



Sen. John M. Sullivan

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1 AMENDMENT TO SENATE BILL 1821

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

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

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

1 and use of Illinois coal and also advance economic development,
2 environmental protection, and energy security in 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.

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

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

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

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

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

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

23 (5) any evidence of the effect of the pipeline upon the
24 economy, infrastructure, and public safety presented by
25 local governmental units that will be affected by the
26 proposed pipeline route;

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

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

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

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

24 In its written order, the Commission shall address all of
25 the evidence presented, and if the order is contrary to any of
26 the evidence, the Commission shall state the reasons for its

1 determination with regard to that evidence.

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

8 (d) An application filed pursuant to this Section may
9 request either that the Commission review and approve a
10 specific route for a carbon dioxide pipeline, or that the
11 Commission review and approve a project route width that
12 identifies the areas in which the pipeline would be located,
13 with such width ranging from the minimum width required for a
14 pipeline right-of-way up to 200 feet in width. The purpose for
15 allowing the option of review and approval of a project route
16 width is to provide increased flexibility during the
17 construction process to accommodate specific landowner
18 requests, avoid environmentally sensitive areas, or address
19 special environmental permitting requirements.

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

25 The Commission's rules shall ensure that notice of such a
26 consolidated application is provided within 30 days after

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

20 (f) The Commission shall make its determination on any
21 application filed pursuant to this Section and issue its final
22 order within 11 months after the date that the application is
23 filed.

24 (g) Within 6 months after the Commission's entry of an
25 order approving either a specific route or a project route
26 width under this Section, the owner or operator of the carbon

1 dioxide pipeline that receives that order may file supplemental
2 applications for minor route deviations outside the approved
3 project route width, allowing for additions or changes to the
4 approved route to address environmental concerns encountered
5 during construction or to accommodate landowner requests.
6 Notice of a supplemental application shall be provided to any
7 State agency that appeared in the original proceeding or
8 immediately affected landowner at the time that supplemental
9 application is filed. The route deviations shall be approved by
10 the Commission within 45 days, unless a written objection is
11 filed to the supplemental application within 20 days after the
12 date the supplemental application is filed. If a written
13 objection is filed, then the Commission shall issue an order
14 either granting or denying the route deviation within 60 days
15 after the filing of the objection. Hearings on any such
16 supplemental application shall be limited to the
17 reasonableness of the specific variance proposed, and the
18 issues of the public interest and benefit of the project or
19 fitness of the applicant shall not be reopened in the
20 supplemental proceeding.

21 (h) The rules of the Commission may include additional
22 options for expediting the issuance of certificates and
23 approvals under this Section. If an applicant elects to use an
24 option provided for in the rules, then the rules may provide
25 that: (1) the applicant must request the use of the expedited
26 process at the time of filing its application; (2) the

1 Commission may engage experts and procure additional
2 administrative resources that are reasonably necessary for
3 implementing the expedited process; and (3) the applicant must
4 bear any additional costs incurred by the Commission as a
5 result of the applicant's use of the expedited process.

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

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

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

1 certificate of authority.

2 Section 25. Procedures. Notwithstanding any other
3 provision of this Act, any power granted pursuant to this Act
4 to acquire an easement is subject to, and shall be exercised in
5 accordance with, the Eminent Domain Act.

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

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.".