

## SENATE BILL No. 72

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 14-39.

**Synopsis:** Carbon dioxide pipelines and eminent domain. Establishes procedures for the issuance by the department of natural resources of a carbon dioxide transmission pipeline certificate of authority that allows construction, operation, and maintenance of a pipeline and the use of eminent domain for those purposes. Establishes the carbon dioxide transmission pipeline authorization fund.

**Effective:** July 1, 2011.

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January 5, 2011, read first time and referred to Committee on Energy and Environmental Affairs.

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First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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## SENATE BILL No. 72



A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 14-39 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3 2011]:

### ARTICLE 39. CARBON DIOXIDE

#### Chapter 1. Eminent Domain for Transportation of Carbon Dioxide by Pipeline

7 Sec. 1. As used in this chapter, "carbon dioxide" means a fluid  
8 consisting of more than ninety percent (90%) carbon dioxide  
9 molecules compressed to a supercritical state.

10 Sec. 2. As used in this chapter, "carbon dioxide transmission  
11 pipeline" means the part of a pipeline in Indiana, including  
12 appurtenant facilities, property rights, and easements, that is used  
13 exclusively for the purpose of transporting carbon dioxide to a  
14 carbon management application, including sequestration,  
15 enhanced oil recovery, and deep saline injection, within or outside  
16 Indiana.

17 Sec. 3. Because the movement conducted for:



1           (1) a person's own use or account; or  
 2           (2) the use or account of another person or persons;  
 3 of carbon dioxide by pipeline in Indiana for carbon management  
 4 applications can assist efforts to reduce carbon dioxide emissions  
 5 from the manufacture of gas using coal and the generation of  
 6 electricity, the use of carbon dioxide transmission pipelines,  
 7 including their routing, construction, maintenance, and operation,  
 8 is declared as a matter of legislative determination to be a public  
 9 use and service, in the public interest, and a benefit to the welfare  
 10 and people of Indiana.

11           Sec. 4. (a) A carbon dioxide transmission pipeline company may  
 12 apply to the department for issuance of a carbon dioxide  
 13 transmission pipeline certificate of authority. The department shall  
 14 prescribe the form of the application, which must:

- 15           (1) include a filing fee of one thousand dollars (\$1,000);
- 16           (2) be signed by a responsible officer of the company;
- 17           (3) include a statement verifying that the information
- 18           submitted is true, accurate, and complete to the best of that
- 19           responsible officer's knowledge and belief; and
- 20           (4) include all information necessary for the department to
- 21           find the following:

22           (A) That the applicant has the financial, managerial, and  
 23           technical ability to construct, operate, and maintain a  
 24           carbon dioxide transmission pipeline in Indiana.

25           (B) That the applicant has the requisite experience  
 26           constructing, operating, and maintaining a carbon dioxide  
 27           transmission pipeline.

28           (C) That the applicant has entered into a contract to  
 29           transport carbon dioxide by pipeline in Indiana with:

- 30           (i) at least one (1) producer of carbon dioxide; and
- 31           (ii) unless all of the carbon dioxide to be transported in
- 32           the proposed carbon dioxide transmission pipeline is for
- 33           the applicant's own use or account, at least one (1) end
- 34           user of carbon dioxide.

35           (D) That the applicant has provided documentation to the  
 36           department showing the proposed length, diameter, and  
 37           location of the proposed carbon dioxide transmission  
 38           pipeline in Indiana.

39           (E) That the applicant will construct, operate, and  
 40           maintain the proposed carbon dioxide transmission  
 41           pipeline in accordance with applicable local, state, and  
 42           federal law.

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1 (b) The department shall review an application filed under  
2 subsection (a). Subject to subsection (f), if the department  
3 determines that the application is incomplete or inaccurate, or  
4 both, the department shall return the application to the applicant  
5 informing the applicant in writing of the applicant's right to file a  
6 corrected application with the department. If the department  
7 determines that the application is complete and accurate, the  
8 department shall provide notice to the applicant of:

- 9 (1) that determination; and  
10 (2) the date, time, and location of the public information  
11 meeting to be held under subsection (d).

12 (c) The applicant shall:

- 13 (1) upon receipt of a notice under subsection (b):  
14 (A) place for public inspection a copy of the application in  
15 a public library located in each county in which the carbon  
16 dioxide transmission pipeline is proposed to be located;  
17 and

18 (B) publish notice in the same manner that would be  
19 required if the applicant were subject to IC 5-3-1 in each  
20 county in which the carbon dioxide transmission pipeline  
21 is proposed to be located of:

- 22 (i) the name and address of each library in which a copy  
23 of the application is placed under clause (A); and  
24 (ii) the date, time, and location of the public information  
25 meeting to be held under subsection (d);

26 (2) provide to the department proof of publication of notice  
27 under subdivision (1)(B); and

28 (3) have a representative present at the public information  
29 meeting held under subsection (d).

30 (d) The department shall:

31 (1) conduct a public information meeting in the county seat of  
32 one (1) of the counties, as determined by the department, in  
33 which the proposed carbon dioxide transmission pipeline will  
34 be located; and

35 (2) provide an opportunity at the meeting for members of the  
36 public to be briefed and to ask questions about the proposed  
37 carbon dioxide transmission pipeline.

