

AMENDMENTS TO SENATE BILL NO. 831

Sponsor: SENATOR YAW

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1 Amend Bill, page 3, line 15, by striking out "or" and
2 inserting a comma

3 Amend Bill, page 3, line 16, by inserting after "interest"
4 or leasehold interest

5 Amend Bill, page 3, line 18, by striking out the comma after
6 "right-of-way" and inserting
7 or

8 Amend Bill, page 3, lines 18 and 19, by striking out "or a
9 leasehold"

10 Amend Bill, page 4, line 6, by inserting after "the" where it
11 occurs the first time
12 surface property interest

13 Amend Bill, page 4, line 6, by striking out "of the surface"

14 Amend Bill, page 4, line 22, by inserting after "surface"
15 property interest

16 Amend Bill, page 4, line 22, by inserting after "owner,"
17 subsurface property interest

18 Amend Bill, page 4, lines 22 and 23, by striking out "of the
19 minerals, including coal, or oil and gas interest"

20 Amend Bill, page 5, line 3, by striking out "severed"

21 Amend Bill, page 5, line 4, by striking out "severed"

22 Amend Bill, page 5, line 5, by inserting after "dominant"

1 , including the surface use necessary for the subsurface
2 development of the mineral, including coal, or oil and gas
3 estate,

4 Amend Bill, page 5, line 7, by striking out "several owners
5 of the surface" and inserting

6 surface property interest owner

7 Amend Bill, page 5, line 10, by striking out "the" and
8 inserting

9 an existing

10 Amend Bill, page 5, line 12, by striking out the period after
11 "paragraph" and inserting

12 , notwithstanding that the contract or lease was entered
13 into with a subsurface property interest owner or a
14 predecessor to the subsurface property interest owner.

15 Amend Bill, page 8, line 5, by inserting after "for"

16 fair market

17 Amend Bill, page 8, line 5, by inserting after "interest"

18 of the pore space owners

19 Amend Bill, page 8, lines 16 through 30; page 9, line 1; by
20 striking out all of said lines on said pages and inserting

21 Section 5.1. Seismic exploration.

22 (a) Seismic activity review.--A storage operator shall
23 prepare a seismic activity review in accordance with existing
24 requirements for a UIC Class VI permit.

25 (b) Seismic survey or assessment.--Prior to application for
26 a UIC Class VI permit developed by the department, a storage
27 operator may conduct a seismic survey or assessment across the
28 vicinity of a potential storage facility.

29 (c) Entry onto lands.--If a storage operator is unable to
30 reasonably negotiate with a surface owner for the right to
31 conduct a seismic survey on lands owned by the surface owner,
32 the secretary may issue an order for the entry onto the lands by
33 the storage operator. In this instance, the storage operator
34 shall pay the surface owner just and reasonable compensation as
35 established by the secretary.

36 (d) Limitations and claims.--A seismic survey shall be
37 limited to geologic storage and shall remain confidential and
38 proprietary. The storage operator shall defend, indemnify and
39 hold harmless the property owner for all claims arising out of
40 entry onto the property by the storage operator, its contractors
41 and its agents.

1 Amend Bill, page 9, line 9, by striking out all of said line
2 and inserting

3 (b) Conditions for authorization.--
4 (1) To operate a carbon

5 Amend Bill, page 9, line 11, by inserting after "obtain"
6 , and must be in compliance with,

7 Amend Bill, page 9, line 12, by inserting after
8 "regulations."

9 Upon submission of a UIC Class VI permit application,
10 the storage operator shall provide notice of application to
11 the surface property interest owners and subsurface property
12 interest owners in the vicinity of the storage facility.

13 (2) The following apply to seismic monitoring:

14 (i) A storage operator shall deploy prior to carbon
15 sequestration, and periodically operate during carbon
16 sequestration, a seismicity monitoring system to
17 determine the presence or absence, magnitude and the
18 hypocenter location to the best of the storage operator's
19 ability of seismic activity within the vicinity of the
20 storage facility as may be necessary to perform an array
21 and a risk analysis and as required by the department. A
22 storage operator may apply to the department for a waiver
23 of this requirement if the storage operator presents a
24 geohazard assessment and historical injection data
25 demonstrating that induced seismicity does not pose
26 significant risk.

27 (ii) If a storage operator is unable to reasonably
28 negotiate with a surface property interest owner for the
29 right to conduct seismic monitoring on lands owned by the
30 surface property interest owner, the secretary may issue
31 an order for the entry onto the lands by the storage
32 operator. In this instance, the storage operator shall
33 pay the surface property interest owner just and
34 reasonable compensation as established by the secretary.

35 (iii) The storage operator shall defend, indemnify
36 and hold harmless the surface property interest owner and
37 subsurface property interest owner for all claims arising
38 out of entry onto the property by the storage operator,
39 its contractors and its agents.

40 (iv) A storage operator shall provide for the
41 submission to the department of any seismic data above a
42 seismic threshold or frequency determined by the
43 department in a manner provided for by the department.

44 (3) To operate a carbon sequestration project under this
45 section, a storage operator shall design the carbon
46 sequestration project to isolate any existing or future

1 production from the mineral, including of the coal, or oil
2 and gas estate, from the carbon dioxide plume and shall
3 indicate whether the storage facility contains commercially
4 valuable mineral, including the coal, or oil and gas estates,
5 and, if it does, a permit may be issued only if the
6 department is satisfied that the interests of the mineral,
7 including coal, or oil and gas estate, will not be adversely
8 affected and have been addressed in an agreement entered into
9 by the storage operator and the subsurface property interest
10 owners.

11 Amend Bill, page 10, line 14, by striking out "direct
12 physical"

13 Amend Bill, page 10, line 16, by striking out "Damages" and
14 inserting

15 Redress and damages

16 Amend Bill, page 10, lines 18 through 21, by striking out
17 "may recover monetary damages due to" in line 18 and all of
18 lines 19 through 21 and inserting

19 or lessee who incurs injury or damage or loss of
20 property value as a result of the injection or migration of
21 carbon dioxide described in section 8(a) shall have a right
22 of action against the storage operator for injunction,
23 damages or other appropriate civil or equitable relief.

24 Amend Bill, page 10, line 22, by striking out "or" and
25 inserting a comma

26 Amend Bill, page 10, line 23, by inserting after "owner"
27 or lessee

28 Amend Bill, page 10, lines 23 through 26, by striking out
29 "not seek punitive damages due to" in line 23 and all of lines
30 24 through 26 and inserting

31 seek recovery for any of the following:

32 (i) General and special damages, including actual
33 damages, for the diminution in property value resulting
34 from the injection and migration of carbon dioxide beyond
35 the storage facility.

36 (ii) Punitive damages.

37 (iii) Reasonable attorney fees and costs.

38 (iv) Injunctive and other equitable relief.

1 (v) Other relief which the court deems necessary and
2 proper.
3 (3) A surface property interest owner, subsurface
4 property interest owner or lessee may not seek punitive
5 damages due to injection or migration of carbon dioxide if
6 the storage operator is determined to have had a reasonable
7 basis for believing that the carbon sequestration project
8 would not result in migration of carbon dioxide beyond the
9 storage facility.