



Sen. John M. Sullivan

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1 AMENDMENT TO SENATE BILL 1821

2 AMENDMENT NO. _____. Amend Senate Bill 1821 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Carbon Dioxide Transportation and Sequestration Act.

6 Section 5. Legislative purpose. Pipeline transportation of
7 carbon dioxide for sequestration, enhanced oil recovery, and
8 other purposes is declared to be a public use and service, in
9 the public interest, and a benefit to the welfare of Illinois
10 and the people of Illinois because pipeline transportation is
11 necessary for sequestration, enhanced oil recovery, or other
12 carbon management purposes and thus is an essential component
13 to compliance with required or voluntary plans to reduce carbon
14 dioxide emissions from "clean coal" facilities and other
15 Illinois sources. Carbon dioxide pipelines are critical to the
16 promotion and use of Illinois coal and also advance economic

1 development, environmental protection, and energy security in
2 the State.

3 Section 10. Definitions. As used in this Act:

4 "Carbon dioxide pipeline" or "pipeline" means the in-state
5 portion of a pipeline, including appurtenant facilities,
6 property rights, and easements, that are used exclusively for
7 the purpose of transporting carbon dioxide to a point of sale,
8 storage, enhanced oil recovery, or other carbon management
9 application.

10 "Clean coal facility" has the meaning ascribed to that term
11 in Section 1-10 of the Illinois Power Agency Act.

12 "Clean coal SNG facility" has the meaning ascribed to that
13 term in Section 1-10 of the Illinois Power Agency Act.

14 "Clean coal SNG brownfield facility" has the meaning
15 ascribed to that term in Section 1-10 of the Illinois Power
16 Agency Act

17 "Commission" means the Illinois Commerce Commission.

18 "Sequester" has the meaning ascribed to that term in
19 Section 1-10 of the Illinois Power Agency Act.

20 "Transportation" means the physical movement of carbon
21 dioxide by pipeline conducted for a person's own use or account
22 or the use or account of another person or persons.

23 Section 15. Scope. This Act applies only to an owner or
24 operator of a pipeline designed, constructed, and operated to

1 transport and to sequester carbon dioxide produced by a clean
2 coal facility, by a clean coal SNG facility, by a clean coal
3 SNG brownfield facility, or by any other source that will
4 result in the reduction of carbon dioxide emissions from that
5 source. Further, this Act applies only to a person or entity
6 authorized to do business in Illinois who is authorized to
7 transport carbon dioxide by pipeline and has obtained a
8 certificate of authority from the Commission pursuant to this
9 Act.

10 Section 20. Application.

11 (a) No person or entity may construct, operate, or repair a
12 carbon dioxide pipeline unless the person or entity possesses a
13 certificate in good standing. No person shall begin or continue
14 construction of a carbon dioxide pipeline unless the person
15 possesses a certificate in good standing.

16 (b) The Commission, after a hearing, shall grant an
17 application for a certificate authorizing the construction and
18 operation of a carbon dioxide pipeline to the extent that it
19 finds that the application was properly filed; the applicant is
20 fit, willing, and able to construct and operate the pipeline in
21 compliance with this Act and with Commission regulations and
22 orders; and the proposed pipeline is consistent with the public
23 interest, public benefit, and legislative purpose as set forth
24 in this Act. Evidence encompassing any of the factors described
25 in items (1) through (9) of this subsection (b) that is

1 submitted by the applicant, any other party, or the
2 Commission's staff shall also be considered by the Commission.

