

2022 Regular Session

HOUSE BILL NO. 655

BY REPRESENTATIVE COUSSAN AND SENATOR ALLAIN

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

1 AN ACT

2 To amend and reenact R.S. 30:136.3(D) and 1154(A)(introductory paragraph) and (6), (B),

3 (C), and (D) and to enact R.S. 30:136.3(B)(5) and 1154(A)(9), (E), and (F), relative

4 to solar energy; to provide for the powers and duties of the secretary of the

5 Department of Natural Resources; to require a permit to construct or operate a solar

6 power generation facility; to provide for fees; to provide for financial security; to

7 provide for the Mineral and Energy Operation Fund; to provide for definitions; and

8 to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 30:136.3(D) and 1154(A)(introductory paragraph) and (6), (B), (C),

11 and (D) are hereby amended and reenacted and R.S. 30:136.3(B)(5) and 1154(A)(9), (E),

12 and (F) are hereby enacted to read as follows:

13 §136.3. Mineral and Energy Operation Fund

14 \* \* \*

15 B. Out of the funds remaining in the Bond Security and Redemption Fund,

16 after a sufficient amount is allocated from that fund to pay all obligations secured by

17 the full faith and credit of the state which become due and payable within any fiscal

18 year as required by Article VII, Section 9(B) of the Constitution of Louisiana, the

1 treasurer in each fiscal year shall pay into the fund revenues and amounts from the  
2 following sources:

3 \* \* \*

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

5 \* \* \*

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

12 \* \* \*

13 §1154. Regulations governing solar devices; solar leases

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

22 \* \* \*

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

26 \* \* \*

27 (9)(a) Requirements for a permit to construct or operate a solar power  
28 generation facility shall include a bond or other acceptable financial security in an  
29 amount determined by the secretary to ensure proper site closure. Any bond shall

1 be executed by the permittee and a corporate surety licensed to do business in the  
2 state. The bond or other instrument shall be payable to the Department of Natural  
3 Resources and shall ensure the following:

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

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

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

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

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

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

17 (iii) The estimated cost of site closure and remediation that includes the  
18 estimated cost of removing the solar power generation facility and associated  
19 infrastructure from the property and restoring the property to as near as reasonably  
20 possible to the condition of the property prior to the commencement of construction  
21 of the facility. The secretary shall adjust the estimated cost based upon any updated  
22 decommissioning plan submitted pursuant to Paragraph (D)(2) of this Section. Any  
23 increase in the amount of financial security required shall be secured by the permit  
24 holder within thirty days of notification of the increase.

25 B. The secretary shall give due consideration to the effects of the regulations  
26 on the cost of purchasing, installing, operating, and maintaining solar devices in a  
27 solar power generation facility, and shall reassess and amend the regulations as often  
28 as deemed necessary considering their effect upon the benefits and disadvantages to

1 the widespread adoption of solar energy systems and the need to encourage creativity  
2 and innovative adaptations of solar energy.

3 C. Under no circumstances may the secretary preclude any person from  
4 developing, installing, or operating a solar device on his own property for residential  
5 use or collect any fee for such use.

6 D.(1) No person shall construct or operate a solar power generation facility  
7 that has a footprint of ten or more acres without holding a permit issued pursuant to  
8 the rules and regulations provided for in this Section. In addition to other  
9 requirements for the issuance of a permit, the department shall collect the following  
10 fees:

11 (a) An application fee not to exceed fifty dollars per acre of the solar power  
12 generation facility footprint.

13 (b) An application processing fee not to exceed five hundred dollars.

14 (c) An annual monitoring and maintenance fee beginning the year after  
15 issuance of the permit and every year thereafter not to exceed fifty dollars per acre  
16 of the facility footprint.

17 (d) Notwithstanding the provisions of this Paragraph, no applicant or permit  
18 holder shall be charged a fee that exceeds the department's budgeted costs of  
19 implementing and administering the provisions of this Section for the fiscal year in  
20 which the fee is charged.

21 (2) Any application for a permit shall include a decommissioning plan for the  
22 facility that plans for closure at the end of life of the facility as well as closure in the  
23 event of a disaster making operation of the power generation facility impossible.  
24 The decommissioning plan shall be updated every five years after the initial  
25 submission. All submitted plans shall be reviewed for sufficiency by the department  
26 and approved by the secretary.

27 (3) Any power generation facility in construction or operating before August  
28 1, 2022, shall register with the department and pay the annual monitoring and  
29 maintenance fee provided for in this Subsection. Beginning January 1, 2024, such

1 facilities shall be in compliance with this Section and any rules and regulations  
2 promulgated pursuant to this Section, including obtaining financial security and  
3 submitting a decommissioning plan.

4 (4) All the monies collected from the fees provided for in this Subsection  
5 shall be deposited in the Mineral and Energy Operation Fund.

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

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

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

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

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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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HB 655 Engrossed

2022 Regular Session

Coussan

**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 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 an increase in the amount of financial security required must be secured by the permit holder within 30 days of application of the increase by the secretary.

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.

Proposed law mandates the collection of the following fees:

- (1) An application fee not to exceed \$550 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 \$50 per acre of the facility footprint thereafter. Specifies that the fee charged by the dept. cannot exceed its budgeted implementation and administration costs for the year the fee is charged.

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

Proposed law requires power generation facilities in construction prior to Aug. 1, 2022 to register with the department and pay an annual monitoring and maintenance fee. Further

specifies that beginning Jan. 1, 2024 facilities must be in compliance with proposed law and dept. rules and regulations, including financial security and submission of a decommissioning plan.

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))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Natural Resources and Environment to the original bill:

1. Make technical changes.
2. Narrow the requirements for calculating the estimated cost of site closures and remediation for purposes of determining the adequacy of the bond or other financial security.
3. Cap the amount the department can charge in fees to an applicant or permit holder in a given fiscal year at an amount not to exceed the department's budgeted cost of implementing and administering the program.
4. Change the review process for decommissioning plans from only requiring plans to be reviewed for sufficiency by the department to requiring plans be updated every five years after the initial plan submission and be reviewed for sufficiency by the department.
5. Require power generation facilities in construction prior to Aug. 1, 2022, to register with the department and pay an annual monitoring and maintenance fee.
6. Specify that beginning Jan. 1, 2024, facilities must be in compliance with proposed law and department rules and regulations, including financial security and submission of a decommissioning plan.