10 (3) a disclosure of any parcels of property overlying
11 the pore space to be integrated, identified by property
12 index numbers or legal descriptions, in which the
13 applicant, any of its owners, officers, corporate
14 subsidiaries, or parents, sister companies, or affiliates,
15 at the time of submission of the application or within 10
16 years prior to the submission of the application, have or
17 had any real or personal interest, whether direct or
18 indirect;

19 (4) the names and addresses of all pore space owners
20 owning property within the proposed or permitted
21 sequestration facility as disclosed by the records of the
22 office of the recorder for the county or counties in which
23 the proposed or permitted sequestration facility is
24 situated and a list of consenting and nonconsenting pore
25 space owners, as well as a list of all properties for which
26 a pore space owner is unknown or nonlocatable;

1 (5) a statement that the petitioner has exercised due
2 diligence to locate each pore space owner and to seek an
3 agreement with each for pore space rights for the
4 sequestration facility, including a description of the
5 good faith efforts taken to identify, contact, and
6 negotiate with each nonconsenting pore space owner;

7 (6) a statement of the type of operations for the
8 proposed or permitted sequestration facility;

9 (7) a plan for determining the quantity of pore space
10 sequestration capacity to be assigned to each separately
11 owned parcel of property based on the surface area acreage
12 overlying the proposed or permitted sequestration facility
13 and for using the surface for Class VI well permit
14 required activities under Section 35;

15 (8) the method by which pore space owners will be
16 compensated for use of the pore space, and a copy of all
17 agreements entered into with consenting pore space owners
18 regarding the compensation paid to a consenting pore space
19 owner;

20 (9) the method by which nonconsenting pore space
21 owners will receive just compensation; and

22 (10) a nonrefundable application fee of \$250,000.

23 The application fee shall be deposited into the Oil and
24 Gas Resource Management Fund for the Department of Natural
25 Resources' costs related to administration of this Act.

26 (c) If the petition for a unitization order concerns

1 unknown or nonlocatable pore space owners, the applicant shall
2 provide public notice once a week for 2 consecutive weeks in
3 the newspaper of the largest circulation in each county in
4 which the proposed sequestration facility is located within 30
5 days prior to submission of the petition for a unitization and
6 integration order. The petitioner shall file proof of such
7 notice with the Department of Natural Resources with the
8 petition. The petitioner shall also provide public notice of
9 the public hearing described in subsection (d) in the same
10 manner within 30 days prior to the hearing on the petition for
11 a unitization order. The petitioner shall also send notice of
12 the filing of the petition and the notice of the public hearing
13 via certified mail to the last known address of each
14 nonlocatable pore space owner and provide copies of those
15 notices to the Department of Natural Resources. The notice
16 shall:

17 (1) state that a petition for a unitization and
18 integration order has been filed with the Department of
19 Natural Resources;

20 (2) describe the formation or formations and pore
21 space proposed to be unitized;

22 (3) in the case of an unknown pore space owner,
23 indicate the name of the last known pore space owner;

24 (4) in the case of a nonlocatable pore space owner,
25 identify the pore space owner and the owner's last known
26 address; and

1 (5) state that any person claiming an interest in the
2 properties proposed to be unitized should notify the
3 operator of the proposed sequestration facility at the
4 published address within 20 days of the publication date.

5 Unknown or nonlocatable pore space owners that have not
6 claimed an interest by the time of the Department of Natural
7 Resources' public notice in subsection (d) shall be deemed to
8 have consented to unitization and integration of their pore
9 space.

10 (d) Prior to issuing an order to unitize and integrate
11 pore space, the Department of Natural Resources shall issue a
12 public notice of the petition and shall hold a public hearing
13 on the petition. The public notice shall include copies of the
14 petition and all included attachments that are not protected
15 under the Freedom of Information Act. The public notice shall
16 include an opportunity for public comments and shall contain
17 the date, time, and location of the public hearing as decided
18 by the Department. At the public hearing, the Department shall
19 allow interested persons to present views and comments on the
20 petition. The hearings must be open to the public and recorded
21 by stenographic or mechanical means. The Department of Natural
22 Resources will make available on its website copies of all
23 comments received.

24 (e) The Department of Natural Resources shall issue an
25 order unitizing and integrating pore space under subsection
26 (b) within 60 days after the hearing upon a showing that:

1 (1) the petitioner has obtained a Class VI well permit
2 or, if the well permit application is still pending at
3 least one year from the date the petition has been filed,
4 that the petitioner has received a Finding of
5 Administrative Completeness from the United States
6 Environmental Protection Agency;

7 (2) the petitioner has made a good faith effort to
8 seek an agreement with all pore space owners located
9 within the proposed or permitted sequestration facility;

10 (3) the petitioner has obtained the rights from pore
11 space owners of at least 75% of the surface area above the
12 proposed sequestration facility; and

13 (4) all nonconsenting pore space owners have received
14 or will receive just compensation for use of the pore
15 space and use of the surface for Class VI well permit
16 required activities. Additionally, such compensation shall
17 be no less than the average total payment package,
18 considered as a whole with respect to an individual owner,
19 ~~provided in agreements during the previous 365 days to~~
20 ~~similarly situated consenting pore space owners. Such~~
21 ~~compensation shall exclude any incentives, such as signing~~
22 ~~bonuses, provided to consenting pore space owners prior to~~
23 ~~the initiation of injection. Such compensation shall~~
24 ~~include any operations term or injection term payments~~
25 ~~made upon or after the initiation of injection provided to~~
26 ~~consenting pore space owners in consideration of allowing~~

