

HB623 INTRODUCED



1 HB623
2 W1RAY95-1
3 By Representative Sells
4 RFD: State Government
5 First Read: 17-Mar-26



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SYNOPSIS:

This bill would require all persons to obtain a permit from the Alabama Department of Environmental Management to operate a utility-scale solar energy project.

This bill would provide for a permit application process, establish filing fees, and require the department to issue a decision in writing within 30 days of receiving a permit application.

This bill would require operators of utility-scale solar energy projects to decommission the projects within one year of ceasing operation and restore the land within three years of ceasing operation.

This bill would require operators of utility-scale solar energy projects to establish a bond, security deposit, or other irrevocable financial assurances with the department in amounts sufficient to decommission the project and restore the affected lands.

This bill would authorize the department to undertake decommissioning and restoration activities of utility-scale solar energy projects that the department determines are abandoned.

This bill would establish the Abandoned



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29 Utility-Scale Solar Energy Project Fund in the State
30 Treasury for the purpose of decommissioning projects
31 and restoring lands of abandoned projects.

32 This bill would authorize the department to
33 adopt necessary rules to implement and enforce the
34 provisions of this act and would authorize the director
35 to enforce the provisions of this act.

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A BILL

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TO BE ENTITLED

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AN ACT

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42 Relating to solar energy; to require a permit from the
43 Alabama Department of Environmental Management to operate
44 certain solar energy projects; to provide for a permit
45 application process; to establish decommissioning and
46 restoration requirements; to require operators to establish
47 bonds, security deposits, or other irrevocable financial
48 assurances with the department; to authorize the department to
49 decommission and restore abandoned projects; to establish the
50 Abandoned Utility-Scale Solar Energy Project Fund for
51 decommissioning projects and restoring lands of abandoned
52 projects; to provide for the enforcement of this act; and to
53 authorize the department to adopt rules.

54 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

55 Section 1. For the purpose of this act, the following
56 terms have the following meanings:



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57 (1) CONTIGUOUS. Two or more tracts of land in actual
58 contact and touching for a continuous distance of at least 200
59 feet. The term includes tracts of land divided by bodies of
60 water, streets, railroads, or utility rights-of-way, or by
61 land owned by a governmental entity.

62 (2) DEPARTMENT. The Alabama Department of Environmental
63 Management.

64 (3) DIRECTOR. The Director of the Alabama Department of
65 Environmental Management.

66 (4) OPERATOR. Any person engaged in or controlling one
67 or more utility-scale solar energy project.

68 (5) PHOTOVOLTAIC TECHNOLOGY. Technology that generates
69 electrical power from sunlight.

70 (6) UTILITY-SCALE SOLAR ENERGY PROJECT or PROJECT. A
71 ground-mounted photovoltaic technology, concentrating
72 photovoltaic technology, or concentrating solar power project
73 capable of generating two or more megawatts of AC power which
74 is directly connected to the local or regional electrical grid
75 with the ability to deliver power to the electrical grid. The
76 term includes solar arrays, accessory buildings, battery
77 storage facilities, transmission facilities, and any other
78 infrastructure necessary for the operation of the project. The
79 term does not include renewable energy facilities owned or
80 leased by a retail electric customer intended primarily for
81 the customer's own use; to offset the customer's own retail
82 electrical energy consumption at the premises; or for net
83 metering.

84 Section 2. (a) No person may operate a utility-scale



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85 solar energy project without a valid permit from the
86 department. A separate permit shall be required for each
87 utility-scale solar energy project that is not contiguous to
88 another utility-scale solar energy project for which a person
89 has a valid permit.

90 (b) An operator desiring a permit shall file an
91 application with the department which includes all of the
92 following information:

93 (1) Identification and contact information of the
94 operator and any other legal entity that will be responsible
95 for either decommissioning the project, providing financial
96 assurance, or both.

97 (2) A description of the tract or tracts of land to be
98 affected by the applicant's utility-scale solar energy
99 project, including the following information: (i) the
100 estimated number of acres to be affected; (ii) the section,
101 township, range, and county in which the land is located; and
102 (iii) a description of access to the area from the nearest
103 public highway.

104 (3) A statement as to whether the operator or any other
105 person associated with the operator holds or has held any
106 other permits under this act and an identification of the
107 permits.

108 (4) A summary of the project timeline, including actual
109 or anticipated initiation and completion of construction,
110 initiation of operations, and expected service life of the
111 project.

