

HOUSE BILL 281

57TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2026

INTRODUCED BY

Luis M. Terrazas and Gabriel Ramos and Mark B. Murphy
and Rebecca Dow and Gail Armstrong

AN ACT

RELATING TO UTILITIES; REQUIRING FINANCIAL ASSURANCE FOR SOLAR
AND WIND ENERGY GENERATION FACILITIES; PROVIDING AUTHORITY TO
MANAGE FINANCIAL ASSURANCE FOR SOLAR AND WIND ENERGY GENERATION
FACILITIES; CREATING THE SOLAR AND WIND DECOMMISSIONING FUND.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Solar and Wind Financial Assurance Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Solar and Wind Financial Assurance Act:

A. "decommissioning" means actions taken to remove,
dispose of or recycle equipment or infrastructure and remediate
the site of a solar or wind energy generation facility, in
accordance with rules promulgated by the division;

B. "department" means the energy, minerals and

1 natural resources department;

2 C. "division" means the energy conservation and
3 management division of the department;

4 D. "site" means the land on which a solar or wind
5 energy generation facility is or was located, including land
6 occupied or disturbed by associated equipment, structures,
7 access roads or facility-owned infrastructure;

8 E. "solar energy generation facility" means a
9 facility that uses an arrangement or combination of solar
10 collectors or modules that convert sunlight into electricity or
11 thermal energy; and

12 F. "wind energy generation facility" means a
13 facility that converts wind energy into electricity and
14 includes wind turbines, towers, substations and transmission
15 lines.

16 SECTION 3. [NEW MATERIAL] AUTHORITY OVER FINANCIAL
17 ASSURANCE FOR SOLAR AND WIND ENERGY GENERATION FACILITIES--
18 REQUIREMENTS FOR DECOMMISSIONING.--

19 A. The division has jurisdiction and authority over
20 all matters relating to financial assurance for the
21 decommissioning of solar and wind energy generation facilities.

22 B. The division shall promulgate rules to establish
23 requirements for the decommissioning of solar and wind energy
24 generation facilities that ensure:

25 (1) removal, proper disposal or recycling of

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1 facility equipment and infrastructure;

2 (2) remediation of the site;

3 (3) monitoring of the site as necessary during
4 decommissioning;

5 (4) an appropriate time frame for completion;

6 and

7 (5) additional measures the division deems
8 appropriate.

9 SECTION 4. [NEW MATERIAL] FINANCIAL ASSURANCE REQUIREMENT
10 FOR SOLAR AND WIND ENERGY GENERATION FACILITIES.--

11 A. The owner or operator of a solar or wind energy
12 generation facility shall, as a condition precedent to
13 operation of the facility, provide financial assurance in the
14 form of an irrevocable letter of credit, a cash or surety bond
15 or a facility-specific decommissioning insurance policy to the
16 division, running to the benefit of the state and conditioned
17 that the facility be decommissioned in compliance with rules
18 promulgated by the division.

19 B. Solar and wind energy generation facilities in
20 operation prior to July 1, 2026 shall be required to meet
21 financial assurance requirements pursuant to this section by
22 January 1, 2028.

23 C. The division shall establish categories of
24 financial assurance. The division shall consider the size and
25 location of the solar or wind energy generation facility,

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1 equipment type, potential salvage value and other factors that
2 the division deems relevant. Financial assurance categories
3 established by the division for solar and wind energy
4 generation facilities shall be no less than two hundred fifty
5 thousand dollars (\$250,000) per facility.

6 D. All financial assurance shall remain in force
7 until released by the division. The division shall release an
8 owner's or operator's financial assurance when the division is
9 satisfied that the conditions of the financial assurance have
10 been fully performed.

11 E. An owner or operator required to provide
12 financial assurance for a solar or wind energy generation
13 facility pursuant to this section is considered to have met
14 that requirement if the owner or operator obtains an insurance
15 policy that covers the specific facility and that:

16 (1) is approved by the office of
17 superintendent of insurance;

18 (2) names the state as owner of the policy and
19 contingent beneficiary;

20 (3) names a primary beneficiary that agrees to
21 carry out the decommissioning;

22 (4) is fully prepaid and cannot be canceled or
23 surrendered;

24 (5) remains in effect until the specified
25 facility has been decommissioned;

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1 (6) provides that benefits are payable only
2 upon completion of decommissioning; and

3 (7) provides benefits that are not less than
4 an amount equal to the financial assurance required by the
5 division.

6 F. If, subsequent to an owner or operator obtaining
7 an insurance policy as provided in this section, the applicable
8 financial assurance requirement is increased, the owner or
9 operator is considered to have met the revised requirement if:

10 (1) the existing policy benefit equals or
11 exceeds the revised requirement;

12 (2) the owner or operator obtains an amendment
13 that meets the requirements of Subsection E of this section and
14 increases the policy benefit by the amount of the increase in
15 the applicable financial assurance requirement; or

16 (3) the owner or operator obtains financial
17 assurance that meets the requirements of Subsection E of this
18 section and is equal to the amount, if any, by which the
19 revised requirement exceeds the policy benefit.

20 SECTION 5. [NEW MATERIAL] FORFEITURE OF FINANCIAL
21 ASSURANCE.--

22 A. If the owner or operator of a solar or wind
23 energy generation facility fails to comply with financial
24 assurance requirements, the division may order decommissioning
25 of the facility or forfeiture of the financial assurance, or

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1 both, in accordance with rules promulgated by the division. If
2 the owner or operator fails to comply with the order within the
3 time frame set out in the order, the financial assurance shall
4 be forfeited.

5 B. When financial assurance is forfeited, the
6 division shall give notice to the attorney general, who shall
7 collect the forfeiture without delay.

8 C. All forfeitures shall be remitted to the
9 division for deposit in the solar and wind decommissioning fund
10 to be used for decommissioning.

11 SECTION 6. [NEW MATERIAL] INSUFFICIENT FINANCIAL
12 ASSURANCE.--When financial assurance proves insufficient to
13 cover the cost of decommissioning on land other than federal
14 land and money must be expended to meet the additional
15 expenses, the division is authorized to bring suit against the
16 operator in the district court of the county in which the solar
17 or wind energy generation facility is located for
18 indemnification for all costs incurred by the division in
19 decommissioning that owner's or operator's solar or wind energy
20 generation facility. All money collected pursuant to a
21 judgment in a suit for indemnification brought pursuant to this
22 section shall be deposited in the solar and wind
23 decommissioning fund.

24 SECTION 7. [NEW MATERIAL] SOLAR AND WIND DECOMMISSIONING
25 FUND.--

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1 A. The "solar and wind decommissioning fund" is
2 created as a nonreverting fund in the state treasury. The fund
3 consists of appropriations, gifts, grants, donations, income
4 from investment of the fund and other money credited to the
5 fund. The division shall administer the fund, and money in the
6 fund is subject to appropriation by the legislature to the
7 division to carry out the provisions of the Solar and Wind
8 Decommissioning Act. Disbursements from the fund shall be made
9 by warrant of the secretary of finance and administration
10 pursuant to vouchers signed by the secretary of energy,
11 minerals and natural resources.

12 B. Money in the fund may be used by the division to
13 facilitate decommissioning of solar and wind energy generation
14 facilities.

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