



# ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature  
First Regular Session

House: NREW DP 6-2-1-1 | 3<sup>rd</sup> Read 31-28-1-0

Senate: NREW DPA 4-3-0-0 | 3<sup>rd</sup> Read 16-13-1-0

Final Read: 31-27-2-0

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## **HB 2618: decommissioning; solar and wind; standards**

**Sponsor: Representative Griffin, LD 19**

**Transmitted to the Governor**

### **Overview**

Requires county approval for permits to install solar or wind energy power plants and outlines requirements for the plant's location, site preparation, financial assurances, liability insurance, repairing damage to the plant, decommissioning the plant and transferring or selling the plant.

### **History**

Counties may form planning and zoning commissions to plan for land uses within the county. Districts may be zoned for various classes of residential, business and industrial uses. Additionally, county zoning ordinances must take into account access to incident solar energy ([A.R.S. § 11-811](#)).

A county board of supervisors may adopt a comprehensive plan to guide and coordinate development within the county. For counties with more than 125,000 people, these plans must include consideration for access to incident solar energy for all general categories of land uses. The comprehensive plans for counties with fewer than 125,000 people are not required to include this consideration ([A.R.S. § 11-804](#)).

A county building permit is required for any major construction or additions that occur outside of the boundaries of municipalities with building permit ordinances. In particular, counties must adopt certain standards for issuing permits to build solar panel systems that will connect to a utility system. These standards require:

- 1) the system's location to be indicated on the construction plans, including the roof plan and elevation;
- 2) the panel mounting details be included in the installation plans;
- 3) electrical diagrams with one-line and three-line diagrams; and
- 4) cutsheet and listing for inverters when conversions from direct current to alternating current occur.

A county may not require a professional engineer's stamp for a solar panel system unless the county deems it necessary ([A.R.S. §§ 11-321](#) and [11-323](#)).

### **Provisions**

#### ***Local Government Requirements***

1. Authorizes a city, town or county to adopt zoning standards, site specific conditions and permitting requirements and procedures for solar and wind energy power plants within its jurisdiction.
2. Directs an owner of a solar or wind energy power plant to comply with the procedures adopted by the county, city or town where the plant will be located.

### ***Transfer and Sale***

3. Prohibits the transfer of a solar and wind energy power plant or special use permit or the sale of the entity owning the plant without written acceptance by the transferee of the obligations required under this act.
4. Specifies that the transfer or sale does not eliminate the applicant's or any other party's liability or responsibility for acts or omissions occurring before transfer or sale, except when the transferee and transferor provide for the transfer of liability or responsibility by agreement.
5. Authorizes a city, town or county to reassess the amount of financial assurance required when a transfer of unit ownership occurs and directs the plant owner or operator to reimburse any reasonable costs incurred by the city, town or county to obtain the reassessment.
6. Allows a city, town or county to establish a procedure for:
  - a) receiving notice of a sale and transfer of obligations of a solar or wind energy power plant; and
  - b) approving a sale and transfer of obligations.
7. Requires a solar and wind energy power plant owner to provide the city, town or county written notice of the sale of a power plant.
8. Requires the city, town or county, within 15 days of receiving notice of the sale, to waive outlined financial assurance requirements and return to the solar or wind energy power plant owner any financial assurance provided.
9. Authorizes a city, town or county to adopt a procedure for waiving the financial assurance and outlines documentation that must be submitted by the owner or operator of the planned solar or wind energy power plant.

### ***Curing Damage and Cessation of Use***

10. Requires the owner or operator of a solar or wind energy power plant to:
  - a) maintain the plant in good conditions and repair; and
  - b) ensure that the plant remains functional and operational until decommissioning is initiated, except during periods of regular maintenance and planned curtailments.
11. Authorizes a city, town or county to adopt reasonable:
  - a) timelines and requirements for the cure and repair of defects of a solar or wind energy power plant;
  - b) penalties and procedures for the violation of or noncompliance with any prescribed requirements;
  - c) procedures for determining when a solar or wind energy power plant has been abandoned; and
  - d) timelines and procedures for the decommissioning and site restoration for a solar or wind energy power plant that has been abandoned or whose owner has filed for bankruptcy or is insolvent.
12. Prohibits a solar or wind energy power plant owner from abandoning the plant for any reason, including bankruptcy or insolvency.
13. Requires a solar or wind energy power plant owner who files for bankruptcy or becomes insolvent to immediately provide written notice to the city, town or county where the plant is located.
14. Prohibits a city, town or county from decommissioning or restoring a site that has been abandoned unless the city, town or county provides notice and opportunity for a hearing to:
  - a) the landowner where the plant is located; and

- b) all applicable creditors and parties to the relevant bankruptcy proceeding.

