**South Carolina General Assembly**

125th Session, 2023-2024

**H. 3989**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Ott, G.M. Smith, Cobb-Hunter, Ligon, Kirby, Haddon, Oremus, Brewer, Gagnon, Sandifer, Weeks, Williams, Henegan, Bauer, Forrest, Jefferson, Wheeler, Anderson and Calhoon

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Introduced in the House on February 16, 2023

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Solar, Agricultural, Farmland and Environmental Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/16/2023 House Introduced and read first time ([House Journal‑page 17](h:\hj\20230216.docx))

2/16/2023 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 17](h:\hj\20230216.docx))

5/3/2023 House Committee report: Favorable with amendment **Labor, Commerce and Industry** ([House Journal‑page 9](h:\hj\20230503.docx))

5/4/2023 House Member(s) request name added as sponsor:
Williams, Henegan

5/9/2023 House Debate adjourned until Wed., 5-10-23 ([House Journal‑page 20](h:\hj\20230509.docx))

5/10/2023 House Member(s) request name added as sponsor: Bauer,
Forrest

5/10/2023 House Debate adjourned until Thur., 5-11-23 ([House Journal‑page 17](h:\hj\20230510.docx))

5/11/2023 House Debate adjourned until Tues., 1-9-24 ([House Journal‑page 22](h:\hj\20230511.docx))

1/9/2024 House Member(s) request name added as sponsor: Jefferson

1/10/2024 House Member(s) request name added as sponsor: Wheeler

1/10/2024 House Debate adjourned until Tues., 1-23-24 ([House Journal‑page 45](h:\hj\20240110.docx))

1/23/2024 House Debate adjourned until Tues., 2-6-24 ([House Journal‑page 15](h:\hj\20240123.docx))

1/23/2024 House Member(s) request name added as sponsor:
Anderson, Calhoon

2/6/2024 House Debate adjourned until Mon., 2/19/24 ([House Journal‑page 18](h:\hj\20240206.docx))

2/27/2024 House Debate adjourned until Mon., 3/18/24 ([House Journal‑page 38](h:\hj\20240227.docx))

3/19/2024 House Recommitted to Committee on **Labor, Commerce and Industry** ([House Journal‑page 13](h:\hj\20240319.docx))

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**VERSIONS OF THIS BILL**

[02/16/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3989_20230216.docx)

[05/04/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3989_20230504.docx)

Committee Report

May 3, 2023

H.3989

Introduced by Reps Ott, G. M. Smith, Cobb-Hunter, Ligon, Kirby, Haddon, Oremus, Brewer, Gagnon, Sandifer and Weeks

S. Printed 05/03/23--H.

Read the first time February 16, 2023

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The committee on House Labor, Commerce and Industry

To who was referred a Bill (H.3989) to amend the South Carolina Code of Laws by adding Article 9 to Chapter 33, Title 58 so as to establish the “Solar, Agricultural, Farmland, and Environmental Act”, etc., respectfully

Report:

That they have duly and carefully considered the same, and recommend that the same do pass with amendment:

Amend the bill, after the title but before the enacting words, by adding:

Whereas, the General Assembly intends to establish a process for reviewing and mitigating the use of high‑value agricultural lands by photovoltaic energy facilities; and

Whereas, the applicability of the Utility Facility Siting and Environmental Protection Act to a proposed electric generating plant is based on its generating capacity and not the acreage of the proposed generating plant; and

Whereas, nothing in this act shall be construed to affect the definition of “Major Utility Facility” under the Utility Facility Siting and Environmental Protection Act. Now, therefore,

Amend the bill further, SECTION 1, by striking Section 58-33-530(A)(2) and (2) and inserting:

(1) No person shall commence to construct a photovoltaic energy facility on farmland without first having obtained a certificate issued with respect to that facility by the commission. The replacement of an existing photovoltaic energy facility with a like facility, as determined by the commission, shall not constitute construction of a photovoltaic energy facility. Any photovoltaic energy facility, with respect to which a certificate is required, shall be constructed, operated, and maintained in conformity with the certificate and any terms, conditions, and modifications contained therein. A certificate may only be issued pursuant to this article; provided, however, any authorization relating to a photovoltaic energy facility on farmland granted under other laws administered by the commission shall constitute a certificate if the requirements of this article have been complied with in the proceeding leading to the granting of such authorization.

