



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB1697

Introduced 2/5/2025, by Sen. Laura Fine

SYNOPSIS AS INTRODUCED:

220 ILCS 75/20
220 ILCS 75/22 new
415 ILCS 185/15

Amends the Carbon Dioxide Transportation and Sequestration Act. Provides that the Illinois Commerce Commission shall not issue any certificate of authority under the Act before July 1, 2026. Removes language providing that if, after July 1, 2026, the Pipeline and Hazardous Materials Safety Administration has not adopted final revisions to specified pipeline safety rules, the Commission may only approve a certificate of authority if it finds that the applicant has met all of the requirements of the Act, has already acquired all of its other necessary approvals, and is compliant with any requirements or conditions adopted by the Commission. Provides that a nonconsenting pore space owner's compensation shall include just compensation and 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. Provides that a nonconsenting pore space owner's compensation shall be no less than the average total payment package, considered as a whole with respect to an individual owner, provided in agreements to similarly situated consenting pore space owners for use of their pore space by the same sequestration operator for the same sequestration project (instead of provided in agreements during the previous 365 days to similarly situated consenting pore space owners). Amends the Safety and Aid for the Environment in Carbon Capture and Sequestration Act. Provides that an affected landowner is entitled to reasonable compensation from an applicant that has been granted a certificate of authority under this Act for damages resulting from access to the landowner's property for required activities taken to construct the pipeline, including, but not limited to, compensation for specified damages. Sets forth provisions concerning payment of the compensation; attorney's fees; and an applicant entering into an agreement with the Department of Agriculture that governs the mitigation of agricultural impacts associated with the construction of the proposed pipeline. Makes other changes.

LRB104 09225 AAS 19282 b

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Carbon Dioxide Transportation and
5 Sequestration Act is amended by changing Section 20 and by
6 adding Section 22 as follows:

7 (220 ILCS 75/20)

8 Sec. 20. Application.

9 (a) No person or entity may construct, operate, or repair
10 a carbon dioxide pipeline unless the person or entity
11 possesses a certificate of authority. Nothing in this Act
12 requires a legacy carbon dioxide pipeline to obtain a
13 certificate of authority.

14 (b) The Commission, after a hearing, may grant an
15 application for a certificate of authority authorizing the
16 construction and operation of a carbon dioxide pipeline if it
17 makes a specific written finding as to each of the following:

18 (1) the application was properly filed;

19 (2) the applicant is fit, willing, and able to
20 construct and operate the pipeline in compliance with this
21 Act and with Commission regulations and orders of the
22 Commission or any applicable federal agencies;

23 (3) the applicant has entered into one or more

1 agreements with a source or sources that will result in
2 the reduction of carbon dioxide emissions from that source
3 or sources and the applicant has filed such agreement or
4 agreements as part of its application;

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

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

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

18 (6.1) the applicant has applied for any and all other
19 federal permits necessary to construct and operate a
20 carbon dioxide pipeline;

21 (6.2) the applicant has held at least 2 pre-filing
22 public meetings to receive public comment concerning the
23 proposed carbon dioxide pipeline in each county where the
24 pipeline is to be located, no earlier than 6 months prior
25 to the filing of the application. Notice of the public
26 meeting shall be published in a newspaper of general

1 circulation within the affected county once a week for 3
2 consecutive weeks, beginning no earlier than one month
3 prior to the first public meeting. Notice of each public
4 meeting, including a description of the carbon dioxide
5 pipeline, must be provided in writing to the clerk of each
6 county where the project is to be located and to the chief
7 clerk of the Commission. A representative of the
8 Commission shall be invited to each prefiling public
9 meeting. The applicant shall maintain a dedicated public
10 website which provides details regarding the proposed
11 route of the pipeline, plans for construction, status of
12 the application, and the manner in which members of the
13 public may offer their opinions regarding the pipeline;

14 (6.3) the applicant has directly contacted the owner
15 of each parcel of land located within 2 miles of the
16 proposed pipeline route by certified mail, or made good
17 faith efforts if the owner of record cannot be located,
18 advising them of the proposed pipeline route and of the
19 date and time of each public meeting to be held in the
20 county in which each landowner's property is located;

21 (6.4) the applicant has prepared and submitted a
22 detailed emergency operations plan, which addresses at a
23 minimum, emergency operations plan requirements adopted by
24 the Illinois Emergency Management Agency and Office of
25 Homeland Security under paragraph (4) of subsection (f) of
26 Section 5 of the Illinois Emergency Management Agency Act.

