

RÉSUMÉ DIGEST

ACT 555 (HB 655)

2022 Regular Session

Coussan

Existing law provides for the sources of payments into the Mineral and Energy Operation Fund. New law retains existing law and adds solar power and limits the use of any monies deposited into the account to the administration and regulation of solar power generation facilities.

Prior law provided for the regulation of solar devices. New law provides for the regulation of solar power generating facilities.

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

New law authorizes the secretary to accept any financial security provided to the landowner or lessor for facilities exempted from permit fees by new law.

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

- (1) Substantial compliance with new law and any rule or regulation promulgated pursuant to new law.
- (2) Compliance with any permit issued or enforced pursuant to new law.
- (3) Compliance, as determined by a court of competent jurisdiction, with provisions of the property lease 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.

New 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 and remediation including the removal of the facility and associated infrastructure with the goal of restoring the property to its pre-construction condition. Specifies that the secretary may only consider the salvage value of the facility and associated infrastructure in determining the estimated cost of site closure and remediation if the materials are available in decommissioning during a bankruptcy of the facility owner or operator. Specifies that an increase in the amount of financial security required must be secured by the permit holder within 30 days of notification of the increase.

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

New 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 new law.

New law provides the permit in new law only pertains to the implementation of the decommissioning plan and financial security requirements.

New law mandates the collection of the following fees:

- (1) An application fee not to exceed \$15 per acre of the solar power generation facility footprint.
- (2) An application processing fee not to exceed \$500.
- (3) An annual monitoring and maintenance fee the initial year after issuance of the permit and not to exceed \$15 per acre of the facility footprint thereafter.

New law provides that the fee charged by the department cannot exceed its budgeted implementation and administration costs for the year the fee is charged.

New 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 updated every five years and reviewed for sufficiency by the department and approved by the secretary.

New law provides that any solar power generation facility that is certified by the Public Service Commission or the council of the city of N.O. on or before Aug. 2, 2022, is exempt from the permit fees, must register by Jan. 1, 2023, and comply with the requirements of new law and any rule and regulations promulgated pursuant to new law by June 30, 2024.

New law provides for the disposition of all monies collected from fees provided for in new law into the Mineral and Energy Operation Fund.

New law defines the terms "solar power generation facility", "solar device", and "salvage value".

New law exempts facilities owned by an electric utility provider regulated by the Public Service Commission or the council of the city of N.O. from the bonding requirement when the following circumstances are met:

- (1) The facilities are located on land owned by the electric utility provider and the provider is capable of demonstrating a decommissioning plan to the regulator.
- (2) The facilities are located on land leased by the electric utility provider and the regulated electric utility provider guarantees to pay the cost of the decommissioning and the lease of the land provides for site decommissioning.

New law provides that if a solar power generation facility is sold or otherwise transferred, the secretary cannot release the bond or other financial security of the seller or transferor until the buyer or transferee provides a bond or other acceptable financial security in accordance with the provisions of new law.

New law requires the Dept. of Natural Resources to reimburse the state general fund by June 30, 2026, for any appropriation to the department for the administration and regulation of solar power generating facilities for Fiscal Years 2022-2023 or 2023-2024 from any revenues received from fees collected pursuant to this Act. New law authorizes the reimbursement to be considered part of the department's budgeted costs.

Effective August 2, 2022.

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