38 (e) Not later than ninety (90) days after the public information  
39 meeting held under subsection (d), the department shall notify the  
40 applicant in writing that:

- 41 (1) the department:  
42 (A) has made the findings described in subsection (a)(4);

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and  
 (B) has approved the application; or  
 (2) the department:  
 (A) has determined that the department is unable to make the findings described in subsection (a)(4); and  
 (B) has disapproved the application.

(f) The department shall process a corrected application that is filed as permitted under subsection (b) in the same manner the department processes an initially filed application under subsection (a).

(g) If the department fails to act under subsection (e) not later than ninety (90) days after the public information meeting held under subsection (d), the application is considered to be approved by the department.

(h) If:  
 (1) the department approves the application under subsection (e)(1); or  
 (2) the application is considered to be approved as described in subsection (g);  
 the department shall issue to the applicant a carbon dioxide transmission pipeline certificate of authority.

Sec. 5. (a) Except as provided in subsection (b), if the applicant files with the department a verified certificate stating the reasons that the designation of confidential information is necessary, the applicant may designate information that it submits in its application to the department, or in subsequent reports, as trade secret or confidential and proprietary information.

(b) Subsection (a) does not apply to information referred to in section 4(a)(4)(D) of this chapter.

(c) The department shall exercise all necessary caution to avoid public disclosure of confidential information designated under subsection (a).

Sec. 6. A certificate of authority issued by the department under this chapter must include at least the following:  
 (1) A grant of authority to construct and operate a carbon dioxide transmission pipeline as requested in the application.  
 (2) A grant of authority to use, occupy, and construct pipeline facilities in any designated public right-of-way for the construction and operation of the carbon dioxide transmission pipeline.  
 (3) A grant of authority to take and acquire possession by eminent domain of any property or interest in property for

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1 the construction, maintenance, or operation of a carbon  
2 dioxide transmission pipeline in the manner provided for the  
3 exercise of the power of eminent domain under sections 7 and  
4 8 of this chapter.

5 Sec. 7. If a carbon dioxide transmission pipeline company has  
6 received a carbon dioxide transmission pipeline certificate of  
7 authority from the department under this chapter and is not able  
8 to reach an agreement with a property owner for the construction,  
9 operation, and maintenance of the carbon dioxide transmission  
10 pipeline on the owner's property, the company may proceed to  
11 condemn land, improvements, a right-of-way, an easement, or any  
12 other interest in the owner's property necessary or useful for:

13 (1) constructing, maintaining, utilizing, operating, and gaining  
14 access to a carbon dioxide transmission pipeline and all  
15 necessary machinery, equipment, pumping stations,  
16 appliances, and fixtures for use in connection with the carbon  
17 dioxide transmission pipeline; and

18 (2) obtaining all necessary rights of ingress and egress to  
19 construct, examine, alter, repair, maintain, operate, or  
20 remove a carbon dioxide transmission pipeline and all of its  
21 component parts.

22 Sec. 8. Except as otherwise provided in this chapter, IC 32-24-1  
23 applies to the condemnation of property under this chapter by a  
24 carbon dioxide transmission pipeline company.

25 Sec. 9. Not later than ninety (90) days after the completion of a  
26 carbon dioxide transmission pipeline for which the department has  
27 issued a certificate of authority under this chapter, the applicant  
28 shall provide maps and other documentation to the department  
29 showing the actual route in Indiana of the carbon dioxide  
30 transmission pipeline.

31 Sec. 10. A determination of the department under section 4(e)(2)  
32 of this chapter is subject to administrative review under IC 4-21.5.

33 Sec. 11. The department shall deposit fee revenue received  
34 under section 4(a)(1) of this chapter in the carbon dioxide  
35 transmission pipeline authorization fund.

36 Chapter 2. Carbon Dioxide Transmission Pipeline  
37 Authorization Fund

38 Sec. 1. As used in this chapter, "fund" refers to the carbon  
39 dioxide transmission pipeline authorization fund established by this  
40 chapter.

41 Sec. 2. The carbon dioxide transmission pipeline authorization  
42 fund is established.

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1           **Sec. 3. The department shall:**  
 2               (1) administer the fund; and  
 3               (2) use the fund to administer IC 14-39-1.  
 4           **Sec. 4. The fund consists of the following:**  
 5               (1) Filing fees received under IC 14-39-1-4(a)(1).  
 6               (2) Accrued interest and other investment earnings of the  
 7               fund.  
 8               (3) Gifts, grants, donations, or appropriations from any  
 9               source.  
 10          **Sec. 5. (a) Except as provided in subsection (c), money in the**  
 11          **fund does not revert to the state general fund at the end of a state**  
 12          **fiscal year.**  
 13               **(b) The treasurer of state shall invest the money in the fund not**  
 14          **currently needed to meet the obligations of the fund in the same**  
 15          **manner as other public money may be invested.**  
 16               **(c) If the fund is abolished, all money in the fund is transferred**  
 17          **to the state general fund.**

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