(2) All land that is taxable as agricultural land upon which an applicant seeks to construct a photovoltaic energy facility is considered farmland for purposes of this article unless and until the applicant has a determination in writing from the Clemson Extension that the land upon which it seeks to construct a photovoltaic energy facility is not farmland as defined in this article. A copy of all requests for a determination from the Clemson Extension as to whether land is farmland must be provided to the Regulatory Staff on the day on which the request is made. To the extent a person seeks to construct a photovoltaic energy facility on land that is determined by the Clemson Extension to not be farmland, it is not subject to the terms of this article.

Amend the bill further, SECTION 1, by deleting Section 58-33-600(D).

Amend the bill further, SECTION 1, by deleting Section 58-33-610.

Renumber sections to conform.

Amend title to conform.

BILL SANDIFER for Committee.

statement of estimated fiscal impact

Explanation of Fiscal Impact

State Expenditure

This bill establishes the Solar, Agricultural, Farmland, and Environmental Act. The bill requires an individual to obtain a certificate from PSC prior to constructing a photovoltaic energy facility. All land upon which an applicant seeks to construct a photovoltaic energy facility is considered farmland for purposes of this bill until the applicant has a determination in writing from the Clemson Extension that the land is not farmland. A copy of all requests for such determinations from the Clemson Extension must be provided to ORS. The bill also specifies as to when the construction of a photovoltaic energy facility is excluded from the provisions of this bill.

The bill also specifies the information that must be included in the application for the certificate to construct a photovoltaic energy facility. Additionally, each application must be accompanied by proof of service of a copy of the application on ORS, the chief executive officer of each municipality, and the head of each state and local governmental agency in the area of the county where the photovoltaic energy facility is to be located.

Additionally, upon receipt of an application, PSC must promptly establish a date for the commencement of hearings regarding the construction of a photovoltaic energy facility. The parties to a certification hearing must include the applicant, ORS, DHEC, DNR, all land-grant universities in the state, the Department of Agriculture, PRT, each municipality and governmental agency entitled to receive a copy of the application filed with PSC, and any person entitled to receive a copy of the application. The bill also requires PSC to render a decision either granting or denying the application.

The bill also specifies that all entities and persons filing an application for construction of a photovoltaic energy facility must bear the costs associated with the filing that are incurred by ORS and PSC. Exceptions include filings by a public utility that pays a license tax pursuant to §12-20-100. ORS must report all costs incurred for the investigation of the application, and PSC must report all costs incurred by the commission for adjudicating the application to DOR.

The bill further establishes the Agricultural and Farmland Viability Protection Fund, which is in the custody of DOR. If PSC approves the application, 10 percent of the total project costs must be remitted to DOR and placed in the fund. All monies deposited in the fund must be used for agricultural and farmland protection activities as follows:

Education to impacted communities about easements, green bank opportunities, and funding sources that may be used to conserve agricultural land;

Conservation of agricultural lands in South Carolina; or

Direct remittance to a conservation bank.

Monies must be made payable from the fund on the audit and warrant of DOR.

Office of Regulatory Staff. ORS indicates that this bill will increase Other Funds expenses of the agency by $600,000 beginning in FY 2023-24. Of this amount, $548,000 is for 4.0 FTEs to review applications related to farmland, participate in public hearings, participate in hearings regarding applications regarding applications, and activities to calculate and assess entities. The remaining $52,000 is for ongoing miscellaneous expenses for the new positions. As ORS’ Other Funds are provided for by entities the agency regulates, these expenses will be offset by a charge to the audited entities. This will result in an increase in Other Funds revenue of $600,000 to offset the expenditure.

Public Service Commission. The bill specifies that all entities and persons filing an application for construction of a photovoltaic energy facility must bear the costs associated with the filing that are incurred by PSC. Exceptions include filings by a public utility that pays a license tax pursuant to §12-20-100. PSC indicates that this bill will have no expenditure impact on the agency since costs related to the application process for non-public utilities will be borne by the applicant. Further, public utilities regulated by PSC are assessed expenses by DOR under §58-3-100. Other responsibilities related to the bill can be managed within existing resources. Therefore, this bill will have no expenditure impact on PSC.

Department of Revenue. DOR indicates that this bill will have a minimal impact on the agency to manage any additional remittance of funds to ORS, manage the reporting requirements, and manage the Agricultural and Farmland Viability Protection Fund. However, DOR anticipates being able to manage the expenses with existing resources.

Department of Health and Environmental Control. DHEC anticipates being able to manage any expenses related to certification proceedings with existing staff and within existing appropriations. Therefore, the bill is not expected to have an expenditure impact on the agency.

