

1-1 By: Lambert, et al. (Senate Sponsor - Perry) H.B. No. 3228
 1-2 (In the Senate - Received from the House April 28, 2025;
 1-3 April 29, 2025, read first time and referred to Committee on
 1-4 Business & Commerce; May 15, 2025, reported adversely, with
 1-5 favorable Committee Substitute by the following vote: Yeas 11,
 1-6 Nays 0; May 15, 2025, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			
1-19	X			

1-20 COMMITTEE SUBSTITUTE FOR H.B. No. 3228 By: Nichols

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to the inclusion of certain provisions in lease agreements
 1-24 for wind or solar power facilities.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Section 301.0001, Utilities Code, is amended by
 1-27 adding Subdivision (1-a) and amending Subdivision (2) to read as
 1-28 follows:

1-29 (1-a) "Recycle" means the processing of an item to
 1-30 recover a usable product.

1-31 (2) "Wind power facility" includes:

1-32 (A) a wind turbine generator and any related
 1-33 components of the wind turbine, including a nacelle, a rotor hub,
 1-34 blades, and a gearbox assembly; and

1-35 (B) a facility or equipment used to support the
 1-36 operation of a wind turbine generator, including an underground or
 1-37 aboveground electrical transmission or communications line, an
 1-38 electric transformer, a battery energy storage facility or other[
 1-39 an] energy storage facility, telecommunications equipment, a road,
 1-40 a meteorological tower with wind measurement equipment, or a
 1-41 maintenance yard.

1-42 SECTION 2. Section 301.0003, Utilities Code, is amended by
 1-43 adding Subsection (a-1) to read as follows:

1-44 (a-1) A wind power facility agreement must provide that the
 1-45 grantee is responsible for:

1-46 (1) collecting and reusing or recycling, or shipping
 1-47 for reuse or recycling, all components of the wind power facility
 1-48 practicably capable of being reused or recycled, including the wind
 1-49 turbine blades, in accordance with any other applicable laws or
 1-50 regulations; and

1-51 (2) disposing of all components of the wind power
 1-52 facility not practicably capable of being reused or recycled:

1-53 (A) at a facility authorized under state and
 1-54 federal law to dispose of hazardous substances for a component
 1-55 considered hazardous under those laws; or

1-56 (B) for nonhazardous components, at a municipal
 1-57 solid waste landfill or other appropriate waste disposal facility
 1-58 authorized under state and federal law to dispose of that type of
 1-59 component.

1-60 SECTION 3. Sections 301.0004(a), (b), (c), and (d),

2-1 Utilities Code, are amended to read as follows:

2-2 (a) A wind power facility agreement must provide that the
 2-3 grantee shall obtain and deliver to the landowner evidence of
 2-4 financial assurance that conforms to the requirements of this
 2-5 section to secure the performance of the grantee's obligations
 2-6 under [~~obligation to remove the grantee's wind power facilities~~
 2-7 ~~located on the landowner's property as described by]~~ Section
 2-8 301.0003. Acceptable forms of financial assurance include a parent
 2-9 company guaranty with a minimum investment grade credit rating for
 2-10 the parent company issued by a major domestic credit rating agency,
 2-11 a letter of credit, a bond, or another form of financial assurance
 2-12 acceptable to the landowner.

2-13 (b) The amount of the financial assurance must be at least
 2-14 equal to the estimated amount by which the cost of removing the wind
 2-15 power facilities from the landowner's property, recycling or
 2-16 disposing of all the components of the wind power facilities, and
 2-17 restoring the property to as near as reasonably possible the
 2-18 condition of the property as of the date the agreement begins
 2-19 exceeds the salvage value of the wind power facilities, less any
 2-20 portion of the value of the wind power facilities pledged to secure
 2-21 outstanding debt.

2-22 (c) The agreement must provide that:

2-23 (1) the estimated cost of removing the wind power
 2-24 facilities from the landowner's property, recycling or disposing of
 2-25 all the components of the wind power facilities, and restoring the
 2-26 property to as near as reasonably possible the condition of the
 2-27 property as of the date the agreement begins and the estimated
 2-28 salvage value of the wind power facilities must be determined by an
 2-29 independent, third-party professional engineer licensed in this
 2-30 state;

2-31 (2) the grantee must deliver to the landowner an
 2-32 updated estimate, prepared by an independent, third-party
 2-33 professional engineer licensed in this state, of the cost of
 2-34 removal and recycling or disposal of the wind power facilities and
 2-35 the salvage value at least once every five years for the remainder
 2-36 of the term of the agreement; and

2-37 (3) the grantee is responsible for ensuring that the
 2-38 amount of the financial assurance remains sufficient to cover the
 2-39 amount required by Subsection (b), consistent with the estimates
 2-40 required by this subsection.

2-41 (d) The grantee is responsible for the costs of obtaining
 2-42 financial assurance described by this section and costs of
 2-43 determining the estimated removal, recycling, and disposal costs
 2-44 and salvage value.