112 (5) A comprehensive decommissioning plan, as described



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113 in subsection (g).

114 (6) Any other information the department may require to
115 determine whether a permit should be issued.

116 (c) At the time of filing a permit application, an
117 operator shall pay a filing fee of two thousand five hundred
118 dollars (\$2,500).

119 (d) (1) Upon receipt of a completed utility-scale solar
120 energy project permit application, the department shall grant,
121 require modification of, or deny the permit within 30 days and
122 notify the operator in writing of its decision.

123 (2) The department may deny a permit for any of the
124 following reasons:

125 a. The information in the application is incomplete,
126 false, or inaccurate.

127 b. The operator fails to submit a feasible
128 decommissioning plan.

129 c. The operator, or other entity listed in the
130 application, controls or has controlled a utility-scale solar
131 energy project with a demonstrated pattern of willful
132 violations of this act.

133 d. The operator, or other entity listed in the
134 application, has forfeited a bond for failure to decommission
135 a utility-scale solar energy project under this act.

136 (e) At the time the department grants a permit, the
137 operator shall have 10 days to establish with the department a
138 bond, security deposit, or other irrevocable financial
139 assurance as described in Section 4.

140 (f) (1) An operator may file an amended permit



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141 application with the department to do either of the following:

142 a. Include additional land in an issued permit.

143 b. Withdraw land covered by an issued permit.

144 (2) At the time of filing an amended permit
145 application, an operator shall pay a filing fee of five
146 hundred dollars (\$500).

147 (3) Upon granting an amended application to include
148 additional land, the department shall:

149 a. Require the operator to increase the bond, security
150 deposit, or other irrevocable financial assurance to reflect
151 the additional land covered by the permit; and

152 b. Issue an amendment to the original permit covering
153 the additional land described in the amended application for
154 the period of time remaining in the original permit.

155 (4)a. Upon receipt of an amended application to
156 withdraw land covered by an issued permit, the department
157 shall inspect the land to be withdrawn to verify that the
158 withdrawn land is not affected by the operator's utility-scale
159 solar energy project.

160 b. Upon granting an amended application to withdraw
161 land covered by an issued permit, the department shall:

162 1. Proportionately reduce the bond, security deposit,
163 or other irrevocable financial assurance; and

164 2. Issue an amendment to the original permit that
165 covers the land that has not been withdrawn from the permit.

166 (g) The comprehensive decommissioning plan, required
167 under subsection (b), shall be prepared, signed, and sealed by
168 a professional engineer licensed in this state and shall



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169 include all of the following information:

170 (1) The name, address, and contact information of the
171 operator of the utility-scale solar energy project, and the
172 name, address, and contact information of the landowner of the
173 property on which the utility-scale solar energy project is
174 located, if different from the operator.

175 (2) A narrative description of how the decommissioning
176 will be conducted, including: (i) the decommissioning
177 sequencing; (ii) the disposition of materials used in the
178 project upon decommissioning, such as landfilling, reuse, or
179 recycling of project equipment, and specifying the methods for
180 disposing of hazardous waste; and (iii) a schedule for
181 completion of the decommissioning activities.

182 (3) Information on equipment proposed to be salvaged,
183 including the estimated salvage value of the equipment for the
184 purpose of determining the required value of the bond,
185 security deposit, or other irrevocable financial assurance.

186 (4) Information on steps to be taken to restore the
187 land according to Section 3(b).

188 (5) A cost estimate for decommissioning the project and
189 restoration of the land according to Section 3.

190 (6) The proposed mechanism to satisfy the financial
191 assurance requirements established under Section 4 act,
192 including, but not limited to, the following information:

193 a. Which legal entity will establish the mechanism.

194 b. When the mechanism will be established.

195 c. How the department will access the funds from the
196 mechanism if needed.



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197 Section 3. (a) Upon cessation of operations, the
198 operator of a utility-scale solar energy project shall do all
199 of the following:

200 (1) Notify the department within 30 days.

201 (2) Decommission the project within one year.

202 (3) Commence restoration of the land according to
203 subsection (b) within one year.

204 (b) The operator of a utility-scale solar energy
205 project shall take all of the following steps in
206 decommissioning a project:

207 (1) Disconnect the project from the power grid.

208 (2) Remove all equipment from the project site and
209 properly reuse, recycle, or dispose of all equipment.

210 Equipment that meets the definition of hazardous waste shall
211 be disposed of according to the requirements of Chapter 30,
212 Title 22, Code of Alabama 1975.

