Support Carbon Dioxide Transport Bill

SB 2421 & HB3119

What does SB 2421 do?
Creates the Carbon Dioxide Transport and Storage Protections Act, and creates Regulation around Carbon Capture Utilization and Storage (CCUS)

The unique geological position of Illinois makes it a prime location for carbon capture enterprises. Energy companies wanting to engage in carbon capture within Illinois are currently unaccountable to practice this process safely for Illinois residents or the state economy. Large energy companies have already submitted policy¹ that would allow them to come into Illinois and take advantage of this vulnerability. SB 2421 seeks to create accountability for this practice most notably by legally uniting pore space with the title to ownership of the land surrounding it, requiring the Illinois Emergency Management Agency to determine a fee for carbon capture (creating a designated fund), and requiring the Illinois Emergency Management Agency and the Department of Public Health to conduct training with specified requirements.

Regulatory Gaps, Research, & Necessity

According to a 2022 Prairie Research Institute report (required by Public Act 102-0341) on Carbon Capture, Utilization and Storage (CCUS), there are significant regulatory gaps at both the Federal and State level concerning CCUS and how this technology would impact property owners, groundwater resources, and climate goals. The report concluded that Illinois is woefully unprepared for and underprotected from CCUS projects. Illinois’ unique geology is likely to make it a target for carbon storage developers, especially now with Federal incentives from the Inflation Reduction Act. The Legislature must act now to protect against dangerous practices.

Among other regulatory gaps, the report found:

- A lack of clarity surrounding pore space ownership and state law on long-term legal and financial responsibility for CO2 storage
- An inadequate framework for long-term stewardship and oversight of stored CO2
- A need to develop frameworks to regulate CCS in consultation with impacted communities, particularly environmental justice communities

This bill establishes protections for human health and existing property owners at all key points in the carbon capture process: at the capture facility, in the pipelines, and at the

¹ https://docs.google.com/document/d/1yaag3TDz7e6Er1gr9KYQhcnxtfshhX82raGsUxcgis/edit?usp=sharing
sequestration site. It also shields the public from bearing the financial burden of abandoned projects, includes robust public participation, and bans use of captured carbon for Enhanced Oil Recovery.

Policy Details

Capture Facility Protections
The bill creates a CO\textsubscript{2} capture permit, issued by the IEPA, for any new CO\textsubscript{2} capture projects. That permitting process will require operators to:

- Report how much CO\textsubscript{2} is actually captured and how much is still released.
- Complete an environmental impact analysis and demonstrate that project will not harm local water supplies, increase other harmful emissions, or generate more carbon than it will capture.
- Engage in a public process, including posting key analyses underpinning the permit application before submission to IEPA, accepting public comments, and holding a public meeting. Draft permits will be subject to public comment and hearing.

Pipeline Protections
Under current law, pipeline operators are required to obtain a certificate of authority from the ICC. Additional protections are needed to require those operators to:

- Hold public meetings with county boards in each county the pipeline will pass through.
- Ensure pipelines are not located dangerously close (within 1.5 miles) to residences, businesses, schools, daycares, healthcare facilities, and other sensitive sites.
- Conduct a geohazard analysis to improve safety measures for these hazardous pipelines.
- Prohibit the use of eminent domain for CO\textsubscript{2} pipeline construction.

Sequestration Site Protections
- Clarifies that title to pore space belongs to the owner of surface land and expressly prohibits the forced acquisition of pore space (similar to eminent domain).
- Provides that sequestration operators, not landowners, are liable for any releases of stored carbon dioxide and requires operators to set aside funds to plug wells and address emergencies.
- Creates a permitting process for the sequestration site, requiring an operator to demonstrate there will be no likelihood of carbon release, no significant adverse impact on water quality, and no more carbon generated than stored. Operators remain responsible for post-injection care, monitoring, and reporting for at least 100 years.

Other Key Provisions
- Ban on use of captured CO\textsubscript{2} for enhanced oil recovery. Captured carbon cannot be used to just create even more carbon emissions.
- Establishes a fund to help communities with emergency preparedness and emergency response capabilities in the event of a carbon dioxide release.

Environmental, Economic, & Public Policy Impacts
The practice of carbon capture done under proposed industry policy would require the retrofitting of coal plants to use in carbon capture. However, the re-opening of these plants would vastly increase their co-pollutants production, not only undermining the goal of carbon sequestration, but also directly defying the Climate and
Equitable Jobs Acts (CEJA) mandate for reduced co-pollutants. This neglect of the Public Act known as CEJA may begin to informally repeal the progress Illinois has made, and economically undermine the investments already made into clean energy jobs and consumption. The proposed legislation shields the public from bearing the financial burden of abandoned projects, includes robust public participation, and bans use of captured carbon for Enhanced Oil Recovery. (Illinois Clean Jobs Coalition)

The Takeaway

In the interest of jobs, economy, environment, and supporting public action, the implementation of standards surrounding the practice of carbon capture by voting for SB 2421 is a way to protect the things that matter most to Illinoians and continue to invest in the future.