HOUSE OF REPRESENTATIVES
DEMOCRATIC COMMITTEE BILL ANALYSIS

Bill No:	SB0349 PN0286	**Prepared By:**	Andrew McMenamin (717) 783-4043,6941
Committee:	Environmental & Natural Resource Protection	**Executive Director:**	Evan Franzese
Sponsor:	Yaw, Gene		
Date:	5/13/2025		

A. Brief Concept

Provides for decommissioning requirements for solar energy facilities.

C. Analysis of the Bill

SB 349 amends Title 27 (Environmental Resources) to require decommissioning plans for solar energy facilities with a nameplate capacity greater than 2MW.

Lease agreements between grantees (the owner of the solar facility) and property owners would be required to include provisions that the grantee is responsible for decommissioning the facility no later than 18 months after the facility has finally ceased production.

Financial Assurance and Decommissioning Plan Requirements

Requires a solar energy facility agreement to include the following:

- a decommissioning plan,
- proof of financial assurance to the county recorder of deeds to cover decommissioning costs, and
- notice to the surface property owner.

Provides for decommissioning plans and financial assurance to be updated with the county recorder of deeds every 5 years as follows:

- Within 30 days prior to commencement of construction, the initial decommissioning plan and 10 percent of the estimated decommissioning cost.
- By year 5 following commencement of construction, financial assurance equal to 10 percent of the estimated decommissioning cost.
- By year 10, proof of financial assurance equal to 40 percent of decommissioning costs, minus the facility's salvage value.
- By year 15, proof of financial assurance equal to 60 percent of decommissioning costs, minus the facility's salvage value.
- By year 20, proof of financial assurance equal to 80 percent of decommissioning costs, minus the facility's salvage value.
- By year 25, proof of financial assurance equal to 100 percent of decommissioning costs, minus the facility's salvage value.
- In addition, the following would apply:
    - The grantee would also be required to submit updated decommissioning plans every five years.
    - Decommissioning costs would be determined by a third-party engineer.
    - A decommissioning plan and the associated financial assurance may not be separated from the solar energy facility through a change in grantee ownership.
    - If the grantee does not fulfill the obligation to decommission the solar energy facility, the financial assurance shall be made payable to the surface property owner.

Provides for the following forms of financial assurance:

- An escrow account.
- A certificate of deposit or irrevocable letter of credit.
- A bond executed between the grantee and a corporate surety licensed to do business in this Commonwealth.
- A negotiable bond of the Federal Government, the Commonwealth or a municipality.

Department Duties

Requires DEP, in consultation with the solar energy industry, to develop standard forms for a decommissioning plan and financial assurance within 180 days of the effective date.

Provides for temporary regulations as needed to implement the act.

Contents of Decommissioning Plans

Requires decommissioning plans to include provisions for all of the following:

- The removal of all non-utility-owned equipment, conduits, structures, fencing and foundations to a depth of at least three feet below grade.
- The removal of graveled areas and access roads, unless the surface property owner requests in writing for graveled areas and access roads to stay in place.
- The restoration of the property to a condition reasonably similar to the property's condition before the commencement of construction.
- The reseeding of a cleared area, unless requested in writing by the surface property owner to not reseed due to plans for agricultural planting.

Prevention of Forced Labor

Requires a grantee to be in compliance with the Uyghur Forced Labor Prevention Act (Public Law 117-78, 135 Stat. 1525) or any other Federal law, rule or regulation that restricts the import or use of goods, wares, articles or merchandise mined, produced or manufactured wholly or in part with forced labor.

Preemption

Preempts existing local ordinances related to solar decommissioning.

Applicability

Exempts the following:

- A solar energy facility with a nameplate capacity of two megawatts AC or less.
- A customer generator as defined in section 2 of the Alternative Energy Portfolio Standards (AEPS) Act.
- A farmer who owns and operates their own solar energy facility on premises.

Definitions

Commencement of construction means the moment when a grantee issues a full notice to proceed order to the construction contractor.

Grantee means the owner of a solar energy facility on leased property.

Solar energy facility means the development or construction of a facility that utilizes solar energy to produce or distribute energy.

Solar energy facility agreement means a lease agreement between a grantee and a surface property owner that authorizes the grantee to operate a solar energy facility on leased property

Effective Date:

Immediately for Section 4304 (Form and content of decommissioning plans).

The remainder of the act shall take effect in 180 days.

G. <u>Relevant Existing Laws</u>

State law does not currently provide for solar decommissioning requirements.

The AEPS Act defines customer generator to mean "a nonutility owner or operator of a net metered distributed generation system with a nameplate capacity of not greater than 50 kilowatts if installed at a residential service or not larger than 3,000 kilowatts at other customer service locations, except for customers whose systems are above three megawatts and up to five megawatts who make their systems available to operate in parallel with the electric utility during grid emergencies as defined by the regional transmission organization or where a microgrid is in place for the primary or secondary purpose of maintaining critical infrastructure, such as homeland security assignments, emergency services facilities, hospitals, traffic signals, wastewater treatment plants or telecommunications facilities, provided that technical rules for operating generators interconnected with facilities of an electric distribution company, electric cooperative or municipal electric system have been promulgated by the Institute of Electrical and Electronic Engineers and the Pennsylvania Public Utility Commission."

E. <u>Prior Session</u> <u>(Previous Bill Numbers & House/Senate Votes)</u>

SB 349 is identical to SB 211 (Yaw) from last session. SB 211 was referred to the Senate Environmental Resources and Energy Committee and reported as committed (**8-3**) on February 27, 2023. SB 211 passed the Senate (**36-13**) on March 8, 2023.

SB 211 was referred to the House Environmental Resources and Energy Committee and reported as committed (**24-1**) on October 1, 2024. It received no further consideration.