213 (3)a. Restore the land to either: (i) as nearly as
214 practicable to its condition before the utility-scale solar
215 energy project was undertaken; or (ii) an alternative
216 condition agreed upon in a written contract or lease agreement
217 between the operator and the landowner, if different from the
218 operator.

219 b. A copy of the agreement signed by both parties shall
220 be provided to the department prior to decommissioning.

221 c. The condition of the land shall otherwise comply
222 with any applicable statutory requirements, rules adopted by
223 the department, or local ordinances.

224 d. The operator may revegetate or reforest land that



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225 was cleared of trees with seedlings.

226 (c) The operator shall complete the restoration of all
227 affected lands within three years of ceasing operations.

228 (d) Upon commencing decommissioning and restoration
229 activities, the operator shall provide quarterly reports of
230 all decommissioning and restoration activities to the
231 department until the operator completes the restoration of the
232 affected lands.

233 Section 4. (a) (1) The operator of a utility-scale solar
234 energy project shall obtain a performance bond or provide a
235 security deposit or other financial assurance with the
236 department in an amount determined by the department to be
237 sufficient to decommission the project and restore the
238 affected lands according to Section 3 even if the operator
239 becomes insolvent or ceases to reside in, be incorporated, do
240 business, or maintain assets in this state.

241 (2) The operator shall maintain the bond, security
242 deposit, or other financial assurance until the operator has
243 completely decommissioned and restored the site.

244 (3) The operator shall update the bond, security
245 deposit, or other financial assurance with the department
246 every three years until the project is decommissioned and the
247 site restored.

248 (b) Any bond shall be made payable to the State of
249 Alabama and conditioned on the operator's faithful performance
250 of all applicable requirements of this act and all applicable
251 rules adopted by the department under this act. The bond shall
252 be signed by the operator, as principal, and by a corporate



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253 surety licensed to do business in Alabama, as surety. The
254 penalty of the bond shall be not less than ten thousand
255 dollars (\$10,000) for each acre covered by the permit.

256 (c) (1) When an operator has completed all applicable
257 requirements under this act as to any affected lands, the
258 operator shall notify the department.

259 (2) The department, within 30 days of receiving
260 notification from the operator, shall inspect the affected
261 lands. If the utility-scale solar energy project has been
262 decommissioned and the affected lands restored according to
263 the requirements under Section 3, the department shall release
264 the operator from further obligations regarding the affected
265 lands and reduce or release the bond, security deposit, or
266 other financial assurance of the operator.

267 (d) (1) A bond established according to subsections (a)
268 and (b) shall be conditioned so that it cannot be cancelled by
269 the surety except after at least 90 days written notice to the
270 department.

271 (2) If a bond is cancelled after the notice, the
272 operator, on or before the effective date of the cancellation,
273 shall substitute another bond, security deposit, or other
274 financial assurance as provided in this section.

275 (e) (1) If a surety's license to do business in this
276 state, which is on a bond filed with the department under this
277 section, is suspended or revoked, the surety shall notify the
278 operator within 10 days of the suspension or revocation.

279 (2) Within 30 days of receiving written notice that a
280 surety's license to do business in this state is suspended or



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281 revoked, the operator shall substitute for the surety a new
282 corporate surety licensed to business in this state, or
283 substitute another bond, security deposit, or other financial
284 assurance as provided in this section.

285 (f) If the operator fails to make a substitution as
286 required by subsection (e) or (f), the operator's permit shall
287 automatically be suspended, and the operator shall cease
288 operating the utility-scale solar energy project until the
289 operator complies with subsection (e) or (f).

290 Section 5. (a) (1) If an operator fails to decommission
291 a utility-scale solar energy project and restore the affected
292 lands within three years of ceasing operations, then the
293 director may make a finding in writing, with supporting facts,
294 that the site is abandoned, and the department may commence
295 decommissioning and restoration activities according to this
296 section.

297 (2) A utility-scale solar energy project site shall be
298 considered abandoned and eligible for decommissioning and
299 restoration expenditures under this section if it meets the
300 following conditions:

301 a. The site was affected by a utility-scale solar
302 energy project.

303 b. The site was left in an unrestored or inadequately
304 restored condition.

305 c. No entity exists at the time of the finding which is
306 responsible for decommissioning and restoring the site.

307 d. The site continues to degrade the quality of the
308 environment, prevent or damage the beneficial use of the land



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309 or water resources, or endangers the health or safety of the
310 public.