Department of Parks, Recreation and Tourism. PRT indicates that any expenses to have an agency representative attend certification proceedings can be managed with existing staff and within existing appropriations, unless it becomes a frequent occurrence. Therefore, this bill is not expected to have an expenditure impact on the agency.

Department of Natural Resources. The expenditure impact of this bill on DNR to participate in certification proceedings is pending, contingent upon a response.

Department of Agriculture. The expenditure impact of this bill on the Department of Agriculture to participate in certification proceedings is pending, contingent upon a response.

Clemson University Cooperative Extension Service. The expenditure impact of this bill on the Clemson Extension to issue determinations on whether land is considered farmland is pending, contingent upon a response.

State Revenue

This bill establishes the Solar, Agricultural, Farmland, and Environmental Act. The bill also provides for the application and certificate requirements to construct a photovoltaic energy facility. Additionally, the bill specifies that all entities and persons filing an application for construction of a photovoltaic energy facility must bear the costs associated with the filing that are incurred by ORS and PSC. Exceptions include filings by a public utility that pays a license tax pursuant to §12-20-100. ORS must report all costs incurred for the investigation of the application, and PSC must report all costs incurred by the commission for adjudicating the application to DOR. Further, the bill establishes the Agricultural and Farmland Viability Protection Fund in the custody of DOR to be used for agricultural and farmland protection activities.

PSC indicates that the bill will increase Other Funds revenue of the commission if a person or entity other than a public utility that pays a license tax pursuant to §12-20-100 files an application. However, the number of applications that may be filed by a person or entity other than a public utility is unknown. Therefore, the impact on Other Funds revenue of PSC is undetermined.

ORS indicates that this bill will increase Other Funds expenses of the agency by $600,000 beginning in FY 2023-24 for 4.0 FTEs to review applications, participate in public hearings, participate in hearings regarding applications, activities to calculate and assess entities, and for ongoing miscellaneous expenses for the new positions. As ORS’ Other Funds are provided for by entities the agency regulates, these expenses will be offset by a charge to the audited entities. This will result in an increase in Other Funds revenue of $600,000 to offset the expenditure.

Since the number of applications and total projects costs for construction of photovoltaic energy facilities are unknown, the revenue that will be deposited into the Agricultural and Farmland Viability Protection Fund is also undetermined.

Local Expenditure

This bill establishes the Solar, Agricultural, Farmland, and Environmental Act. The bill also provides for the application and certificate requirements to construct a photovoltaic energy facility. Further, the bill establishes the Agricultural and Farmland Viability Protection Fund in the custody of DOR to be used for agricultural and farmland protection activities.

RFA surveyed all forty-six county governments and the MASC regarding the expenditure impact of this bill and received a response from the MASC. No counties responded to our request for the expenditure impact of the bill. The MASC indicates that the bill will have no expenditure impact on municipal governments since any expenses to attend certification proceedings can be managed within the normal course of business.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

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A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 9 TO CHAPTER 33, TITLE 58 SO AS TO ESTABLISH THE “SOLAR, AGRICULTURAL, FARMLAND, AND ENVIRONMENTAL ACT”; TO PROVIDE FOR DEFINITIONS; TO ESTABLISH CERTIFICATE REQUIREMENTS FOR CONSTRUCTION OF PHOTOVOLTAIC ENERGY FACILITIES; TO ESTABLISH THE CERTIFICATE APPLICATION PROCESS; TO PROVIDE REQUIREMENTS FOR HEARINGS REGARDING THE CERTIFICATE APPLICATION; TO ESTABLISH THE PARTIES TO A CERTIFICATION PROCEEDING; TO REQUIRE A RECORD OF THE PROCEEDINGS AND TO PERMIT THE PUBLIC SERVICE COMMISSION TO CONSOLIDATE THE REPRESENTATION OF PARTIES WITH SIMILAR INTERESTS; TO ESTABLISH REQUIREMENTS FOR THE PUBLIC SERVICE COMMISSION’S DECISION REGARDING AN APPLICATION; TO REQUIRE THE PUBLIC SERVICE COMMISSION TO ISSUE AN ORDER WITHIN ONE HUNDRED EIGHTY DAYS FROM THE DATE THE APPLICATION IS FILED; TO PROVIDE FOR PAYMENT OF COSTS FOR THE OFFICE OF REGULATORY STAFF AND THE PUBLIC SERVICE COMMISSION FOR A FILED APPLICATION; and TO CREATE THE AGRICULTURAL AND FARMLAND VIABILITY PROTECTION FUND.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 33, Title 58 of the S.C. Code is amended by adding:

Article 9

Certification of Photovoltaic Energy Facilities on Farmland

Section 58‑33‑510. This article shall be known, and may be cited, as the “Solar, Agricultural, Farmland, and Environmental Act”.

