



# SB 1610

## No Waste Left Behind: Decommissioning Solar Power Facilities

by Carine Martinez  
*Policy Analyst*

### Purpose

SB 1610 requires the owner of the land on which new solar facilities are located to enter into a decommissioning agreement with the county before a local government or school district can grant the facility Chapter 312 tax abatements or Chapter 313 tax limitations and before the Public Utility Commission can authorize the interconnection of the facility to the ERCOT transmission grid.

### Background

The oil and gas industry is required to provide financial assurance that their facilities will be decommissioned at the end of their useful life. This measure is aimed to prevent cases where wells could be abandoned by their former owners at the end of their useful life or the owners would go bankrupt.

Currently, there is no requirement for decommissioning solar power facilities in Texas law. Photovoltaic facilities are expected to have a working life of 25 to 40 years. The growing number of solar power facilities installed in Texas causes concern about what will happen once they reach the end of their useful life. Other states and counties have started including provisions in statutes or ordinances, especially at the local level, to plan for the decommissioning of “solar farms” and make sure the promise of decommissioning is accompanied by financial assurance, in the form of surety bonds, letters of credit, or other mechanisms.

The subsidies and tax preferences at the federal, state, and local levels for the solar energy industry, including the federal Investment Tax Credit (ITC), are making its rapid expansion in the heart of Texas possible. This creates an enormous financial cost to taxpayers and ratepayers as well as distortions of the market that decrease the reliability of the Texas electric grid. The solar panels installed to produce solar energy are also an eyesore for landowners. The insistence that the subsidies are necessary to support a once nascent industry now more than 40 years old, and that

programs such as Chapters 312 and 313 must be renewed, generates concerns about the financial reliability of these companies.

The exact cost of decommissioning solar power facilities is difficult to know as it depends on the size of the solar farm, on how much of the land it occupies, and on the salvage value of its parts. Studies and estimates available generally found that the cost of the decommissioning of an average solar farm could reach a million dollars and more. As a consequence, it is crucial to make sure that these are not abandoned once they do not produce any more electricity or to plan well in advance and secure payment for the financial cost of the decommissioning of solar power facilities in the case the companies go bankrupt. Taxpayers at the local or state level should not be left to carry this additional financial burden.

### Analysis

SB 1610 creates the framework for voluntary decommissioning of solar power facilities in exchange for access to certain subsidies and benefits.

Sections 1 and 2 condition the ability of a solar power facility to receive Chapter 312 tax abatements and Chapter 313 tax limitations on an agreement for the decommissioning of the solar power facility between the owner of the land on which the facility would be located and the county in which the land would be located.

Section 3 conditions the interconnection of the solar power facility to the ERCOT transmission grid on a decommissioning agreement. The agreement would require the landowner to be responsible for the decommissioning of the facility and restoration of the land. The landowner would also provide financial assurance covering the cost of the decommissioning and restoration of the land. An estimate of the cost would be made by a qualified independent engineer. The estimate could not exceed the cost of the decommissioning, taking into account the net salvage value

of the facility and associated equipment, the administrative costs, and an annual inflation factor. SB 1610 also allows the commission to agree to an interconnection without the decommissioning agreement if the commissioners court of the county waives this requirement.

## Recommendations

The bill addresses a serious and valid concern: the additional cost—on top of the already enormous cost of subsidies, tax breaks, and market distortions imposed on taxpayers and ratepayers—of decommissioning solar panels at the end of their useful life.

Chapter 312 and 313 tax abatements and limitations can be worth millions of dollars to the operators of solar facilities. Likewise, Texas consumers pay for the costs of

interconnection of solar facilities through their electricity bills. In both cases, then, solar facilities are receiving benefits from taxpayers and consumers.

SB 1610 offers a voluntary path to the decommissioning process, offering a choice to the operators of these facilities and the landowners on which the facilities are located—both of whom benefit from these public subsidies. Similarly, SB 1610 also provides local input into the process, allowing for the commissioners court of the county in which the solar power facility is located to waive the decommissioning requirement relating to interconnection. We recommend that SB 1610 be changed to ensure that the waiver by the county is voted on by the commissioners in a regularly scheduled meeting that requires public notice. ★

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