3 In its review of an application for a certificate of
4 authority to construct and operate a proposed carbon dioxide
5 pipeline and any alternate locations for that proposed pipeline
6 or facility, the Commission shall consider, but not be limited
7 to, the following:

8 (1) that the applicant has filed or will timely file
9 with the Pipeline and Hazardous Materials Safety
10 Administration of the U.S. Department of Transportation
11 all forms required by that agency in advance of
12 constructing a carbon dioxide pipeline;

13 (2) that the applicant has filed or will timely file
14 with the U.S. Army Corps of Engineers all applications for
15 permits required by that agency in advance of constructing
16 a carbon dioxide pipeline;

17 (3) that the applicant has entered into an agreement
18 with the Illinois Department of Agriculture that governs
19 the mitigation of agricultural impacts associated with the
20 construction of the proposed pipeline;

21 (4) any evidence regarding the applicant's financial,
22 managerial, legal, and technical qualifications necessary
23 to construct and operate the proposed carbon dioxide
24 pipeline;

25 (5) any evidence of the effect of the pipeline upon the
26 economy, infrastructure, and public safety presented by

1 local governmental units that will be affected by the
2 proposed pipeline route;

3 (6) any evidence of the effect of the pipeline upon
4 property values presented by property owners who will be
5 affected by the proposed pipeline or facility, provided
6 that the Commission need not hear evidence as to the actual
7 valuation of property such as that as would be presented to
8 and determined by the courts under the Eminent Domain Act;

9 (7) any evidence presented by the Department of
10 Commerce and Economic Opportunity regarding the current
11 and future local, State-wide, or regional economic effect,
12 direct or indirect, of the proposed pipeline or facility
13 including, but not limited to, ability of the State to
14 attract economic growth, meet future energy requirements,
15 and ensure compliance with environmental requirements and
16 goals;

17 (8) any evidence addressing the factors described in
18 items (1) through (9) of this subsection (b) or other
19 relevant factors that is presented by any other State
20 agency, the applicant, a party, or other entity that
21 participates in the proceeding, including evidence
22 presented by the Commission's staff; and

23 (9) any evidence presented by any State or federal
24 governmental entity as to how the proposed pipeline will
25 affect the security, stability, and reliability of energy.

26 In its written order, the Commission shall address all of

1 the evidence presented, and if the order is contrary to any of
2 the evidence, the Commission shall state the reasons for its
3 determination with regard to that evidence.

4 (c) When an applicant files its application with the
5 Commission, it shall provide notice to each local government
6 where the proposed pipeline will be located and include a map
7 of the proposed pipeline route. The applicant shall also
8 publish notice in a newspaper of general circulation in each
9 county where the proposed pipeline is located.

10 (d) An application filed pursuant to this Section may
11 request either that the Commission review and approve a
12 specific route for a carbon dioxide pipeline, or that the
13 Commission review and approve a project route width that
14 identifies the areas in which the pipeline would be located,
15 with such width ranging from the minimum width required for a
16 pipeline right-of-way up to 500 feet in width. The purpose for
17 allowing the option of review and approval of a project route
18 width is to provide increased flexibility during the
19 construction process to accommodate specific landowner
20 requests, avoid environmentally sensitive areas, or address
21 special environmental permitting requirements.

22 (e) An applicant under this Act may request the issuance of
23 a certificate of authority from the Commission for the
24 construction and operation of a carbon dioxide pipeline at the
25 same time, and as part of the same application, as its request
26 for a certificate of good standing.

1 The Commission's rules shall ensure that notice of such a
2 consolidated application is provided within 30 days after
3 filing to the landowners along a proposed project route, or to
4 the potentially affected landowners within a proposed project
5 route width, using the notification procedures set forth in the
6 Commission's rules. If a consolidated application is
7 submitted, then the requests shall be heard on a consolidated
8 basis and a decision on all issues shall be entered within the
9 time frames stated in subsection (f) of this Section. In such a
10 consolidated proceeding, the Commission may consider evidence
11 relating to the same factors identified in items (1) through
12 (9) of subsection (b) of this Section. If the Commission grants
13 approval of a project route width as opposed to a specific
14 project route, then the applicant must, as it finalizes the
15 actual pipeline alignment within the project route width, file
16 its final list of affected landowners with the Commission at
17 least 14 days in advance of beginning construction on any tract
18 within the project route width and also provide the Commission
19 with at least 14 days' notice before filing a complaint for
20 eminent domain in the circuit court with regard to any tract
21 within the project route width.

