

# HOUSE BILL NO. 3073

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE VEIT.

5590H.011

JOSEPH ENGLER, Chief Clerk

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### AN ACT

To amend chapter 640, RSMo, by adding thereto one new section relating to utility-scale solar projects, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 640, RSMo, is amended by adding thereto one new section, to be  
2 known as section 640.1800, to read as follows:

**640.1800. 1. For purposes of this section, the following terms mean:**

2 (1) "Cessation of operations", occurs when a utility-scale solar project has not  
3 produced power for a period of twelve months. This twelve-month period shall not  
4 include a period in which:

5 (a) The project fails to produce power due to an event of force majeure; or

6 (b) The owner has retained legal control of the project's footprint and has  
7 commenced rebuilding the facility;

8 (2) "Department", the department of natural resources;

9 (3) "Expansion" or "expanded", adding two megawatts alternating current or  
10 more of directly connected solar energy generating capacity to the local or regional  
11 electrical grid with the ability to deliver power to the electrical grid, or increasing the  
12 ability of the project to deliver power to the electrical grid by thirty-five percent,  
13 whichever is larger;

14 (4) "Owner", the person or corporation who has assumed legal ownership of the  
15 solar energy system through the provisions of a contract or other legally binding  
16 transfer of ownership;

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17           (5) "Photovoltaic module" or "PV module", the smallest nondivisible,  
18 environmentally protected assembly of photovoltaic cells or other photovoltaic  
19 collector technology and ancillary parts intended to generate electrical power under  
20 sunlight, which is part of a utility-scale solar project;

21           (6) "Rebuild" or "rebuilt", a utility-scale solar project for which more than fifty  
22 percent of the original photovoltaic modules have been replaced with a different type of  
23 photovoltaic module or other fuel source and the project is deemed to be new for income  
24 tax purposes;

25           (7) "Recycle", the processing, including disassembling, dismantling, and  
26 shredding of photovoltaic modules or other equipment from utility-scale solar  
27 projects, or their components, to recover a usable product. "Recycle" does not  
28 include any process that results in the incineration of such equipment. Photovoltaic  
29 modules determined to be hazardous shall comply with applicable hazardous waste  
30 requirements even when recycled;

31           (8) "Utility-scale solar project", a ground-mounted photovoltaic, concentrating  
32 photovoltaic, or concentrating solar power project capable of generating two megawatts  
33 alternating current or more directly connected to the local or regional electrical grid  
34 with the ability to deliver power to the electrical grid. A "utility-scale solar project":

35           (a) Includes the solar arrays, accessory buildings, battery storage facilities,  
36 transmission facilities, and any other infrastructure necessary for the operation of the  
37 project;

38           (b) Does not include renewable energy facilities owned or leased by a retail  
39 electric customer intended primarily for the customer's own use or to offset the  
40 customer's own retail electrical energy consumption at the premises or for net metering.

41           2. The owner of a utility-scale solar project shall be responsible for proper  
42 decommissioning of the project upon cessation of operations and restoration of the  
43 property in compliance with subdivision 4 of subsection 4 of this section, including all  
44 associated costs, no later than one year following cessation of operations.

45           3. The owner shall notify the department within thirty days of cessation of  
46 operations. Such notice shall include a detailed description of the steps to be taken to  
47 properly decommission the project and for restoration of the site.

48           4. At a minimum, an owner shall take all of the following steps in  
49 decommissioning a project:

50           (1) Disconnect the solar project from the power grid;

51           (2) Remove all equipment from the solar project, collect and ship equipment for  
52 reuse, or recycle all of the components thereof practicably capable of being recycled,  
53 including the PV modules, the entire solar module racking system; aboveground

54 electrical interconnection and distribution cables that are no longer deemed necessary;  
55 subsurface cable no longer deemed necessary; any metal fencing; electrical and  
56 electronic devices, including transformers and inverters; and energy storage system  
57 batteries;

58 (3) Properly dispose of components that will not be shipped for reuse, are  
59 incapable of being recycled, and do not meet the definition of hazardous waste in:

60 (a) An industrial landfill; or

61 (b) A municipal solid waste landfill;

62

63 PV modules that meet the definition of hazardous waste shall comply with hazardous  
64 waste requirements for recycling and disposal as applicable; and

65 (4) Restore the property:

66 (a) As nearly as practicable to its condition before the utility-scale solar project  
67 was sited; or

68 (b) To an alternative condition agreed upon in a written contract or lease  
69 agreement between the landowner and the project owner;

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71 A copy of the agreement signed by both parties shall be provided to the department  
72 prior to decommissioning. The condition of the property shall otherwise comply with  
73 any applicable statutory requirements, rules adopted thereunder, and requirements in  
74 local ordinance. Land that was cleared of trees for the solar project may be revegetated  
75 or reforested with seedlings.

