

1 INTERIM STUDY PROPOSAL 2017-027

2 State of Arkansas

As Engrossed: H3/20/17

3 91st General Assembly

A Bill

4 Regular Session, 2017

HOUSE BILL 1771

5
6 By: Representative S. Meeks

7 Filed with: House Committee on Public Health, Welfare, and Labor
8 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

10 AN ACT TO CREATE THE ARKANSAS NIGHTTIME ENVIRONMENT
11 PROTECTION ACT; AND FOR OTHER PURPOSES.

Subtitle

15 TO CREATE THE ARKANSAS NIGHTTIME
16 ENVIRONMENT PROTECTION ACT.

18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20
21 SECTION 1. DO NOT CODIFY. Findings.

22 The General Assembly finds that:

23 (1)(A) Energy is wasted when methods of illumination are used
24 excessively and inefficiently.

25 (B) This wasteful use of energy is not a cost-effective
26 use of taxpayer money and adds unnecessary pollutants to our environment from
27 the energy generation;

28 (2)(A) In addition, light pollution has been implicated in
29 disruption of the human and animal circadian rhythm and strongly suspected as
30 an etiology of suppressed melatonin production, depressed immune systems, and
31 increases in certain cancer rates.

32 (B) The findings set out in subdivision (2)(A) of this
33 section prompted the American Medical Association in June 2009 to adopt a
34 resolution advocating the reduction of light pollution and glare through the
35 use of energy efficient and shielded lighting;

1 (3) In addition, light pollution disrupts nocturnal animal
2 activity, which results in diminished health and survival of various animal
3 and plant populations;

4 (4) In addition, light pollution reduces the ability for
5 Arkansans to enjoy recreational or educational astronomical observations of
6 the starry night sky;

7 (5) In addition, light pollution reduces the ability for
8 Arkansas scientists to conduct scientific research of the cosmos;

9 (6) In addition, inefficient luminaries may cast unwanted light
10 outside the intended target area, creating light trespass; and

11 (7) Therefore, it is in the public interest to reduce light
12 pollution to protect the nighttime environment and create awareness.

13
14 SECTION 2. Arkansas Code Title 8, Chapter 14, is amended to read as
15 follows:

16 8-14-101. Title.

17 This chapter shall be known and may be cited as the "~~Shielded Outdoor~~
18 ~~Lighting Act~~" "Arkansas Nighttime Environment Protection Act".

19
20 8-14-102. Purpose.

21 ~~The purpose of this chapter is to conserve energy and preserve the~~
22 ~~environment through the regulation of outdoor lighting fixtures~~ The purpose
23 of this chapter is to regulate outdoor night lighting fixtures to promote
24 safety, conserve energy, save tax dollars, and preserve the state's natural
25 nighttime environment for astronomy and the health and welfare of our
26 citizens and our wildlife.

27
28 8-14-103. Definitions.

29 As used in this chapter:

30 ~~(1) "Outdoor lighting fixture" means an automatically~~
31 ~~controlled, outdoor artificial illuminating device, whether permanent or~~
32 ~~portable, used for illumination or advertisement, including searchlights,~~
33 ~~spotlights, and floodlights, whether for architectural lighting, parking lot~~
34 ~~lighting, landscape lighting, billboards, or street lighting; and~~

35 ~~(2) "Shielded" means a fixture that is covered in a manner that~~
36 ~~light rays emitted by the fixture, either directly from the lamp or~~

1 ~~indirectly from the fixture, are projected below a horizontal plane running~~
2 ~~through the lowest point on the fixture where light is emitted.~~

3 (1) "Direct light" means light emitted directly from a light
4 source, off a reflector, or through a refractor or lens of a fixture;

5 (2)(A) "Electronic message center" means a self-luminous sign
6 that emits or projects any kind of light, color, or message that is computer-
7 or electronically generated.

8 (B) "Electronic message center" includes displays using
9 lamps, light-emitting diodes, liquid crystal displays, or a flipper matrix
10 and any sign that creates an image using an array of picture elements or
11 pixels;

12 (3) "Excessive cost" means:

13 (A) The cost to meet a requirement under this chapter or
14 the cost of additional wiring, controls, power requirements, poles,
15 materials, and commissioning, designing, and maintenance needed to meet a
16 requirement under this chapter that is at least one hundred twenty-five
17 percent (125%) more expensive than a nonconforming fixture; or

18 (B) In the case of a tariff on a streetlight, the tariff
19 for the streetlight for a conforming fixture is more expensive than the
20 tariff for a nonconforming fixture;

21 (4) "Fixture" means a complete lighting unit, including without
22 limitation a light source together with the parts designed to distribute the
23 light, to position and protect the light source, and to connect the light
24 source to the power supply;

25 (5) "Fully shielded" means a fixture that does not allow light
26 emissions, either directly from a light source or indirectly by reflection or
27 refraction from any part of the lighting unit, above a horizontal plane
28 running through the lowest point on the fixture where light is emitted;