Section 58‑33‑520. As used in this article, unless otherwise clearly apparent from the context:

(1) “Clemson Extension” means the Clemson University Cooperative Extension Service.

(2) “Commission” means the Public Service Commission.

(3) “Commence to construct” means any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route of a photovoltaic energy facility on farmland, but does not include surveying or changes needed for temporary use of sites or routes for nonutility purposes, or uses in securing geological data, including necessary borings to ascertain foundation conditions.

(4) “Farmland” means any land that is taxable as agricultural land and has been utilized to grow crops, other than timber, that could have been sold for a profit within the previous five calendar years. Land used for timber is not considered farmland for purposes of this article.

(5) “Municipality” means any county or municipality within this State.

(6) “Person” includes any individual, group, firm, partnership, corporation, cooperative, association, governmental subdivision, governmental agency, local government, municipality, any other organization, or any combination of any of the foregoing, and includes the South Carolina Public Service Authority.

(7) “Photovoltaic energy facility” means a facility where electricity is generated by capturing energy by photovoltaic systems or solar thermal systems and the facility occupies a space that is twenty acres or greater.

(8) “Public utility” or “utility” means any person engaged in the generating, distributing, sale, delivery, or furnishing of electricity for public use.

(9) “Land” means any real estate or any estate or interest therein, including water and riparian rights, regardless of the use to which it is devoted.

(10) “Certificate” means a certificate of environmental compatibility and public convenience and necessity.

(11) “Regulatory Staff” means the Executive Director or the Executive Director and the employees of the Office of Regulatory Staff.

Section 58‑33‑530. (A)(2) No person shall commence to construct a photovoltaic energy facility on farmland without first having obtained a certificate issued with respect to that facility by the commission. The replacement of an existing photovoltaic energy facility with a like facility, as determined by the commission, shall not constitute construction of a photovoltaic energy facility. Any photovoltaic energy facility, with respect to which a certificate is required, shall be constructed, operated, and maintained in conformity with the certificate and any terms, conditions, and modifications contained therein. A certificate may only be issued pursuant to this article; provided, however, any authorization relating to a photovoltaic energy facility on farmland granted under other laws administered by the commission shall constitute a certificate if the requirements of this article have been complied with in the proceeding leading to the granting of such authorization.

(2) All land upon which an applicant seeks to construct a photovoltaic energy facility is considered farmland for purposes of this article unless and until the applicant has a determination in writing from the Clemson Extension that the land upon which it seeks to construct a photovoltaic energy facility is not farmland as defined in this article. A copy of all requests for a determination from the Clemson Extension as to whether land is farmland must be provided to the Regulatory Staff on the day on which the request is made. To the extent a person seeks to construct a photovoltaic energy facility on land that is determined by the Clemson Extension to not be farmland, it is not subject to the terms of this article.

(B) A certificate may be transferred, subject to the approval of the commission, to a person who agrees to comply with the terms, conditions and modifications contained therein.

(C) A certificate may be amended, subject to the approval of the commission.

(D) This article shall not apply to any photovoltaic energy facility on farmland, for which:

(1) construction of the photovoltaic energy facility is commenced within one year after January 1, 2023;

(2) prior to January 1, 2023, an application for the approval has been made to any federal, state, regional, or local governmental agency which possesses the jurisdiction to consider the matters described in Section 58‑33‑580(A); or

(3) prior to January 1, 2023, a governmental agency has approved the construction of the photovoltaic energy facility and indebtedness has been incurred to finance all or part of the cost of such construction.

(E) Any person intending to construct a photovoltaic energy facility on farmland excluded from this article pursuant to subsection (D) may elect to waive the exclusion by delivering notice of the waiver to the commission. This article shall thereafter apply to each photovoltaic energy facility constructed on farmland identified in the notice from the date of its receipt by the commission.

(F) The commission shall have authority to waive the normal notice and hearing requirements of this article and to issue a certificate on an emergency basis if it finds that immediate construction of a photovoltaic energy facility on farmland is justified by public convenience and necessity, provided, that the commission must notify all parties concerned pursuant to Section 55‑33‑560 prior to the issuance of the certificate. The commission may subsequently require a modification of the facility if, after giving due consideration to the photovoltaic energy facility on farmland, available technology and the economics involved, it finds the modification necessary in order to minimize the environmental impact.

(G) The commission shall have authority, where justified by public convenience and necessity, to grant permission to a person who has made application for a certificate pursuant to Section 58‑33‑540 to proceed with initial clearing, excavation, dredging, and construction; provided, however, that in engaging in such clearing, excavation, dredging, or construction, the person shall proceed at his own risk, and such permission shall not in any way indicate approval by the commission of the proposed site or photovoltaic energy facility.

Section 58‑33‑540. (A) An applicant for a certificate must file an application with the commission, in such form as the commission may prescribe. The application must contain the following information:

(1) a description of the location and of the photovoltaic energy facility to be built;

(2) a summary of any studies which have been made by or for the applicant regarding the environmental impact of the photovoltaic energy facility;

(3) a statement explaining the need for the photovoltaic energy facility; and

(4) any other information as the applicant may consider relevant or as the commission may by regulation or order require. A copy of the study referred to in item (2) must be filed with the commission, if ordered, and must be available for public information.

(B) Each application must be accompanied by proof of service of a copy of the application on the Regulatory Staff, the chief executive officer of each municipality, and the head of each state and local governmental agency, charged with the duty of protecting the environment or of planning land use, in the area in the county in which any portion of the photovoltaic energy facility is to be located. The copy of the application must be accompanied by a notice specifying the date on or about which the application is to be filed.

(C) Each application also must be accompanied by proof that written public notice was given at least 90 days prior to the date on which the application was filed with the commission to persons residing in the municipalities entitled to receive notice pursuant to subsection (B), by the publication of a summary of the application, and the date on or about which it is to be filed, and in newspapers of general circulation as will serve substantially to inform the persons of the application.

(D) Inadvertent failure of service on, or notice to, any of the municipalities, governmental agencies, or persons identified in subsections (B) and (C) may be cured pursuant to the orders of the commission designed to afford them adequate notice to enable their effective participation in the proceeding. In addition, the commission may, after filing, require the applicant to serve notice of the application or copies, or both, upon the other persons, and file proof, as the commission may deem appropriate.

(E) An application for an amendment of a certificate must be in the form and contain information as the commission shall prescribe. Notice of the application must be given as provided in subsections (B) and (C).

Section 58‑33‑550. (A) Upon receipt of an application complying with Section 58‑33‑540, the commission must promptly establish a date for the commencement of a public hearing not less than sixty days nor more than ninety days after the receipt of the application. This public hearing must take place within the county where the farmland is located and is intended to allow the public to present testimony to the commission regarding the potential photovoltaic energy facility.

(B) Upon the receipt of an application complying with Section 58‑33‑540, the commission must promptly establish a date for the commencement of a hearing not less than ninety days nor more than one hundred twenty days after the receipt of the application and must conclude the proceedings as expeditiously as practicable. The testimony at the hearing may be presented in writing or orally, provided that the commission may make rules designed to exclude repetitive, redundant, or irrelevant testimony.

(C) The commission must hold a hearing regarding an application to amend a certificate in the same manner as a hearing for an application for a certificate if the proposed change in the photovoltaic energy facility would result in any significant increase in any environmental impact of the facility or a substantial change in the location of all or a portion of the facility. The commission must forward a copy of the application to amend a certificate to all parties upon the filing of the application.

Section 58‑33‑560. (A) The parties to a certification proceeding must include:

(1) the applicant;

(2) the Regulatory Staff, the Department of Health and Environmental Control, the Department of Natural Resources, all land‑grant universities in the State, the Department of Agriculture, and the Department of Parks, Recreation and Tourism;

(3) each municipality and governmental agency entitled to receive service of a copy of the application pursuant to Section 55‑33‑540(B) that filed with the commission a notice of intervention as a party within thirty days after the date it was served with a copy of the application; and

(4) any person residing in a municipality entitled to receive service of a copy of the application pursuant to Section 55‑33‑540, any domestic nonprofit organization formed in whole or in part to promote conservation or natural beauty, to protect the environment, personal health, or other biological values, to preserve historical sites, to promote consumer interest, to represent commercial and industrial groups, or to promote the orderly development of the area in which the photovoltaic energy facility is to be located, or any other person that petitioned the commission for leave to intervene as a party, within thirty days after the date given in the published notice as the date for filing the application, and if the petition has been granted by the commission for good cause shown.

(B) The commission may, in extraordinary circumstances for good cause shown, and giving consideration to the need for the timely start of construction of the photovoltaic energy facility, grant a petition for leave to intervene as a party to participate in subsequent phases of the proceeding, filed by a municipality, governmental agency, person, or organization described in item (A)(2) or (3) of this section, but which failed to file a timely notice of intervention or petition for leave to intervene.

Section 58‑33‑570. (A) A record must be made of all hearings and of all testimony taken and the cross‑examination. Upon request of a party, either before or after the decision, a state agency which either proposes to require or does require a condition to be included in the certificate as provided in Section 58‑33‑580 must furnish for the record all factual findings, documents, studies, rules, regulations, standards, or other documentation supporting the condition.

(B) The commission may provide for the consolidation of the representation of parties having similar interests.

Section 58‑33‑580. (A) The commission must render a decision upon the record either granting or denying the application as filed, or granting it upon the terms, conditions, or modifications of the construction, operation, or maintenance of the photovoltaic energy facility on farmland as the commission may deem appropriate; such conditions must be as determined by the applicable state agency having jurisdiction or authority under statutes, rules, regulations, or standards promulgated thereunder, and the conditions must become a part of the certificate. The commission may not grant a certificate for the construction, operation, and maintenance of a photovoltaic energy facility on farmland, either as proposed or as modified by the commission, unless it shall find and determine:

(1) that public convenience and necessity require the construction of the photovoltaic energy facility;

(2) that construction of the photovoltaic energy facility on farmland is just and reasonable and in the public interest; and

(3) a determination that the loss of farmland due to construction of the photovoltaic energy facility is outweighed by the quantifiable net benefits to the State from the construction of the photovoltaic energy facility.

(B) If the commission determines that the location of all or a part of the proposed photovoltaic energy facility should be modified, it may condition its certificate upon the modification, provided that the municipalities and persons residing therein affected by the modification have been given reasonable notice.

(C) A copy of the decision and any opinion must be served by the commission upon each party.

Section 58‑33‑590. The commission must issue an order within one hundred eighty days from the date on which the application is filed. In rendering a decision on an application for a certificate, the commission must issue an opinion stating its reasons for the action taken.

Section 58‑33‑600. (A) All entities and persons filing an application pursuant to Section 58‑33‑540 must bear the costs associated with the filing that are incurred by the Regulatory Staff and the commission, except for filings made pursuant to Section 58‑33‑540 by an entity that is a public utility that pays a license tax pursuant to Section 12‑20‑100.

(B)(1) If costs are due, the Regulatory Staff must report to the Department of Revenue all costs incurred by the Regulatory Staff in investigating the application filed pursuant to Section 58‑33‑540. These costs must be paid by the person that filed the application to the Department of Revenue and the costs must be remitted to the Regulatory Staff within thirty days of the Regulatory Staff making the report to the Department of Revenue.

(2) The Regulatory Staff must report all costs incurred pursuant to item (1) to Department of Revenue not later than one year from the date the costs were incurred.

(C)(1) If costs are due, the commission must report to the Department of Revenue all costs incurred by the commission in adjudicating the application filed pursuant to Section 58‑33‑540. These costs must be paid by the person that filed the application to the Department of Revenue and the costs must be remitted to the commission within thirty days of the commission making the report to the Department of Revenue.

(2) The commission must report all costs incurred pursuant to item (1) to the Department of Revenue not later than one year from the date the costs were incurred.

(D) If the commission approves the application, ten percent of the total project costs must be remitted to the Department of Revenue and placed in the Agricultural and Farmland Viability Protection Fund established pursuant to Section 58‑33‑610.

Section 58‑33‑610. (A) There is hereby established in the custody of the Department of Revenue a special fund to be known as the Agricultural and Farmland Viability Protection Fund. This fund shall consist of all revenues collected pursuant to subsection 58‑33‑600(D).

(B) All monies deposited in the Agricultural and Farmland Viability Protection Fund must be made available by the Department of Revenue for agricultural and farmland protection activities, which shall consist of:

(1) education to impacted communities about easements, green bank opportunities, and funding sources that may be used to conserve agricultural land;

(2) conservation of agricultural lands in South Carolina; or

(3) direct remittance to a conservation bank.

(C) Monies must be made payable from the fund on the audit and warrant of the Department of Revenue.

SECTION 2. This act takes effect upon approval by the Governor.

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