76 5. The owner of a utility-scale solar project shall submit a decommissioning plan  
77 to the department for approval, prior to starting energy production. The  
78 decommissioning plan shall be prepared, signed, and certified by an independent  
79 licensed professional engineer, certified or licensed in this state, and shall contain all of  
80 the following:

81 (1) The name, address, and contact information for the owner of the project, and  
82 name, address, and contact information for the landowner of the property on which the  
83 project is sited, if different than the owner;

84 (2) A narrative description of how the decommissioning will be conducted,  
85 including the decommissioning sequencing; the disposition of materials to be used upon  
86 decommissioning, such as landfilling, reuse, or recycling of project equipment, which  
87 shall specifically delineate methods to be used for solid and hazardous waste; and a  
88 schedule for completion of the decommissioning activities;

89 (3) Information on equipment proposed to be salvaged, including estimated  
90 salvage value of the equipment for the purpose of determining financial assurance;

91           **(4) Information on steps to be taken to restore the property in compliance with**  
92 **subdivision (4) of subsection 4 of this section;**

93           **(5) A cost estimate for decommissioning the project and restoration of the**  
94 **property in compliance with subdivision (4) of subsection 4 of this section; and**

95           **(6) The proposed mechanism to satisfy the financial assurance requirements**  
96 **established under subsection 6 of this section, including information on which legal**  
97 **entity will establish the mechanism, when it will be established in accordance with the**  
98 **requirements of this section, and how the department will access the funds from the**  
99 **mechanism if needed.**

100           **6. (1) The owner of a utility-scale solar project shall establish financial**  
101 **assurance in an amount acceptable to the department to ensure that sufficient funds are**  
102 **available for decommissioning of the project and restoration of the property in**  
103 **compliance with subdivision (4) of subsection 4 of this section, even if the owner**  
104 **becomes insolvent or ceases to reside, be incorporated, do business, or maintain assets in**  
105 **this state. To establish sufficient availability of funds under this section, the owner of a**  
106 **utility-scale solar project may use insurance; financial tests; third-party guarantees by**  
107 **persons who can pass the financial test; guarantees by corporate parents who can pass**  
108 **the financial test; irrevocable letters of credit, trusts, surety bonds, or any other**  
109 **financial device; or any combination of the foregoing, shown to provide protection**  
110 **equivalent to the financial protection that would be provided by insurance if insurance**  
111 **were the only mechanism used.**

112           **(2) Financial assurance shall be established by an owner of a utility-scale solar**  
113 **project and maintained until such time as the project is decommissioned and restoration**  
114 **of the property has been completed in compliance with this section. Documentation of**  
115 **financial assurance established shall be submitted to the department at the time of**  
116 **registration and at the time of required update every five years, as required by**  
117 **subsection 7 of this section.**

118           **7. Each owner of a utility-scale solar project shall register with the department**  
119 **and update such registration every five years from the registration submission date, or**  
120 **with a transfer of ownership, until the site is completely decommissioned. At the time of**  
121 **registration or periodic required update required by the department, the owner shall**  
122 **provide all of the following information:**

123           **(1) Identification of the owner and any other legal entity that will be responsible**  
124 **for decommissioning the project and establishment of financial assurance, if applicable;**

125           **(2) A summary of project equipment that will be subject to decommissioning**  
126 **requirements under this section, including the location, size, number, and type of PV**  
127 **modules, as well as identification of any per- and poly-fluoroalkyl substances associated**

128 with the project, and a determination as to whether the PV modules are likely to be  
129 characterized as hazardous waste upon decommissioning. The hazardous waste  
130 determination shall be made in compliance with rules adopted by the department or the  
131 division of environmental quality;

132 (3) A summary of project timeline, including actual or anticipated initiation and  
133 completion of construction, initiation of operations, and expected service life of the  
134 project;

135 (4) Estimates of costs to decommission the project and restore the property;

136 (5) A proposed financial assurance mechanism to be used to meet the  
137 requirements of this section, if applicable;

138 (6) Copies of any decommissioning plan executed, or documentation of financial  
139 assurance established, pursuant to local government ordinance or agreement with a  
140 landowner, prior to registration under this subsection;

141 (7) Any other information the department may require.

142 8. Existing utility-scale solar projects operating before August 28, 2026, shall  
143 have until December 31, 2027, to comply with the provisions of this section.

144 9. The department shall notify the owner of the utility-scale solar project of any  
145 modifications to the plan for decommissioning that are needed. The owner may appeal  
146 a modification by the department of a plan for decommissioning within thirty days of  
147 receiving notice of the modification to the plan, in the same manner as appeals are filed  
148 from the department's decision or as prescribed under the rules.

