2022 Regular Session

HOUSE BILL NO. 655

BY REPRESENTATIVE COUSSAN

ENERGY/ALTERNATE: Provides relative to the management of solar resources

AN ACT

To amend and reenact R.S. 30:136.3(D) and 1154(A)(introductory paragraph) and (6), (B), (C), and (D) and to enact R.S. 30:136.3(B)(5) and 1154(A)(9), (E), and (F), relative to solar energy; to provide for the powers and duties of the secretary of the Department of Natural Resources; to require a permit to operate a solar power generation facility; to provide for fees; to provide for financial security; to provide for the Mineral and Energy Operation Fund; to provide for definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 30:136.3(D) and 1154(A)(introductory paragraph) and (6), (B), (C), and (D) are hereby amended and reenacted and R.S. 30:136.3(B)(5) and 1154(A)(9), (E), and (F) are hereby enacted to read as follows:

§136.3. Mineral and Energy Operation Fund

* * *

B. Out of the funds remaining in the Bond Security and Redemption Fund, after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year as required by Article VII, Section 9(B) of the Constitution of Louisiana, the
treasurer in each fiscal year shall pay into the fund revenues and amounts from the following sources:

* * *

(5) All revenue received from fees collected pursuant to R.S. 30:1154.

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D. The monies in the fund shall be appropriated by the legislature to the Department of Natural Resources to be used solely for the administration and regulation of minerals, ground water, and related energy activities. Additionally, monies deposited into the fund pursuant to Paragraph (B)(5) of this Section shall be used solely for the administration and regulation of solar devices and solar power generation facilities.

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§1154. Regulations governing solar devices; solar leases

A. The secretary shall develop and adopt, in cooperation with affected utility, agricultural, and solar industries, landowners, and consumer representatives and after one or more public hearings, regulations governing solar devices power generation facilities and property leases for the exploration, development, and production of solar energy. The regulations shall be designed to encourage the development and use of solar energy and to provide maximum information to the public concerning solar devices and solar power generation facilities. The regulations may include all of the following:

* * *

(6) Prohibitions on the sale installation of solar devices in a solar power generation facility that do not meet minimum requirements for safety, capacity, and durability as established by the secretary.

* * *

(9)(a) Requirements for a permit to construct and operate a solar power generation facility shall include a bond or other acceptable financial security in an amount determined by the secretary to ensure proper site closure. Any bond shall
be executed by the permittee and a corporate surety licensed to do business in the
state. The bond or other instrument shall be payable to the Department of Natural
Resources and shall ensure the following:

(i) Substantial compliance with this Section and any rule or regulation
promulgated pursuant to this Section,

(ii) Compliance with any permit issued or enforced pursuant to this Section,

(iii) Compliance, as determined by a court of competent jurisdiction, with
provisions of the property lease for the exploration, development, and production of
solar energy on which the facility is located and that the violation would require
closure of the facility. The department shall notify the lessor of any enforcement
action against a permittee or upon a claim against the bond or other instrument.

(b) In determining the adequacy of the amount or other specific requirements
of the bond or other financial security, the secretary shall consider the following:

(i) The assets, debts, and compliance history of the applicant or permittee.

(ii) The condition and capacity of the facilities to be covered by such
security.

(iii) The estimated cost of site closure, including remediation of the property.

(iv) Any other factor that may impact the ability to operate and maintain the
facilities.

B. The secretary shall give due consideration to the effects of the regulations
on the cost of purchasing, installing, operating, and maintaining solar devices in a
solar power generation facility, and shall reassess and amend the regulations as often
as deemed necessary considering their effect upon the benefits and disadvantages to
the widespread adoption of solar energy systems and the need to encourage creativity
and innovative adaptations of solar energy.