1 The submitted emergency operations plan shall also provide
2 for post-emergency analysis and controller actions. In
3 addition, the applicant shall demonstrate that it has
4 communicated with the county emergency services and
5 disaster agency (ESDA), or other relevant mandated ESDA,
6 to coordinate its emergency operations plan for the
7 pipeline with the county ESDA's, or other relevant
8 mandated ESDA's, emergency operations plan;

9 (7) the applicant possesses the financial, managerial,
10 legal, and technical qualifications necessary to construct
11 and operate the proposed carbon dioxide pipeline; and

12 (8) the proposed pipeline is consistent with the
13 public interest, public benefit, and legislative purpose
14 as set forth in this Act. In addition to any other evidence
15 the Commission may consider on this specific finding, the
16 Commission shall consider the following:

17 (A) any evidence of the effect of the pipeline
18 upon the economy, infrastructure, and public safety
19 presented by local governmental units that will be
20 affected by the proposed pipeline route;

21 (B) any evidence of the effect of the pipeline
22 presented by property owners who will be affected by
23 the proposed pipeline or facility, provided that the
24 Commission need not hear evidence as to the actual
25 valuation of property such as that as would be
26 presented to and determined by the courts under the

1 Eminent Domain Act;

2 (C) any evidence presented by the Department of
3 Commerce and Economic Opportunity regarding the
4 current and future local, statewide ~~State-wide~~, or
5 regional economic effect, direct or indirect, of the
6 proposed pipeline or facility including, but not
7 limited to, ability of the State to attract economic
8 growth, meet future energy requirements, and ensure
9 compliance with environmental requirements and goals;

10 (D) any evidence addressing the factors described
11 in items (1) through (8) of this subsection (b) or
12 other relevant factors that is presented by any other
13 State agency, unit of local government, the applicant,
14 a party, or other entity that participates in the
15 proceeding, including evidence presented by the
16 Commission's staff; and

17 (E) any evidence presented by any State or federal
18 governmental entity as to how the proposed pipeline
19 will affect the security, stability, and reliability
20 of public infrastructure.

21 In its written order, the Commission shall address all of
22 the evidence presented, and if the order is contrary to any of
23 the evidence, the Commission shall state the reasons for its
24 determination with regard to that evidence.

25 (c) When an applicant files its application for a
26 certificate of authority with the Commission, it shall provide

1 notice to each unit of local government where the proposed
2 pipeline will be located and include a map of the proposed
3 pipeline route. The applicant shall also publish notice in a
4 newspaper of general circulation in each county where the
5 proposed pipeline is located.

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

20 (e) The Commission's rules shall ensure that notice of an
21 application for a certificate of authority is provided within
22 30 days after filing to the landowners along a proposed
23 project route, or to the potentially affected landowners
24 within a proposed project route width, using the notification
25 procedures set forth in the Commission's rules. If the
26 Commission grants approval of a project route width as opposed

1 to a specific project route, then the applicant must, as it
2 finalizes the actual pipeline alignment within the project
3 route width, file its final list of affected landowners with
4 the Commission at least 14 days in advance of beginning
5 construction on any tract within the project route width and
6 also provide the Commission with at least 14 days' notice
7 before filing a complaint for eminent domain in the circuit
8 court with regard to any tract within the project route width.

9 (f) If an applicant has obtained all necessary federal
10 licenses, permits, and authority necessary to construct and
11 operate a carbon dioxide pipeline before it files an
12 application pursuant to this Section, then the Commission
13 shall make its determination on any application for a
14 certificate of authority and issue its final order within 11
15 months after the date that the application is filed. The
16 Commission's failure to act within this time period shall not
17 be deemed an approval or denial of the application.

