

ORIGINAL HOUSE
BILL NO. 0017

ENROLLED ACT NO. 26, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

AN ACT relating to environmental quality; establishing an account; funding the account; requiring fees by specified permit applicants; regulating the expenditure of funds; requiring rulemaking; providing for the state's immunity; requiring bonding or other financial assurances; providing penalties; providing for the release of financial assurances; requiring land owner notice of geological sequestration sites; repealing obsolete provisions; providing an appropriation; authorizing the filling and reclassification of a vacant position; and providing for effective dates.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 35-11-318 is created to read:

35-11-318. Geologic sequestration special revenue account.

(a) There is created the Wyoming geologic sequestration special revenue account. The account shall be administered by the director and all funds in the account shall be transmitted to the state treasurer for credit to the account and shall be invested by the state treasurer as authorized under W.S. 9-4-715(a), (d) and (e) in a manner to obtain the highest return possible consistent with the preservation of the corpus. Any interest earned on the investment or deposit of monies into the fund shall remain in the fund and shall not be credited to the general fund. All funds in the account are continuously appropriated for use by the director consistent with this section.

(b) The account shall consist of all monies collected by the department to measure, monitor and verify Wyoming

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geologic sequestration sites following site closure certification, release of all financial assurance instruments and termination of the permit. The department shall promulgate rules necessary to collect monies in an amount reasonably calculated to pay the costs of measuring, monitoring and verifying the sites.

(c) Funds in the account shall be used only for the measurement, monitoring and verification of geologic sequestration sites following site closure certification, release of all financial assurance instruments and termination of the permit.

(d) The existence, management and expenditure of funds from this account shall not constitute a waiver by the state of Wyoming of its immunity from suit, nor does it constitute an assumption of any liability by the state for geologic sequestration sites or the carbon dioxide and associated constituents injected into those sites.

Section 2. W.S. 35-11-313(f)(ii) by creating a new subparagraph (0) and by creating new paragraphs (vi) and (vii) is amended to read:

35-11-313. Carbon sequestration; permit requirements.

(f) The administrator of the water quality division of the department of environmental quality, after receiving public comment and after consultation with the state geologist, the Wyoming oil and gas conservation commission and the advisory board created under this act, shall recommend to the director rules, regulations and standards for:

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(ii) Requirements for the content of applications for geologic sequestration permits. Such applications shall include:

(O) A certificate issued by an insurance company authorized to do business in the United States certifying that the applicant has a public liability insurance policy in force for the geologic sequestration operations for which the permit is sought, or evidence that the applicant has satisfied other state or federal self insurance requirements. The policy shall provide for personal injury and property damage protection in an amount and for a duration as established by regulations.

(vi) Requirements for bonding and financial assurance for geologic sequestration facilities and geologic sequestration sites including:

(A) Procedures to establish the type and amount of the bond or financial assurance instrument to assure that the operator faithfully performs all requirements of this chapter, complies with all rules and regulations and provides adequate financial resources to pay for mitigation or reclamation costs that the state may incur as a result of any default by the permit holder, provided that, any insurance instruments submitted for financial assurance purposes shall include the state of Wyoming as an additional insured, which inclusion shall not be deemed a waiver of sovereign immunity;

(B) Annual or other periodic reporting by the permittee during geologic sequestration and reclamation activities to allow the administrator to confirm or adjust the amount or type of the bond or other financial assurance requirements consistent with the site, facility and operation specific risks and conditions;

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(C) Procedures to require proof of compliance from any permittee ordered by the administrator to adjust a bond or other financial assurance, including procedures for permit suspension or termination procedures following notice and an opportunity for a hearing if adequate bonding or financial assurance cannot be demonstrated;

(D) Procedures for replacement of a bond or financial assurance instrument if notice of cancellation is provided or notice that the license to do business in Wyoming of the surety or insurance company issuing a bond or other financial assurance pursuant to this chapter is suspended or revoked;

(E) Procedures for the director to forfeit the bond or to make a claim against any insurance instrument providing financial assurance, including the right of the attorney general to bring suit to recover costs if the bond or financial assurance is inadequate, to pay for closure, mitigation, reclamation, measurement, monitoring, verification and pollution control, where recovery is deemed possible;

(F) Procedures, including public notice and a public hearing if requested, for the release of bonds or the termination of insurance instruments not less than ten (10) years after the date when all wells excluding monitoring wells have been appropriately plugged and abandoned, all subsurface operations and activities have ceased and all surface equipment and improvements have been removed or appropriately abandoned, or so long thereafter as necessary to obtain a completion and release certificate from the administrator certifying that plume stabilization as defined by rule has been achieved without the use of

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control equipment based on a minimum of three (3) consecutive years of monitoring data, and that the operator has completed site reclamation and all required monitoring and remediation sufficient to show that the carbon dioxide injected into the geologic sequestration site will not harm or present a risk to human health, safety or the environment, including drinking water supplies, consistent with the purposes of this chapter and the rules and regulations adopted by the council;

(G) Requirements for the operator to record an affidavit in the office of the county clerk of the county or counties in which a geologic sequestration site is located, which affidavit shall be reasonably calculated to alert a person researching the title of a particular tract that such tract is underlain by a site permitted for geologic sequestration.

(vii) Requirements for fees to be paid by all permittees of geologic sequestration sites and facilities, which may include a per ton injection fee or a closure fee, during the period of injection of carbon dioxide and associated constituents into subsurface geologic formations in Wyoming, which fees shall be deposited in the geologic sequestration special revenue account created by W.S. 35-11-318 for use as provided therein.

Section 3. W.S. 35-11-313(g) is repealed.

Section 4.

(a) For the period beginning July 1, 2010 and ending June 30, 2012:

(i) There is appropriated two hundred thousand dollars (\$200,000.00) from the general fund to the Wyoming

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department of environmental quality to pay the salary and benefits for the position authorized to be reclassified and filled under paragraph (ii) of this subsection;

(ii) The Wyoming department of environmental quality is authorized to reclassify one (1) computer technology support specialist full-time equivalent position which is vacant as of the effective date of this act to a principal accountant full-time equivalent position to assist the department in fulfilling its rulemaking duties relating to financial assurances pursuant to this act.

(b) The funding for the position authorized under subsection (a) of this section shall be included in the exception budget request of the department of environmental quality for the biennium beginning July 1, 2012.

(c) The authorization under paragraph (a)(ii) of this section to reclassify and fill the vacant position shall not be considered to be the filling of a vacant position for purposes of section 314 of 2010 House Bill 0001. The appropriation in paragraph (a)(i) of this section shall be reduced dollar for dollar by any funds appropriated in 2010 House Bill 0001 to the department for the vacant position reclassified pursuant to this section.

Section 5.

(a) Except as provided in subsection (b) of this section, this act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

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(b) Section 4 of this act is effective July 1, 2010.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk