

SB2842



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB2842

Introduced 1/13/2026, by Sen. Michael W. Halpin

SYNOPSIS AS INTRODUCED:

220 ILCS 5/8-509
220 ILCS 75/20

from Ch. 111 2/3, par. 8-509

Amends the Public Utilities Act. In provisions concerning the exercise of eminent domain powers by a public utility, provides that an owner or operator of a pipeline designed, constructed, and operated to transport carbon dioxide to which the Illinois Commerce Commission has granted a certificate under the Carbon Dioxide Transportation and Sequestration Act shall not seek or exercise eminent domain authority from the Commission. Amends the Carbon Dioxide Transportation and Sequestration Act. Provides that a certificate of authority does not grant an owner or operator of a carbon dioxide pipeline the authority to take and acquire an easement in any property or interest in property for the construction, maintenance, or operation of a carbon dioxide pipeline through the exercise of eminent domain power. Removes corresponding provisions concerning eminent domain.

LRB104 17076 AAS 30493 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 Public Utilities Act is amended by changing
5 Section 8-509 as follows:

6 (220 ILCS 5/8-509) (from Ch. 111 2/3, par. 8-509)

7 Sec. 8-509. When necessary for the construction of any
8 alterations, additions, extensions or improvements ordered or
9 authorized under Section 8-406.1 or 8-503 of this Act, any
10 public utility may enter upon, take or damage private property
11 in the manner provided for by the law of eminent domain. If a
12 public utility seeks relief under this Section in the same
13 proceeding in which it seeks a certificate of public
14 convenience and necessity under Section 8-406.1 of this Act,
15 the Commission shall enter its order under this Section either
16 as part of the Section 8-406.1 order or at the same time it
17 enters the Section 8-406.1 order. If a public utility seeks
18 relief under this Section after the Commission enters its
19 order in the Section 8-406.1 proceeding, the Commission shall
20 issue its order under this Section within 45 days after the
21 utility files its petition under this Section.

22 This Section applies to the exercise of eminent domain
23 powers by telephone companies or telecommunications carriers

1 only when the facilities to be constructed are intended to be
2 used in whole or in part for providing one or more intrastate
3 telecommunications services classified as "noncompetitive"
4 under Section 13-502 in a tariff filed by the condemnor. The
5 exercise of eminent domain powers by telephone companies or
6 telecommunications carriers in all other cases shall be
7 governed solely by "An Act relating to the powers, duties and
8 property of telephone companies", approved May 16, 1903, as
9 now or hereafter amended.

10 This Section applies to ~~the exercise of eminent domain~~
11 ~~powers by~~ an owner or operator of a pipeline designed,
12 constructed, and operated to transport carbon dioxide to which
13 the Commission has granted a certificate under Section 20 of
14 the Carbon Dioxide Transportation and Sequestration Act. Such
15 an owner or operator shall not and may seek or exercise eminent
16 domain authority from the Commission under this Section. ~~If~~
17 ~~the applicant of such a certificate of authority for a new~~
18 ~~carbon dioxide pipeline seeks relief under this Section in the~~
19 ~~same proceeding in which it seeks a certificate of authority~~
20 ~~for a new carbon dioxide pipeline under Section 20 of the~~
21 ~~Carbon Dioxide Transportation and Sequestration Act, the~~
22 ~~Commission shall enter its order under this Section either as~~
23 ~~part of or at the same time as its order under the Carbon~~
24 ~~Dioxide Transportation and Sequestration Act.~~ Notwithstanding
25 anything to the contrary in this Section, the owner or
26 operator of such a pipeline shall not be considered to be a

1 public utility for any ~~other~~ provisions of this Act.

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

3 Section 10. The Carbon Dioxide Transportation and
4 Sequestration Act is amended by changing Section 20 as
5 follows:

6 (220 ILCS 75/20)

7 Sec. 20. Application.

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

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

17 (1) the application was properly filed;

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

22 (3) the applicant has entered into one or more
23 agreements with a source or sources that will result in
24 the reduction of carbon dioxide emissions from that source

1 or sources and the applicant has filed such agreement or
2 agreements as part of its application;

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

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

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

16 (6.1) the applicant has applied for any and all other
17 federal permits necessary to construct and operate a
18 carbon dioxide pipeline;

19 (6.2) the applicant has held at least 2 prefiling
20 public meetings to receive public comment concerning the
21 proposed carbon dioxide pipeline in each county where the
22 pipeline is to be located, no earlier than 6 months prior
23 to the filing of the application. Notice of the public
24 meeting shall be published in a newspaper of general
25 circulation within the affected county once a week for 3
26 consecutive weeks, beginning no earlier than one month

1 prior to the first public meeting. Notice of each public
2 meeting, including a description of the carbon dioxide
3 pipeline, must be provided in writing to the clerk of each
4 county where the project is to be located and to the chief
5 clerk of the Commission. A representative of the
6 Commission shall be invited to each prefiling public
7 meeting. The applicant shall maintain a dedicated public
8 website which provides details regarding the proposed
9 route of the pipeline, plans for construction, status of
10 the application, and the manner in which members of the
11 public may offer their opinions regarding the pipeline;

12 (6.3) the applicant has directly contacted the owner
13 of each parcel of land located within 2 miles of the
14 proposed pipeline route by certified mail, or made good
15 faith efforts if the owner of record cannot be located,
16 advising them of the proposed pipeline route and of the
17 date and time of each public meeting to be held in the
18 county in which each landowner's property is located;

19 (6.4) the applicant has prepared and submitted a
20 detailed emergency operations plan, which addresses at a
21 minimum, emergency operations plan requirements adopted by
22 the Illinois Emergency Management Agency and Office of
23 Homeland Security under paragraph (4) of subsection (f) of
24 Section 5 of the Illinois Emergency Management Agency Act.
25 The submitted emergency operations plan shall also provide
26 for post-emergency analysis and controller actions. In

1 addition, the applicant shall demonstrate that it has
2 communicated with the county emergency services and
3 disaster agency (ESDA), or other relevant mandated ESDA,
4 to coordinate its emergency operations plan for the
5 pipeline with the county ESDA's, or other relevant
6 mandated ESDA's, emergency operations plan;

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

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

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

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

26 (C) any evidence presented by the Department of

Commerce and Economic Opportunity regarding the current and future local, State-wide, or regional economic effect, direct or indirect, of the proposed pipeline or facility including, but not limited to, ability of the State to attract economic growth, meet future energy requirements, and ensure compliance with environmental requirements and goals;

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

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

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

(c) When an applicant files its application for a certificate of authority with the Commission, it shall provide notice to each unit of local government where the proposed pipeline will be located and include a map of the proposed

1 pipeline route. The applicant shall also publish notice in a
2 newspaper of general circulation in each county where the
3 proposed pipeline is located.

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

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

1 route width, file its final list of affected landowners with
2 the Commission at least 14 days in advance of beginning
3 construction on any tract within the project route width ~~and~~
4 ~~also provide the Commission with at least 14 days' notice~~
5 ~~before filing a complaint for eminent domain in the circuit~~
6 ~~court with regard to any tract within the project route width.~~

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

16 (g) A final order of the Commission granting a certificate
17 of authority pursuant to this Act shall be conditioned upon
18 the applicant obtaining all required permits or approvals from
19 the Pipeline and Hazardous Materials Safety Administration of
20 the U.S. Department of Transportation, U.S. Army Corps of
21 Engineers, and Illinois Department of Agriculture, in addition
22 to all other permits and approvals necessary for the
23 construction and operation of the pipeline prior to the start
24 of any construction. The final order must specifically
25 prohibit the start of any construction until all such permits
26 and approvals have been obtained. The Commission shall not

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

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

26 (h) Within 6 months after the Commission's entry of an

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

1 only to the extent that the route deviation has raised new
2 concerns with regard to those issues.

3 (i) A certificate of authority to construct and operate a
4 carbon dioxide pipeline issued by the Commission shall contain
5 a grant of authority to construct and operate a carbon dioxide
6 pipeline as requested in the application, subject to the laws
7 of this State. A certificate of authority does not grant an
8 owner or operator of a carbon dioxide pipeline the authority
9 to take and acquire an easement in any property or interest in
10 property for the construction, maintenance, or operation of a
11 carbon dioxide pipeline through the exercise of eminent domain
12 power. and include all of the following:

13 (1) ~~a grant of authority to construct and operate a~~
14 ~~carbon dioxide pipeline as requested in the application,~~
15 ~~subject to the laws of this State; and~~

16 (2) ~~the right to seek eminent domain authority from~~
17 ~~the Commission under Section 8-509 of the Public Utilities~~
18 ~~Act.~~

19 (j) All applications under this Act pending before the
20 Commission on the effective date of this amendatory Act of the
21 103rd General Assembly shall be dismissed without prejudice.

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