18 (g) A final order of the Commission granting a certificate
19 of authority pursuant to this Act shall be conditioned upon
20 the applicant obtaining all required permits or approvals from
21 the Pipeline and Hazardous Materials Safety Administration of
22 the U.S. Department of Transportation, U.S. Army Corps of
23 Engineers, and Illinois Department of Agriculture, in addition
24 to all other permits and approvals necessary for the
25 construction and operation of the pipeline prior to the start
26 of any construction. The final order must specifically

1 prohibit the start of any construction until all such permits
2 and approvals have been obtained. The Commission shall not
3 issue any certificate of authority under this Act before July
4 1, 2026 and until (i) the Pipeline and Hazardous Materials
5 Safety Administration has adopted final revisions to its
6 pipeline safety rules intended to enhance the safe
7 transportation of carbon dioxide by pipelines to accommodate
8 an anticipated increase in the number of carbon dioxide
9 pipelines and volume of carbon dioxide transported in the
10 proposed rulemaking designated Regulatory Information Number
11 2137-AF60, and (ii) the Commission has verified that the
12 submitted application complies with those finalized rules. ~~If,~~
13 ~~after July 1, 2026, the Pipeline and Hazardous Materials~~
14 ~~Safety Administration has not adopted final revisions to its~~
15 ~~pipeline safety rules under the proposed rulemaking designated~~
16 ~~Regulatory Information Number 2137 AF60, the Commission may~~
17 ~~only approve a certificate of authority under this Section if~~
18 ~~it finds that the applicant has met all of the requirements of~~
19 ~~this Act, has already acquired all of its other necessary~~
20 ~~approvals, and is compliant with any requirements or~~
21 ~~conditions adopted by the Commission subsection (g-5).~~

22 (g-5) In granting a certificate under this Act, the
23 Commission shall adopt such requirements or impose such
24 conditions upon a certificate as in its opinion are necessary
25 to preserve public safety, as long as such requirements are
26 compatible with the minimum standards prescribed by the

1 Pipeline and Hazardous Material Safety Administration.

2 (h) Within 6 months after the Commission's entry of an
3 order approving either a specific route or a project route
4 width under this Section, the owner or operator of the carbon
5 dioxide pipeline that receives that order may file
6 supplemental applications for minor route deviations outside
7 the approved project route width, allowing for additions or
8 changes to the approved route to address environmental
9 concerns encountered during construction or to accommodate
10 landowner requests. The supplemental application shall
11 specifically detail the environmental concerns or landowner
12 requests prompting the route changes, including the names of
13 any landowners or entities involved. Notice of a supplemental
14 application shall be provided to any State agency or unit of
15 local government that appeared in the original proceeding and
16 to any landowner affected by the proposed route deviation at
17 the time that supplemental application is filed. The route
18 deviations shall be approved by the Commission no sooner than
19 90 days after all interested parties receive notice of the
20 supplemental application, unless a written objection is filed
21 to the supplemental application within 45 days after such
22 notice is received. If a written objection is filed, then the
23 Commission shall issue an order either granting or denying the
24 route deviation within 90 days after the filing of the
25 objection. Hearings on any such supplemental application shall
26 be limited to the reasonableness of the specific variance

1 proposed, and the issues of the public interest and benefit of
2 the project or fitness of the applicant shall be considered
3 only to the extent that the route deviation has raised new
4 concerns with regard to those issues.

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

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

11 (2) the right to seek eminent domain authority from
12 the Commission under Section 8-509 of the Public Utilities
13 Act.

14 (j) All applications under this Act pending before the
15 Commission on the effective date of this amendatory Act of the
16 103rd General Assembly shall be dismissed without prejudice.

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

18 (220 ILCS 75/22 new)

19 Sec. 22. Compensation for damages to the surface.

20 (a) An affected landowner is entitled to reasonable
21 compensation from an applicant who has been granted a
22 certificate of authority under this Act for damages resulting
23 from access to the landowner's property for required
24 activities taken to construct the pipeline, including, but not
25 limited to, the following:

1 (1) compensation for damage to growing crops, trees,
2 shrubs, fences, roads, structures, improvements, personal
3 property, and livestock thereon and compensation for the
4 loss of the value of a commercial crop impacted by
5 pipeline installation; the value of the crop shall be
6 calculated based on local market price by:

7 (A) determining the average per acre yield for the
8 same crop on comparable adjacent acreage;

9 (B) determining the price received for the sale of
10 the same crop on comparable adjacent acreage;

11 (C) determining the acreage of the area impacted
12 by pipeline activities and applying the determined
13 price; and

14 (D) making an initial determination of the value
15 of the crop, which shall be determined by the affected
16 landowner and submitted to the applicant who has been
17 granted a certificate of authority under this Act;

18 (2) compensation to return the surface estate,
19 including soil conservation practices, such as terraces,
20 grassed waterways, and other conservation practices, to a
21 condition as near as practicable to the condition of the
22 surface prior to accessing the property;