1 ~~use of their pore space for sequestration of carbon~~
2 ~~dioxide.~~ In determining if pore space owners are similarly
3 situated, the Department of Natural Resources shall take
4 into account: the size, location, and proximity of the
5 pore space; the geologic characteristics of the pore
6 space; the restrictions on the use of the surface; the
7 actual use of the surface; the relevant law applicable at
8 the time the consenting pore space agreement was signed;
9 title defects and title warranties; the proximity of the
10 pore space owners' property to any carbon sequestration
11 infrastructure on the surface; whether the injection
12 interferes with any known mineral rights; and the fair
13 market value of pore space when entering into a commercial
14 contract. When evaluating the compensation provided to a
15 similarly situated pore space owner, the Department of
16 Natural Resources shall exclude any compensation provided
17 to a pore space owner of a property identified by the
18 applicant in paragraph (3) of subsection (b) and any
19 compensation that was not provided as part of an arm's
20 length transaction.

21 Unknown or nonlocatable pore space owners shall also
22 receive just compensation in the same manner as provided
23 to the other nonconsenting pore space owners that must be
24 held in a separate escrow account for 20 years for future
25 payment to the previously unknown or nonlocatable pore
26 space owner upon discovery of that owner. After 20 years,

1 the compensation shall be transferred to the State
2 Treasurer under the Revised Uniform Unclaimed Property
3 Act.

4 (f) The Department of Natural Resources' order for
5 unitization and integration of pore space under this Section
6 is not effective until the petitioner has been issued a Class
7 VI well permit from the United States Environmental Protection
8 Agency and the carbon sequestration permit from the Illinois
9 Environmental Protection Agency.

10 (g) An order for integration and unitization under this
11 Section shall: provide for the unitization of the pore space
12 identified in the petition; authorize the integration of pore
13 space of nonconsenting pore space owners in the pore space
14 identified; provide for who may unitize the pore space to
15 establish a sequestration facility to be permitted by the
16 Illinois Environmental Protection Agency; and make provision
17 for payment of just compensation to nonconsenting pore space
18 owner under the integration order.

19 (h) A petitioner shall provide a copy of any order for
20 unitization and integration of pore space to the Illinois
21 Environmental Protection Agency.

22 (i) If groundwater monitoring required by a Class VI
23 permit indicates that the source of drinking water has been
24 rendered unsafe to drink or to provide to livestock, the
25 sequestration operator shall provide an alternate supply of
26 potable drinking water within 24 hours of the monitoring

1 results becoming available and an alternate supply of water
2 that is safe for other uses necessary within 30 days of the
3 monitoring results becoming available. The alternate supplies
4 of both potable water and water that is safe for other uses
5 shall continue until additional monitoring by the
6 sequestration operator shows that the water is safe for
7 drinking and other uses.

8 (j) After an order for unitization and integration of pore
9 space is issued, the petitioner shall request that the
10 Department of Natural Resources issue separate orders
11 establishing the amount of just compensation to be provided to
12 each nonconsenting pore space owner. When submitting this
13 request, the petitioner shall provide information
14 demonstrating the good faith efforts taken to negotiate an
15 agreement with the nonconsenting pore space owner, including,
16 but not limited to, the number and extent of the petitioner's
17 contacts with the pore space owner, whether the petitioner
18 explained the compensation offer to the pore space owner,
19 whether the compensation offer was comparable to similarly
20 situated pore space owners, what efforts were made to address
21 the pore space owner's concerns, and the likelihood that
22 further negotiations would be successful. All orders requiring
23 the provision of just compensation shall be made after notice
24 and hearing in which the Department of Natural Resources shall
25 determine the appropriate amount of just compensation to be
26 provided to each nonconsenting pore space owner as described

1 in this Section. The Department shall adopt reasonable rules
2 governing such hearings as may be necessary. In such a
3 hearing, the burden shall be on the petitioner to prove the
4 appropriate amount of just compensation consistent with this
5 Section. Both the petitioner and the pore space owner shall be
6 permitted to provide testimony and evidence regarding the
7 appropriateness of the amount of just compensation proposed by
8 the sequestration operator. An order by the Department of
9 Natural Resources establishing the appropriate amount of just
10 compensation to be provided to a nonconsenting pore space
11 owner shall be a final agency decision subject to judicial
12 review under the Administrative Review Law. Such proceedings
13 for judicial review may be commenced in the circuit court of
14 the county in which any part of the pore space is situated. The
15 Department of Natural Resources shall not be required to
16 certify any record to the court or file any answer in court or
17 otherwise appear in any court in a judicial review proceeding,
18 unless there is filed in the court with the complaint a receipt
19 from the Department of Natural Resources acknowledging payment
20 of the costs of furnishing and certifying the record. Failure
21 on the part of the plaintiff to file such receipt in court
22 shall be grounds for dismissal of the action.

23 (Source: P.A. 103-651, eff. 7-18-24.)