***Decommissioning and Site Restoration Plan***

15. Requires a solar or wind energy power plant owner or operator to provide the city, town or county where the plant is located with a decommissioning and site restoration plan.
16. Allows a city, town or county to adopt procedures for reviewing and approving a decommissioning and site restoration plan that a solar or wind energy power plant owner or operator submits.
17. Allows the decommissioning and site restoration plan to establish the minimum components of a decommissioning and site restoration plan, which must include:
  - a) a narrative describing how the solar or wind energy power plant will be decommissioned and restored and that it's consisted with prescribed procedures;
  - b) an estimate of the decommissioning and restoration costs, net salvage value; and
  - c) Financial resources that will be used for the decommissioning and restoration.
18. Directs a solar or wind energy power plant owner or operator to decommission the plant and restore the site as prescribed in the decommission and restoration plan approved by the city, town or county where the plant is located, unless the city, town or county determines that a provision of the plan is unnecessary.
19. Authorizes a city, town or county to adopt and enforce minimum standards and procedures for the decommissioning or restoration of a solar or wind energy power plant site that is subject to a land use or zoning permit.
20. Requires the minimum procedures for the decommissioning of a site to include:
  - a) the removal of all above ground components;
  - b) the removal of all foundation, buried project components and collection lines; and
  - c) the completion of all removal activities after decommissioning initiation.
21. Requires the minimum procedures for a site restoration to include:
  - a) minimizing ground disturbance and restoring the original ground contours, if possible;
  - b) reasonably restoring and re-establishing disturbed on-site soils and vegetation using native seed mix and appropriate soil nutrients;
  - c) restoring paved roads to their original condition;
  - d) the removal and remediation of and hazardous materials and waste; and
  - e) the completion of all site restoration activities after decommissioning completion.
22. Authorizes the city, town or county to enter the site after providing reasonable notice to the landowner to complete the decommissioning plan if the solar or wind energy power plant owner fails to complete decommissioning within a prescribed time period.
23. Directs a city, town or county to adopt procedures for:
  - a) certifying when decommissioning and site restoration activities have been completed and receiving notification; and
  - b) releasing a solar or wind energy power plant owner's or operator's financial assurance.
24. Specifies that if solar or wind energy power plant owner completes all decommissioning and restoration activities and notifies the city, town or county, then within 90 days after the date of notice:
  - a) the owner or operator is released from any obligation prescribed by this act; and
  - b) the city, town or county must return or release any remaining financial assurance.
25. Requires the owner of a solar or wind energy power plant to provide a copy of the decommissioning and site restoration plan to the Arizona Corporation Commission (ACC), Arizona State Land Department and Arizona Department of Environmental Quality on request.

***Financial Assurance (Sec. 1)***

26. Requires the plant owner or operator to continuously maintain financial assurance in a form determined by the city, town or county where the plant is located.
27. Specifies that the amount of this financial assurance must be equal to or more than the estimated cost to decommission and restore the site of a solar or wind energy power plant as determined by the city, town or county.
28. Allows a city, town or county to:
  - a) require a solar or wind energy power plant owner or operator to update the cost estimate or adopt procedures for the owner or operator to submit updated cost estimates as outlined; and
  - b) reassess the required financial assurance amount and modify or adjust the amount based on the most recent cost estimate received.
29. Authorizes a city, town or county to:
  - a) adopt procedures for an owner or operator of a solar or wind energy power plant to submit with the cost estimate, for considering during the calculation of financial assurance, the estimated salvage value of plant equipment at the time decommissioning; and
  - b) waive the required financial assurance if prescribed criteria are met.
30. Allows, in lieu of maintaining the required financial assurance, a solar or wind energy power plant that is owned by a city, town, county to demonstrate financial capability of meeting decommissioning and restoration costs by submitting:
  - a) a letter signed by the chief financial officer of the city, town or county stating their financial capability; and
  - b) a statement specifying the details of the financial arrangements that the city, town or county will use to meet estimated decommissioning and restoration costs.
31. Allows, in lieu of maintaining the required financial assurance, a solar or wind energy power plant that is owned by a public service corporation to demonstrate financial capability of meeting decommissioning and restoration costs by submitting:
  - a) an order issued by the corporation commissioner stating that the ACC has adopted a financial assurance requirement for the public service corporation that is substantially similar to the requirements of this act and approving a process for covering estimated decommissioning and restoration costs; and
  - b) a statement specifying details of the financial assurance required by this act or mechanisms the ACC has approved to ensure the public service corporation meets estimated decommissioning and restoration costs.
32. Allows a city, town or county to use the required financial assurance to cover the cost of initiating or completing decommissioning or site restoration if the solar or wind energy power plant owner or operator fails to complete decommissioning and site restoration.

***Liability Insurance (Sec. 1)***

33. Requires a solar and wind energy power plant owner or operator to maintain a commercial general liability insurance policy the covers any reasonable liability to third parties for real or personal injuries or damages arising from the plants owner's actions or negligence.
34. Requires the solar or wind energy power plant owner or operator to immediately provide written notice of any cancellation in the insurance policy to the city, town or county.
35. Allows a city, town or county to require the solar or wind energy power plant owner to maintain, when required by contract, commercial general liability insurance coverage with respect to the plant that names city, town or count as an additional insured

36. Requires, if a city, town or county is name as an additional insured, the solar or wind energy power plant owner to provide a certificate of insurance demonstrating coverage on written request from the city, town or county.
37. States that a city, town or county that approves a permit, standard, condition, requirement or decommissioning and site restoration plan for a solar or wind energy power plant is not liable for any damages or any real or personal injuries.

***Applicability***

38. States that this act applies to any solar or wind energy power plant that is the subject of an initial land use or zoning permit application if the application is:
  - a) submitted to a city, town or county where the plant is located; and
  - b) submitted for the first time on or after the effective date of this act.
39. Specifies that this act does not apply to a solar or wind energy power plant that is the subject of an initial land use or zoning permit application if the application is:
  - a) submitted to a city, town or county where the plant is located; and
  - b) submitted for the first time before the effective date of this act.
40. States that this act applies only to a ground-mounted solar energy system that is 51 kilowatts or more and is located or proposed to be located on vacant or agricultural land and does not apply to a solar energy system that is mounted on residential, commercial or industrial roof structure that has a primary purpose to provide shade over lands that are zoned for a purpose other than to generate solar electric energy.

<input type="checkbox"/> Prop 105 (45 votes) <input type="checkbox"/> Prop 108 (40 votes) <input type="checkbox"/> Emergency (40 votes) <input type="checkbox"/> Fiscal Note
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