
DIGEST

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HB 655 Reengrossed

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 power generation facilities.

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

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 \$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. 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 who are otherwise exempt from obtaining a bond or other acceptable financial security under proposed law or that are 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".

Proposed law requires the Dept, of Natural Resources to reimburse the state general fund within five years for any appropriation received within the first two years.

Proposed law exempts certain facilities that provide power to Public Service Commission regulated utilities or the council of the city of New Orleans from the bonding requirement when all of the following are met:

- (1) The facility holds a corporate guarantee from the regulated electric utility provider in a form acceptable to the secretary and sufficient to pay the cost of the decommissioning plan provided for in proposed law.
- (2) A sale or transfer of the facility does not terminate the provision of power to the regulated electric facility.
- (3) The contract between the facility and the regulated utility provides for site decommissioning at the end of the facility's life or at the conclusion, termination, or default of the contract with the regulated utility, whichever occurs first.
- (4) The Public Service Commission promulgates rules and regulations providing for decommissioning requirements for solar power generation facilities.

Proposed 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 proposed law.

Proposed 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.

(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))

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.

The House Floor Amendments to the engrossed bill:

1. Remove the prohibition of the installation of solar devices that do not meet certain standards.
2. Clarify that the revenue from the fees are to be used to regulate solar power generation facilities.
3. Exempt certain facilities that provide power to Public Service Commission regulated utilities or the council of the city of New Orleans from the bonding requirement and establish additional criteria which must be met in order to be exempted.
4. Prohibit the secretary from releasing the bond or other financial security if the solar power generation facility is sold or transferred until the buyer or transferee provides a bond or other acceptable financial security.
5. Change the per acre application fee and the annual monitoring and maintenance fee from \$50 to \$15.
6. Clarify that the application handling fee is for the entire project.
7. Exempt facilities that are exempt from obtaining a bond or other acceptable financial security under proposed law and are in construction or operation on or before Aug. 1, 2022, from the requirement to obtain financial security.
8. Require the Dept. of Natural Resources to reimburse the state general fund within five years for any appropriation received within the first two years.
9. Make technical changes.