

By: Lambert

H.B. No. 3228

A BILL TO BE ENTITLED

AN ACT

relating to the inclusion of recycling or disposal provisions in certain lease agreements of wind or solar power facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 301.0001, Utilities Code, is amended by adding Subdivision (1-a) and amending Subdivision (2) to read as follows:

(1-a) "Recycle" means the processing of an item to recover a usable product.

(2) "Wind power facility" includes:

(A) a wind turbine generator and any related components of the wind turbine, including a nacelle, a rotor hub, blades, and a gearbox assembly; and

(B) a facility or equipment used to support the operation of a wind turbine generator, including an underground or aboveground electrical transmission or communications line, an electric transformer, a battery storage facility, an energy storage facility, telecommunications equipment, a road, a meteorological tower with wind measurement equipment, or a maintenance yard.

SECTION 2. Section 301.0003, Utilities Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) A wind power facility agreement must provide that the grantee is responsible for:

(1) collecting and reusing or recycling, or shipping

1 for reuse or recycling, all components of the wind power facility
2 practicably capable of being reused or recycled, including the wind
3 turbine blades, in accordance with any other applicable laws or
4 regulations; and

5 (2) disposing of all components of the wind power
6 facility not practicably capable of being reused or recycled:

7 (A) at a facility authorized under state and
8 federal law to dispose of hazardous substances for a component
9 considered hazardous under those laws; or

10 (B) for nonhazardous components, at a municipal
11 solid waste landfill or other appropriate waste disposal facility
12 authorized under state and federal law to dispose of that type of
13 component.

14 SECTION 3. Sections 301.0004(a), (b), (c), and (d),
15 Utilities Code, are amended to read as follows:

16 (a) A wind power facility agreement must provide that the
17 grantee shall obtain and deliver to the landowner evidence of
18 financial assurance that conforms to the requirements of this
19 section to secure the performance of the grantee's obligations
20 under [~~obligation to remove the grantee's wind power facilities~~
21 ~~located on the landowner's property as described by~~] Section
22 301.0003. Acceptable forms of financial assurance include a parent
23 company guaranty with a minimum investment grade credit rating for
24 the parent company issued by a major domestic credit rating agency,
25 a letter of credit, a bond, or another form of financial assurance
26 acceptable to the landowner.

27 (b) The amount of the financial assurance must be at least

1 equal to the estimated amount by which the cost of removing the wind
2 power facilities from the landowner's property, recycling or
3 disposing of all the components of the wind power facilities, and
4 restoring the property to as near as reasonably possible the
5 condition of the property as of the date the agreement begins
6 exceeds the salvage value of the wind power facilities, less any
7 portion of the value of the wind power facilities pledged to secure
8 outstanding debt.

9 (c) The agreement must provide that:

10 (1) the estimated cost of removing the wind power
11 facilities from the landowner's property, recycling or disposing of
12 all the components of the wind power facilities, and restoring the
13 property to as near as reasonably possible the condition of the
14 property as of the date the agreement begins and the estimated
15 salvage value of the wind power facilities must be determined by an
16 independent, third-party professional engineer licensed in this
17 state;

18 (2) the grantee must deliver to the landowner an
19 updated estimate, prepared by an independent, third-party
20 professional engineer licensed in this state, of the cost of
21 removal and recycling or disposal of the wind power facilities and
22 the salvage value at least once every five years for the remainder
23 of the term of the agreement; and

24 (3) the grantee is responsible for ensuring that the
25 amount of the financial assurance remains sufficient to cover the
26 amount required by Subsection (b), consistent with the estimates
27 required by this subsection.

1 (d) The grantee is responsible for the costs of obtaining
2 financial assurance described by this section and costs of
3 determining the estimated removal, recycling, and disposal costs
4 and salvage value.

5 SECTION 4. Section 302.0001, Utilities Code, is amended by
6 adding Subdivision (1-a) to read as follows:

7 (1-a) "Recycle" means the processing of an item to
8 recover a usable product.

9 SECTION 5. Section 302.0004, Utilities Code, is amended by
10 adding Subsection (a-1) to read as follows:

11 (a-1) A solar power facility agreement must provide that the
12 grantee is responsible for:

13 (1) collecting and reusing or recycling, or shipping
14 for reuse or recycling, all components of the solar power facility
15 practicably capable of being reused or recycled, including the
16 photovoltaic modules, in accordance with any other applicable laws
17 or regulations; and

18 (2) disposing of all components of the solar power
19 facility not practicably capable of being reused or recycled:

20 (A) at a facility authorized under state and
21 federal law to dispose of hazardous substances for a component
22 considered hazardous under those laws; or

23 (B) for nonhazardous components, at a municipal
24 solid waste landfill or other appropriate waste disposal facility
25 authorized under state and federal law to dispose of that type of
26 component.

27 SECTION 6. Sections 302.0005(a), (b), (c), and (d),

1 Utilities Code, are amended to read as follows:

2 (a) A solar power facility agreement must provide that the
3 grantee shall obtain and deliver to the landowner evidence of
4 financial assurance that conforms to the requirements of this
5 section to secure the performance of the grantee's obligations
6 under [~~obligation to remove the grantee's solar power facilities~~
7 ~~located on the landowner's property as described by~~] Section
8 [302.0004](#). Acceptable forms of financial assurance include a parent
9 company guaranty with a minimum investment grade credit rating for
10 the parent company issued by a major domestic credit rating agency,
11 a letter of credit, a bond, or another form of financial assurance
12 reasonably acceptable to the landowner.

13 (b) The amount of the financial assurance must be at least
14 equal to the estimated amount by which the cost of removing the
15 solar power facilities from the landowner's property, recycling or
16 disposing of all the components of the solar power facilities, and
17 restoring the property to as near as reasonably possible the
18 condition of the property as of the date the agreement begins
19 exceeds the salvage value of the solar power facilities, less any
20 portion of the value of the solar power facilities pledged to secure
21 outstanding debt.

22 (c) The agreement must provide that:

23 (1) the estimated cost of removing the solar power
24 facilities from the landowner's property, recycling or disposing of
25 all the components of the solar power facilities, and restoring the
26 property to as near as reasonably possible the condition of the
27 property as of the date the agreement begins and the estimated

1 salvage value of the solar power facilities must be determined by an
2 independent, third-party professional engineer licensed in this
3 state;

4 (2) the grantee must deliver to the landowner an
5 updated estimate, prepared by an independent, third-party
6 professional engineer licensed in this state, of the cost of
7 removal and recycling or disposal of the solar power facilities and
8 the salvage value:

9 (A) on or before the 10th anniversary of the
10 commercial operations date of the solar power facilities; and

11 (B) at least once every five years after the
12 commercial operations date of the solar power facilities for the
13 remainder of the term of the agreement; and

14 (3) the grantee is responsible for ensuring that the
15 amount of the financial assurance remains sufficient to cover the
16 amount required by Subsection (b), consistent with the estimates
17 required by this subsection.

18 (d) The grantee is responsible for the costs of obtaining
19 financial assurance described by this section and costs of
20 determining the estimated removal, recycling, and disposal costs
21 and salvage value.

22 SECTION 7. Chapters 301 and 302, Utilities Code, as amended
23 by this Act, apply only to a wind or solar power facility agreement
24 entered into on or after the effective date of this Act. A wind or
25 solar power facility agreement entered into before the effective
26 date of this Act is governed by the law as it existed immediately
27 before that date, and that law is continued in effect for that

1 purpose.

2 SECTION 8. This Act takes effect September 1, 2025.