ENROLLED

2022 Regular Session

ACT No. 555

HOUSE BILL NO. 655

BY REPRESENTATIVE COUSSAN AND SENATORS ALLAIN, CATHEY, FESI, HEWITT, MILLIGAN, FRED MILLS, MIZELL, MORRIS, REESE, STINE, AND WOMACK

AN ACT

To amend and reenact R.S. 30:136.3(D) and 1154(A)(introductory paragraph), (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 construct or operate a solar power generation facility; to provide for fees; to provide for financial security; to provide for terms, conditions, and exceptions; 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), (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.

* * *

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 power generation facilities.

* * *

§1154. Regulations governing solar devices power generation facilities; 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:

* * *

(9)(a) Requirements for a permit to construct or 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 except the secretary may accept any financial security provided to the landowner or lessor for facilities exempted from permit fees pursuant to Paragraph (D)(3) of this Section. Any bond or other instrument shall ensure the following:

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
(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 and remediation that includes the estimated cost of removing the solar power generation facility and associated infrastructure from the property and restoring the property to as near as reasonably possible to the condition of the property prior to the commencement of construction of the facility. The secretary may consider only 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. The secretary shall adjust the estimated cost based upon any updated decommissioning plan submitted pursuant to Paragraph (D)(2) of this Section. Any increase in the amount of financial security required shall be secured by the permit holder within thirty days of notification of the increase.

(c) Subparagraphs (a) and (b) of this Paragraph shall not apply to the following solar power generation facilities that are owned by an electric utility provider regulated by the Public Service Commission or the council of the city of New Orleans:

(i) Facilities located on land owned by the electric utility provider and the provider is capable of demonstrating a decommissioning plan to the regulator.
(ii) Facilities located on land leased by the electric utility provider and that meet both of the following conditions:

(aa) The regulated electric utility provider guarantees to the landowner or lessor that the regulated electric utility provider will pay the cost of the decommissioning plan provided for in Paragraph (D)(2) of this Section and the guarantee is acceptable to the secretary.

(bb) The lease between the landowner or lessor and the regulated electric utility provider provides for site decommissioning at the end of the facility's life, at the termination of the lease, as determined by a court of competent jurisdiction, and upon other circumstance that requires closure of the facility.

(d) If a solar power generation facility is sold or otherwise transferred, the secretary shall not 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 this Section.

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.(1) 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. A permit issued pursuant to this Subsection shall only pertain to the implementation of the decommissioning plan as provided in Paragraph (2) of this Subsection, and financial security required pursuant to Paragraph (A)(9) of this Section. In addition to other requirements for the issuance of a permit, the department shall collect the following fees:

Page 4 of 6

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
(a) An application fee not to exceed fifteen dollars per acre of the solar power generation facility footprint.

(b) An application processing fee not to exceed five hundred dollars for the entire project.

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

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

(2) 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 updated every five years after the initial submission. All submitted plans shall be reviewed for sufficiency by the department and approved by the secretary.

(3) Any solar power generation facility that is certified by the Public Service Commission or the council of the city of New Orleans on or before August 2, 2022, shall be exempt from the fees provided for in this Section, shall register with the department by January 1, 2023, and comply with the requirements of this Section and any rule and regulations promulgated pursuant to this Section by June 30, 2024.

(4) 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...
located within the footprint of the facility, 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.

(3) "Salvage value" means the actual or estimated scrap value of the raw
materials once removed from the facility and ready for sale.

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

Section 2. The Department of Natural Resources shall 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 the Act. For Fiscal Years 2022-2023
through Fiscal Years 2025-2026, the reimbursement of the state general fund shall be
considered costs for the purposes of R.S. 30:1154(D)(1)(d) as enacted by this Act.

Section 3. This Act shall become effective on August 2, 2022; if vetoed by the
governor and subsequently approved by the legislature, this Act shall become effective on
the day following such approval by the legislature or August 2, 2022, whichever is later.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: ____________________

CODING: Words in struck through type are deletions from existing law; words underscored
are additions.