C. Under no circumstances may the secretary preclude any person from
developing, installing, or operating a solar device on his own property for residential
use or collect any fee for such use.
D. No person shall construct or operate a solar power generation facility that has a footprint of ten or more acres without holding a permit issued pursuant to the rules and regulations provided for in this Section. In addition to other requirements for the issuance of a permit, the department shall collect an application fee not to exceed five hundred dollars and fifty dollars per acre of the solar power generation facility footprint. Additionally, the department shall collect an annual monitoring and maintenance fee beginning the year after issuance and every year thereafter not to exceed fifty dollars per acre of the facility footprint. Any application for a permit shall include a decommissioning plan for the facility that plans for closure at the end of life of the facility as well as closure in the event of a disaster making operation of the power generation facility impossible. The decommissioning plan shall be reviewed for sufficiency by the department. All the monies collected from the fees provided for in this Subsection shall be deposited in the Mineral and Energy Operation Fund.

E. For purposes of this Section, the following terms shall have the meanings ascribed to them in this Subsection, unless the context or use clearly indicates otherwise:

(1) "Solar power generation facility" means one or more solar devices and any facility or equipment used to support the operation of the solar devices, including any underground or above ground electrical transmission or communications line, an electric transformer, a battery storage facility, an energy storage facility, telecommunications equipment, a road, a meteorological tower, or a maintenance yard.

(2) "Solar device" means a solar energy collector or solar energy system that provides for the collection of solar energy or the subsequent use of that energy as thermal, mechanical, or electrical energy.

F. Any violation of any regulation adopted by the secretary pursuant to this Section may be enjoined in the manner prescribed by law.
DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Abstract: Establishes a regulatory framework for the management of solar resources.

Present law provides for the sources of payments into the Bond Security and Redemption Fund. Proposed law adds solar power and limits the use of any monies deposited into the account to the administration and regulation of solar devices or solar power generation facilities.

Present law provides for the regulation of solar devices. Proposed law provides for the regulation of solar power generating facilities.

Present law prohibits the sale of solar devices that do not meet certain minimum requirements. Proposed law modifies present law by prohibiting the installation, instead of the sale, of solar devices in a solar power generation facility that do not meet certain minimum requirements.

Proposed law requires a permit to construct and operate a solar power generation facility. Further provides that the permit be bonded or secured in an amount to be determined by the secretary of the Dept. of Natural Resources to ensure proper site closure.

Proposed law further requires the instrument be payable to the Dept. of Natural Resources and ensure all of the following:

1. Substantial compliance with this Section and any rule or regulation promulgated pursuant to this Section.
2. Compliance with any permit issued or enforced pursuant to this Section.
3. Compliance, as determined by a court of competent jurisdiction, with provisions of the property lease for the exploration, development, and production of solar energy on which the facility is located and that the violation would require closure of the facility. Also requires the department notify the lessor of any enforcement action against a permittee or upon a claim against the bond or other instrument.

Proposed law further specifies that in determining the adequacy of the amount or other specific requirements of the bond or other financial security, the secretary must consider the following:

1. The assets, debts, and compliance history of the applicant or permittee.
2. The condition and capacity of the facilities to be covered by such security.
3. The estimated cost of site closure, including remediation of the property.
4. Any other factor that may impact the ability to operate and maintain the facilities.

Present law prohibits the secretary from preventing any person from developing, installing, or operating a solar device on his own property for residential use. Proposed law retains present law and adds a prohibition on the collection of any fee associated with such use.

Proposed law prohibits the construction or operation of any solar power generation facility that has a footprint of 10 or more acres without holding a permit issued pursuant to the rules and regulations provided for in proposed law.

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CODING: Words in struck through type are deletions from existing law; words underscored are additions.
Proposed law mandates the collection of an application fee not to exceed $550 per acre of the solar power generation facility footprint. Additionally, requires the collection of an annual monitoring and maintenance fee beginning the year after issuance and every year thereafter not to exceed $50 per acre of the facility footprint.

Proposed law requires a decommissioning plan for the facility that plans for closure at the end of life of the facility as well as closure in the event of a disaster making operation of the power generation facility impossible. Further requires that the plan be reviewed for sufficiency by the department.

Proposed law provides for the disposition of all moneys collected from fees provided for in proposed law into the Mineral and Energy Operation Fund.

Proposed law defines the terms "solar power generation facility" and "solar device".

(Amends R.S. 30:136.3(D) and 1154(A)(intro. para.) and (6), (B), (C), and (D); Adds R.S. 30:136.3(B)(5) and 1154(A)(9), (E), and (F))