311 (b) (1) The director and his or her agents, employees,
312 and contractors may enter upon land adversely affected by a
313 past utility-scale solar energy project to take all necessary
314 measures to decommission the project, restore the affected
315 land, and abate or prevent adverse effects if the director
316 does the following:

317 a. Makes a finding in writing, with supporting facts,
318 of all of the following:

319 1. Land or water resources have been adversely affected
320 by a past utility-scale solar energy project.

321 2. It is in the public interest to decommission the
322 project and restore the lands.

323 3. The operator of the project or owner of the land
324 where the project is located is not known or readily
325 available, or the operator of the project or owner of the land
326 will not give permission to the director and his agents to
327 enter upon the land.

328 b. Gives written notice to the operator of the site or
329 owner of the land if known, or, if not known, by posting
330 notice on the premises and advertising once in a newspaper of
331 general circulation in the county where the land is located.

332 (2) The director and his or her agents, employees, and
333 contractors may enter upon the land to: (i) conduct studies or
334 exploratory work to determine whether there are adverse
335 effects from a past utility-scale solar energy project; and
336 (ii) determine the feasibility of decommissioning the project,



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337 restoring the land, and abating any adverse effects.

338 (c) (1) The Abandoned Utility-Scale Solar Energy Project
339 Fund is created in the State Treasury.

340 (2) The fund shall consist of all monies paid into the
341 State Treasury to the credit of the fund or by legislative
342 appropriations, grants, gifts, or otherwise.

343 (3) Monies contained in the fund may be expended to
344 decommission utility-scale solar energy projects and restore
345 the affected lands according to the requirements established
346 in Section 3 and shall be expended to reflect the following
347 priorities in the order stated:

348 a. The protection of public health, safety, general
349 welfare, and property from harm attributable to the adverse
350 effects of utility-scale solar energy projects.

351 b. The restoration of land and water resources and the
352 environment previously degraded by the adverse effects of
353 utility-scale solar energy projects, including measures for
354 conservation and development of soil; water, excluding
355 channelization; woodland; fish and wildlife; recreation
356 resources; and agricultural productivity.

357 c. Research and demonstration projects relating to the
358 development of utility-scale solar energy project
359 decommissioning and site restoration methods and techniques.

360 d. The protection, repair, replacement, construction,
361 or enhancement of public facilities, such as utilities, roads,
362 recreation, and conservation facilities, which were adversely
363 affected by utility-scale solar energy projects.

364 e. The development of publicly owned land adversely



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365 affected by utility-scale solar energy projects, including
366 land acquired as provided by this section for recreation and
367 historic purposes, conservation and reclamation purposes, and
368 open space benefits.

369 (d) (1) Within six months of decommissioning a
370 utility-scale solar energy project and restoring the affected
371 lands, the director shall itemize the monies expended and file
372 a statement in the judge of probate's office of the county
373 where the land is located, including a notarized appraisal
374 from a qualified, independent appraiser of the value of the
375 land before the decommissioning and restoration activities if
376 the activities result in a significant increase in property
377 value.

378 (2) The statement shall be considered a lien on the
379 land. The lien shall not exceed the increase in market value
380 of the land as determined by the appraisal.

381 (3) The owner of land subject to a lien under this
382 section, within 60 days of the director filing the lien, may
383 file a petition in the circuit court of the county where the
384 land is located to determine the increase in market value of
385 the land because of the decommissioning and restoration
386 activities. The increase in value of the land as determined by
387 the court shall be the amount of the lien, and the owner may
388 appeal the decision.

389 (4) A lien established under this section shall have
390 priority second only to a lien for real estate taxes imposed
391 on the land. Monies derived from the satisfaction of liens
392 shall be deposited in the Abandoned Utility-Scale Solar Energy



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393 Project Fund.

394 Section 6. (a) The director and his or her agents,
395 employees, and contractors may enter upon the lands of a
396 utility-scale solar energy project at any time for the purpose
397 of inspecting the lands and facilities to determine whether
398 the operator has complied with this act.

399 (b) Whenever the director alleges that an operator has
400 not complied with this act, the director shall commence an
401 enforcement action pursuant to Section 22-22A-5, Code of
402 Alabama 1975.

403 (c) The department shall develop and maintain a list of
404 all utility-scale solar energy projects operating in this
405 state and shall update the list annually on or before July 1
406 of each year.

407 (d) The department shall adopt rules necessary to
408 implement and enforce this act.

409 Section 7. This act shall become effective on October
410 1, 2026.