149 10. The public service commission shall develop and maintain a list of all  
150 utility-scale solar projects operating within this state and shall provide the department  
151 with an updated list annually on or before July first of each year.

152 11. Nothing in this section shall be construed as limiting the authority of any  
153 landowner to enter into an agreement with an owner to lease property on which a  
154 utility-scale solar project will be sited that expressly establishes requirements that are  
155 more stringent than those set forth in this section for decommissioning and financial  
156 assurance for utility-scale solar projects to be located on the landowner's property.

157 12. The department shall collect reasonable fees from the owner of a utility-scale  
158 solar project subject to the requirements of this section, at the time of registration. Any  
159 fees that are collected by the department at the time of registration, periodic updates,  
160 annual reporting, or for meeting compliance requirements shall be established by rule,  
161 and in accordance with this section. Fees collected under this subsection shall be  
162 applied to the department's cost of administering the program.

163           **13. Information regarding implementation of the requirements of this section**  
164 **shall be included in the appropriate annual report prepared by the department under**  
165 **chapter 640.**

166           **14. (1) If the owner of a utility-scale solar project fails to comply with the**  
167 **decommissioning plan or the financial assurances requirements under the provisions of**  
168 **this section or any rule or regulation promulgated by the department, the surety bond**  
169 **or similar security posted by the owner to secure the owner's obligations under this**  
170 **section shall be deemed forfeited. The attorney general shall institute a civil action in**  
171 **any court of competent jurisdiction for forfeiture of the bond on behalf of the**  
172 **department. The department shall use the security proceeds or moneys obtained from**  
173 **the surety bond to pay for the decommissioning and restoration of the property.**

174           **(2) Whenever it appears to the department that the owner has engaged in, or is**  
175 **about to engage in, any acts or practices that have or will constitute a violation of this**  
176 **section, or any rule or regulation promulgated thereunder, the director may request the**  
177 **county prosecuting attorney or the attorney general to bring an action in the circuit**  
178 **court for injunctive relief to prevent such violation, or in the case of a violation**  
179 **concerning the owner's failure to comply with the decommissioning plan or financial**  
180 **assurances, for the assessment of a penalty not to exceed one thousand two hundred**  
181 **dollars per day, or part thereof, or both, as the court deems proper. In any such action,**  
182 **the court may grant to the department such prohibitory or mandatory injunctive relief**  
183 **as the facts may warrant.**

184           **(3) The prevailing party in any such action brought under subdivision (1) of this**  
185 **subsection, or for injunctive relief instituted under subdivision (2) of this subsection,**  
186 **shall be awarded costs and reasonable attorney's fees.**

187           **15. The department shall promulgate all necessary rules and regulations for the**  
188 **administration of this section and include the specific criteria set out in subsection 6 of**  
189 **this section. Any rule or portion of a rule, as that term is defined in section 536.010, that**  
190 **is created under the authority delegated in this section shall become effective only if it**  
191 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
192 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**  
193 **vested with the general assembly pursuant to chapter 536 to review, to delay the**  
194 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**  
195 **then the grant of rulemaking authority and any rule proposed or adopted after August**  
196 **28, 2026, shall be invalid and void.**

197           **16. (1) The rules promulgated under this section shall establish criteria to set the**  
198 **amount of financial assurance required for utility-scale solar projects as set forth in**  
199 **subsection 4 of this section.**

- 200           **(2) The rules shall include, at a minimum:**
- 201           **(a) The solar technology to be employed including, but not limited to, PV,**  
202 **concentrated photovoltaics, concentrated solar power, or other technology;**
- 203           **(b) The approximate number and size of PV modules included in the solar**  
204 **arrays to be constructed;**
- 205           **(c) Any ancillary facilities to be constructed in association with the project;**
- 206           **(d) The condition of the property prior to construction of a utility-scale solar**  
207 **project;**
- 208           **(e) The amount of acreage that would be impacted by the proposed project; and**
- 209           **(f) Any other factors designed to enable establishment of adequate financial**  
210 **assurance for decommissioning and restoration on a site-by-site basis.**
- 211           **(3) The department shall consider the salvage value of the project's equipment in**  
212 **establishing requirements for financial assurance for a utility-scale solar project.**
- 213           **(4) The rules shall require periodic updates to be provided by owners with**  
214 **respect to financial assurance maintained.**
- 215           **(5) The rules shall address the following matters:**
- 216           **(a) Requirements for decommissioning plans, including required information,**  
217 **and processes for submittal and review of plans;**
- 218           **(b) Fees to be assessed at periodic updates or for annual compliance or reporting**  
219 **requirements; and**
- 220           **(c) Any other matter the department deems necessary.**

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