

HOUSE BILL NO. HB0017

Carbon sequestration-financial assurances and regulation.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

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

11

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

13

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

15

16 **35-11-318. Geologic sequestration special revenue**
17 **account.**

1

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

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16 (b) The account shall consist of all monies collected
17 by the department to measure, monitor and verify Wyoming
18 geologic sequestration sites following site closure
19 certification, release of all financial assurance
20 instruments and termination of the permit. The department
21 shall promulgate rules necessary to collect monies in an
22 amount reasonably calculated to pay the costs of measuring,
23 monitoring and verifying the sites.

24

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

6

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

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

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18 **35-11-313. Carbon sequestration; permit requirements.**

19

20 (f) The administrator of the water quality division
21 of the department of environmental quality, after receiving
22 public comment and after consultation with the state
23 geologist, the Wyoming oil and gas conservation commission
24 and the advisory board created under this act, shall

1 recommend to the director rules, regulations and standards
2 for:

3

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

7

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

17

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

21

22 (A) Procedures to establish the type and
23 amount of the bond or financial assurance instrument to
24 assure that the operator faithfully performs all

1 requirements of this chapter, complies with all rules and
2 regulations and provides adequate financial resources to
3 pay for mitigation or reclamation costs that the state may
4 incur as a result of any default by the permit holder,
5 provided that, any insurance instruments submitted for
6 financial assurance purposes shall include the state of
7 Wyoming as an additional insured, which inclusion shall not
8 be deemed a waiver of sovereign immunity;

9
10 (B) Annual or other periodic reporting by
11 the permittee during geologic sequestration and reclamation
12 activities to allow the administrator to confirm or adjust
13 the amount or type of the bond or other financial assurance
14 requirements consistent with the site, facility and
15 operation specific risks and conditions;

16
17 (C) Procedures to require proof of
18 compliance from any permittee ordered by the administrator
19 to adjust a bond or other financial assurance, including
20 procedures for permit suspension or termination procedures
21 following notice and an opportunity for a hearing if
22 adequate bonding or financial assurance cannot be
23 demonstrated;

24

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

7
8 (E) Procedures for the director to forfeit
9 the bond or to make a claim against any insurance
10 instrument providing financial assurance, including the
11 right of the attorney general to bring suit to recover
12 costs if the bond or financial assurance is inadequate, to
13 pay for closure, mitigation, reclamation, measurement,
14 monitoring, verification and pollution control, where
15 recovery is deemed possible;

16
17 (F) Procedures, including public notice and
18 a public hearing if requested, for the release of bonds or
19 the termination of insurance instruments not less than ten
20 (10) years after the date when all wells excluding
21 monitoring wells have been appropriately plugged and
22 abandoned, all subsurface operations and activities have
23 ceased and all surface equipment and improvements have been
24 removed or appropriately abandoned, or so long thereafter

1 as necessary to obtain a completion and release certificate
2 from the administrator certifying that plume stabilization
3 as defined by rule has been achieved without the use of
4 control equipment based on a minimum of three (3)
5 consecutive years of monitoring data, and that the operator
6 has completed site reclamation and all required monitoring
7 and remediation sufficient to show that the carbon dioxide
8 injected into the geologic sequestration site will not harm
9 or present a risk to human health, safety or the
10 environment, including drinking water supplies, consistent
11 with the purposes of this chapter and the rules and
12 regulations adopted by the council;

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

21

22 (vii) Requirements for fees to be paid by all
23 permittees of geologic sequestration sites and facilities,
24 which may include a per ton injection fee or a closure fee,

1 during the period of injection of carbon dioxide and
2 associated constituents into subsurface geologic formations
3 in Wyoming, which fees shall be deposited in the geologic
4 sequestration special revenue account created by W.S.
5 35-11-318 for use as provided therein.

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

8
9 **Section 4.**

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

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14 (i) There is appropriated two hundred thousand
15 dollars (\$200,000.00) from the general fund to the Wyoming
16 department of environmental quality to pay the salary and
17 benefits for the position authorized under paragraph (ii)
18 of this subsection;

19
20 (ii) The Wyoming department of environmental
21 quality is authorized one (1) full-time equivalent position
22 for a financial analyst to assist the department in
23 fulfilling its rulemaking duties relating to financial
24 assurances pursuant to this act.

1

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

6

7 **Section 5.**

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

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

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(END)