23 (3) compensation for damage to the productive
24 capability of the soil resulting from compaction or
25 rutting if the parties are incapable of reaching
26 resolution for such issues under the mitigation agreement

1 detailed in paragraph (6) of subsection (b) of Section 20.
2 Such compensation shall include, but is not limited to,
3 compensation for when a pipeline applicant accesses a
4 property where excessively wet soil conditions would not
5 allow normal farming operations due to increased risk of
6 soil erosion, rutting, or compaction; if there is a
7 dispute between the applicant who has been granted a
8 certificate of authority under this Act and the affected
9 landowner regarding the value of the damage to the
10 productive capability of the soil, the applicant who has
11 been granted a certificate of authority under this Act
12 shall consult with a representative of the soil and water
13 conservation district in the respective county where the
14 parcel of property is located for recommendations to
15 restore the productive capability of the soil; and

16 (4) compensation for damage to surface and subsurface
17 drainage, including, but not limited to:

18 (A) compensation in that the applicant who has
19 been granted a certificate of authority under this Act
20 shall perform immediate and temporary repairs for
21 damage that occurs to subsurface drainage tiles that
22 have water actively flowing through them at the time
23 of damage; and

24 (B) compensation such that the applicant who has
25 been granted a certificate of authority under this Act
26 shall compensate the affected landowner to permanently

1 restore drainage to a condition as near as practicable
2 to the condition of the drainage prior to accessing
3 the property.

4 (b) The compensation for damages required by subsection
5 (a) shall be paid in any manner mutually agreed upon by the
6 applicant who has been granted a certificate of authority
7 under this Act and the affected landowners. Unless otherwise
8 agreed, the applicant who has been granted a certificate of
9 authority under this Act shall tender to the landowner payment
10 by check or draft no later than 60 days after completing the
11 required activities under the application if the occurrence or
12 value of damages is not disputed. The landowner's remedy for
13 unpaid or disputed compensation shall be an action for damages
14 in any court of competent jurisdiction for the parcel of
15 property or the greater part thereof on which the activities
16 were conducted, and the landowner shall be entitled to recover
17 reasonable damages and attorney's fees if the landowner
18 prevails.

19 (c) If any surface owner prevails in litigation seeking
20 compensation for damages under this Section, the applicant who
21 has been granted a certificate of authority under this Act
22 shall be responsible for such reasonable attorney's fees and
23 costs as the court may allow and a judgment may be entered
24 therefor in favor of the plaintiff if the attorney's fees and
25 costs are not paid as provided by the court.

26 (d) Nothing in this Section shall have any impact on an

1 applicant's fulfillment of the requirement to enter into an
2 agreement with the Department of Agriculture that governs the
3 mitigation of agricultural impacts associated with the
4 construction of the proposed pipeline as detailed in paragraph
5 (6) of subsection (b) of Section 20.

6 Section 10. The Safety and Aid for the Environment in
7 Carbon Capture and Sequestration Act is amended by changing
8 Section 15 as follows:

9 (415 ILCS 185/15)

10 Sec. 15. Integration and unitization of ownership
11 interests.

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

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

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

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

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

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

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

1 a pore space owner is unknown or nonlocatable;

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

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

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

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

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

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

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

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

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

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

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

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

1 address; and

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

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

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

25 (e) The Department of Natural Resources shall issue an
26 order unitizing and integrating pore space under subsection

1 (b) within 60 days after the hearing upon a showing that:

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

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

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

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

1 or after the initiation of injection provided to
2 consenting pore space owners in consideration of allowing
3 use of their pore space for sequestration of carbon
4 dioxide, but ~~Such compensation~~ shall exclude any
5 incentives, such as signing bonuses, provided to
6 consenting pore space owners prior to the initiation of
7 injection. ~~Such compensation shall include any operations~~
8 ~~term or injection term payments made upon or after the~~
9 ~~initiation of injection provided to consenting pore space~~
10 ~~owners in consideration of allowing use of their pore~~
11 ~~space for sequestration of carbon dioxide.~~ In determining
12 if pore space owners are similarly situated, the
13 Department of Natural Resources shall take into account:
14 the size, location, and proximity of the pore space; the
15 geologic characteristics of the pore space; the
16 restrictions on the use of the surface; the actual use of
17 the surface; the relevant law applicable at the time the
18 consenting pore space agreement was signed; title defects
19 and title warranties; the proximity of the pore space
20 owners' property to any carbon sequestration
21 infrastructure on the surface; whether the injection
22 interferes with any known mineral rights; and the fair
23 market value of pore space when entering into a commercial
24 contract. When evaluating the compensation provided to a
25 similarly situated pore space owner, the Department of
26 Natural Resources shall exclude any compensation provided

1 to a pore space owner of a property identified by the
2 applicant in paragraph (3) of subsection (b) and any
3 compensation that was not provided as part of an arm's
4 length transaction.

5 Unknown or nonlocatable pore space owners shall also
6 receive just compensation in the same manner as provided
7 to the other nonconsenting pore space owners that must be
8 held in a separate escrow account for 20 years for future
9 payment to the previously unknown or nonlocatable pore
10 space owner upon discovery of that owner. After 20 years,
11 the compensation shall be transferred to the State
12 Treasurer under the Revised Uniform Unclaimed Property
13 Act.

14 (f) The Department of Natural Resources' order for
15 unitization and integration of pore space under this Section
16 is not effective until the petitioner has been issued a Class
17 VI well permit from the United States Environmental Protection
18 Agency and the carbon sequestration permit from the Illinois
19 Environmental Protection Agency.

20 (g) An order for integration and unitization under this
21 Section shall: provide for the unitization of the pore space
22 identified in the petition; authorize the integration of pore
23 space of nonconsenting pore space owners in the pore space
24 identified; provide for who may unitize the pore space to
25 establish a sequestration facility to be permitted by the
26 Illinois Environmental Protection Agency; and make provision

1 for payment of just compensation to nonconsenting pore space
2 owner under the integration order.

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

6 (i) If groundwater monitoring required by a Class VI
7 permit indicates that the source of drinking water has been
8 rendered unsafe to drink or to provide to livestock, the
9 sequestration operator shall provide an alternate supply of
10 potable drinking water within 24 hours of the monitoring
11 results becoming available and an alternate supply of water
12 that is safe for other uses necessary within 30 days of the
13 monitoring results becoming available. The alternate supplies
14 of both potable water and water that is safe for other uses
15 shall continue until additional monitoring by the
16 sequestration operator shows that the water is safe for
17 drinking and other uses.

18 (j) After an order for unitization and integration of pore
19 space is issued, the petitioner shall request that the
20 Department of Natural Resources issue separate orders
21 establishing the amount of just compensation to be provided to
22 each nonconsenting pore space owner. When submitting this
23 request, the petitioner shall provide information
24 demonstrating the good faith efforts taken to negotiate an
25 agreement with the nonconsenting pore space owner, including,
26 but not limited to, the number and extent of the petitioner's

1 contacts with the pore space owner, whether the petitioner
2 explained the compensation offer to the pore space owner,
3 whether the compensation offer was comparable to similarly
4 situated pore space owners, what efforts were made to address
5 the pore space owner's concerns, and the likelihood that
6 further negotiations would be successful. All orders requiring
7 the provision of just compensation shall be made after notice
8 and hearing in which the Department of Natural Resources shall
9 determine the appropriate amount of just compensation to be
10 provided to each nonconsenting pore space owner as described
11 in this Section. The Department shall adopt reasonable rules
12 governing such hearings as may be necessary. In such a
13 hearing, the burden shall be on the petitioner to prove the
14 appropriate amount of just compensation consistent with this
15 Section. Both the petitioner and the pore space owner shall be
16 permitted to provide testimony and evidence regarding the
17 appropriateness of the amount of just compensation proposed by
18 the sequestration operator. An order by the Department of
19 Natural Resources establishing the appropriate amount of just
20 compensation to be provided to a nonconsenting pore space
21 owner shall be a final agency decision subject to judicial
22 review under the Administrative Review Law. Such proceedings
23 for judicial review may be commenced in the circuit court of
24 the county in which any part of the pore space is situated. The
25 Department of Natural Resources shall not be required to
26 certify any record to the court or file any answer in court or

1 otherwise appear in any court in a judicial review proceeding,
2 unless there is filed in the court with the complaint a receipt
3 from the Department of Natural Resources acknowledging payment
4 of the costs of furnishing and certifying the record. Failure
5 on the part of the plaintiff to file such receipt in court
6 shall be grounds for dismissal of the action.

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