22 (f) The Commission shall make its determination on any
23 application filed pursuant to this Section and issue its final
24 order within 6 months after the date that the application is
25 filed unless an extension is granted as provided in this
26 subsection (f). The Commission may extend the 6-month time

1 period for issuing a final order on an application filed
2 pursuant to this Section up to an additional 3 months if it
3 finds, following the filing of initial testimony by the parties
4 to the proceeding, that due to the number of affected
5 landowners and other parties in the proceeding and the
6 complexity of the contested issues before it, additional time
7 is needed to ensure a complete review of the evidence. If an
8 extension is granted, then the schedule for the proceeding
9 shall not be further extended beyond this 3-month period, and
10 the Commission shall issue its final order within the 3-month
11 extension period. The Commission shall also have the power to
12 establish an expedited schedule for making its determination on
13 an application filed pursuant to this Section in less than 6
14 months if it finds that the public interest requires the
15 setting of such an expedited schedule.

16 (g) Within 6 months after the Commission's entry of an
17 order approving either a specific route or a project route
18 width under this Section, the owner or operator of the carbon
19 dioxide pipeline that receives that order may file supplemental
20 applications for minor route deviations outside the approved
21 project route width, allowing for additions or changes to the
22 approved route to address environmental concerns encountered
23 during construction or to accommodate landowner requests.
24 Notice of a supplemental application shall be provided to any
25 State agency that appeared in the original proceeding or
26 immediately affected landowner at the time that supplemental

1 application is filed. The route deviations shall be approved by
2 the Commission within 45 days, unless a written objection is
3 filed to the supplemental application within 20 days after the
4 date the supplemental application is filed. Hearings on any
5 such supplemental application shall be limited to the
6 reasonableness of the specific variance proposed, and the
7 issues of public need, public interest and benefit of the
8 project, or fitness of the applicant shall not be reopened in
9 the supplemental proceeding.

10 (h) The rules of the Commission may include additional
11 options for expediting the issuance of certificates and
12 approvals under this Section. If an applicant elects to use an
13 option provided for in the rules, then the rules may provide
14 that: (1) the applicant must request the use of the expedited
15 process at the time of filing its application; (2) the
16 Commission may engage experts and procure additional
17 administrative resources that are reasonably necessary for
18 implementing the expedited process; and (3) the applicant must
19 bear any additional costs incurred by the Commission as a
20 result of the applicant's use of the expedited process.

21 (i) A certificate of authority to construct and operate a
22 carbon dioxide pipeline issued by the Commission shall contain
23 and include all of the following:

24 (1) a grant of authority to construct and operate a
25 carbon dioxide pipeline as requested in the application,
26 subject to the laws of this State;

1 (2) a grant of authority to use, occupy, and construct
2 facilities in any designated public right-of-way for the
3 construction and operation of the carbon dioxide pipeline
4 subject to the laws of this State; and

5 (3) a limited grant of authority to take and acquire an
6 easement in any property or interest in property for the
7 construction, maintenance, or operation of a carbon
8 dioxide pipeline in the manner provided for the exercise of
9 the power of eminent domain under the Eminent Domain Act.
10 The limited grant of authority shall be restricted to, and
11 exercised solely for, the purpose of siting,
12 rights-of-way, and easements appurtenant, including
13 construction and maintenance. The applicant shall not
14 exercise this power until it has used reasonable and good
15 faith efforts to acquire the property or easement thereto.
16 The applicant may thereafter use this power when the
17 applicant determines that the easement is necessary to
18 avoid unreasonable delay or economic hardship to the
19 progress of activities carried out pursuant to the
20 certificate of authority.

21 Section 25. Procedures. Notwithstanding any other
22 provision of this Act, any power granted pursuant to this Act
23 to acquire an easement is subject to, and shall be exercised in
24 accordance with, the Eminent Domain Act.

1 Section 30. Safety. A carbon dioxide pipeline owner shall
2 construct, maintain, and operate all of its pipelines, related
3 facilities, and equipment in this State in a manner that poses
4 no undue risk to its employees or the public. The Commission
5 shall adopt federal safety regulations governing the
6 construction, maintenance, and operations of carbon dioxide
7 pipelines, related facilities, and equipment to ensure the
8 safety of pipeline employees and the public.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.".