2-45 SECTION 4. Section 302.0001, Utilities Code, is amended by
 2-46 adding Subdivision (1-a) and amending Subdivision (3) to read as
 2-47 follows:

2-48 (1-a) "Recycle" means the processing of an item to
 2-49 recover a usable product.

2-50 (3) "Solar power facility" includes:

2-51 (A) a solar energy device; and

2-52 (B) a facility or equipment, other than a
 2-53 facility or equipment owned by an electric utility, as defined by
 2-54 Section 31.002, used to support the operation of a solar energy
 2-55 device, including an underground or aboveground electrical
 2-56 transmission or communications line, an electric transformer, a
 2-57 battery energy storage facility or other [~~an~~] energy storage
 2-58 facility, telecommunications equipment, a road, a meteorological
 2-59 tower, or a maintenance yard.

2-60 SECTION 5. Section 302.0004, Utilities Code, is amended by
 2-61 adding Subsection (a-1) to read as follows:

2-62 (a-1) A solar power facility agreement must provide that the
 2-63 grantee is responsible for:

2-64 (1) collecting and reusing or recycling, or shipping
 2-65 for reuse or recycling, all components of the solar power facility
 2-66 practicably capable of being reused or recycled, including the
 2-67 photovoltaic modules, in accordance with any other applicable laws
 2-68 or regulations; and

2-69 (2) disposing of all components of the solar power

3-1 facility not practicably capable of being reused or recycled:
3-2 (A) at a facility authorized under state and
3-3 federal law to dispose of hazardous substances for a component
3-4 considered hazardous under those laws; or
3-5 (B) for nonhazardous components, at a municipal
3-6 solid waste landfill or other appropriate waste disposal facility
3-7 authorized under state and federal law to dispose of that type of
3-8 component.

3-9 SECTION 6. Sections 302.0005(a), (b), (c), and (d),
3-10 Utilities Code, are amended to read as follows:

3-11 (a) A solar power facility agreement must provide that the
3-12 grantee shall obtain and deliver to the landowner evidence of
3-13 financial assurance that conforms to the requirements of this
3-14 section to secure the performance of the grantee's obligations
3-15 under [~~obligation to remove the grantee's solar power facilities~~
3-16 ~~located on the landowner's property as described by~~] Section
3-17 302.0004. Acceptable forms of financial assurance include a parent
3-18 company guaranty with a minimum investment grade credit rating for
3-19 the parent company issued by a major domestic credit rating agency,
3-20 a letter of credit, a bond, or another form of financial assurance
3-21 reasonably acceptable to the landowner.

3-22 (b) The amount of the financial assurance must be at least
3-23 equal to the estimated amount by which the cost of removing the
3-24 solar power facilities from the landowner's property, recycling or
3-25 disposing of all the components of the solar power facilities, and
3-26 restoring the property to as near as reasonably possible the
3-27 condition of the property as of the date the agreement begins
3-28 exceeds the salvage value of the solar power facilities, less any
3-29 portion of the value of the solar power facilities pledged to secure
3-30 outstanding debt.

3-31 (c) The agreement must provide that:

3-32 (1) the estimated cost of removing the solar power
3-33 facilities from the landowner's property, recycling or disposing of
3-34 all the components of the solar power facilities, and restoring the
3-35 property to as near as reasonably possible the condition of the
3-36 property as of the date the agreement begins and the estimated
3-37 salvage value of the solar power facilities must be determined by an
3-38 independent, third-party professional engineer licensed in this
3-39 state;

3-40 (2) the grantee must deliver to the landowner an
3-41 updated estimate, prepared by an independent, third-party
3-42 professional engineer licensed in this state, of the cost of
3-43 removal and recycling or disposal of the solar power facilities and
3-44 the salvage value:

3-45 (A) on or before the 10th anniversary of the
3-46 commercial operations date of the solar power facilities; and

3-47 (B) at least once every five years after the
3-48 commercial operations date of the solar power facilities for the
3-49 remainder of the term of the agreement; and

3-50 (3) the grantee is responsible for ensuring that the
3-51 amount of the financial assurance remains sufficient to cover the
3-52 amount required by Subsection (b), consistent with the estimates
3-53 required by this subsection.

3-54 (d) The grantee is responsible for the costs of obtaining
3-55 financial assurance described by this section and costs of
3-56 determining the estimated removal, recycling, and disposal costs
3-57 and salvage value.

3-58 SECTION 7. Chapters 301 and 302, Utilities Code, as amended
3-59 by this Act, apply only to a wind or solar power facility agreement
3-60 entered into on or after the effective date of this Act. A wind or
3-61 solar power facility agreement entered into before the effective
3-62 date of this Act is governed by the law as it existed immediately
3-63 before that date, and that law is continued in effect for that
3-64 purpose.

3-65 SECTION 8. This Act takes effect September 1, 2025.

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