29 (6) "Glare" means the sensation produced by luminances within
30 the visual field that is sufficiently greater than the luminance to which the
31 eyes are adapted to cause annoyance, discomfort, or loss of visual
32 performance and visibility;

33 (7) "Illuminance" means the level of light measured on an
34 intercepting surface;

35 (8) "Lamp" means the component of a fixture that produces light;

1 (9) "Light pollution" means general sky glow caused by the
2 scattering of artificial light in the atmosphere;

3 (10) "Light trespass" means excessive or unreasonable light
4 emitted by a fixture that shines beyond the boundaries of the property on
5 which the fixture is located;

6 (11) "Lumen" means a unit of luminous flux emitted within a unit
7 solid angle by a point source with a uniform luminous intensity of one (1)
8 candela;

9 (12) "Lux" means the International System of Units unit of
10 illuminance and is equal to one (1) lumen per square meter;

11 (13) "Partially shielded" means a fixture that is constructed so
12 that the bottom edge of the shield is below the plane of the center line of
13 the lamp, reducing light above the horizontal to less than twenty percent
14 (20%) of the light emitted from any part of the lighting unit;

15 (14) "Permanent outdoor fixture" means a fixture or system of
16 fixtures that is outdoors and intended to be used or is used for thirty (30)
17 days or longer; and

18 (15) "Public funds" means bond revenues or money appropriated or
19 allocated by the General Assembly or money raised through taxes or fees and
20 county and municipal funds.

21
22 8-14-104. ~~Shielding Prohibitions Exemptions~~ Regulations for
23 outdoor illumination.

24 ~~(a) After January 1, 2006:~~

25 ~~(1)(A) No public funds shall be used to install an outdoor~~
26 ~~lighting fixture unless it is shielded.~~

27 ~~(B) Subdivision (a)(1)(A) of this section shall not apply~~
28 ~~to any municipality or county if the governing body of the municipality or~~
29 ~~county determines by ordinance or to a municipally owned utility if the~~
30 ~~municipal employee responsible for procurement determines that the cost of~~
31 ~~acquiring a shielded outdoor lighting fixture will be prohibitive after~~
32 ~~comparing:~~

33 ~~(i) The cost of the fixtures; and~~

34 ~~(ii) The projected energy cost of the operation of~~
35 ~~the fixtures;~~

1 ~~(2) The Arkansas Department of Environmental Quality shall~~
2 ~~promulgate regulations prohibiting any person or entity from knowingly~~
3 ~~placing or disposing of the bulb or tube portion of an electric lighting~~
4 ~~device containing hazardous levels of mercury in a landfill after January 1,~~
5 ~~2008, if:~~

6 ~~(A) The device contains more than two tenths milligram per~~
7 ~~liter (0.2 mg/l) of leachable mercury as measured by the Toxicity~~
8 ~~Characteristic Leaching Procedure as set out in EPA test Method 1311; and~~

9 ~~(B) Adequate facilities exist for the public to properly~~
10 ~~dispose of the device described in subdivision (a)(2)(A) of this section; and~~

11 ~~(3)(A) Each electric public utility shall offer a shielded~~
12 ~~lighting service option.~~

13 ~~(B) Not later than January 1, 2006, each electric public~~
14 ~~utility shall file an application with the Arkansas Public Service Commission~~
15 ~~to establish a schedule of rates and charges for the provision of a shielded~~
16 ~~lighting service option to the utility's customers.~~

17 ~~(C) The commission shall require each electric public~~
18 ~~utility to inform its customers of the availability of the shielded lighting~~
19 ~~service.~~

20 ~~(b) This chapter does not apply to acquisitions of:~~

21 ~~(1) Incandescent outdoor lighting fixtures of one hundred fifty~~
22 ~~watts (150W) or less or other light sources of seventy watts (70W) or less;~~

23 ~~(2) Outdoor lighting fixtures on advertisement signs on~~
24 ~~interstate or federal primary highways;~~

25 ~~(3)(A) Outdoor lighting fixtures existing and legally installed~~
26 ~~before August 12, 2005.~~

27 ~~(B) However, if an existing outdoor lighting fixture~~
28 ~~exempted from this chapter under subdivision (b)(3)(A) of this section needs~~
29 ~~to be replaced, the acquisition of the replacement outdoor lighting fixture~~
30 ~~shall be subject to the provisions of this chapter;~~

31 ~~(4) Navigational lighting systems at airports or other lighting~~
32 ~~necessary for aircraft safety; and~~

33 ~~(5) Outdoor lighting fixtures that are necessary for worker~~
34 ~~safety at farms, ranches, dairies, or feedlots or industrial, mining, or oil~~
35 ~~and gas facilities.~~

1 ~~(c) This chapter does not apply to outdoor lighting fixtures~~
2 ~~maintained or installed by:~~

- 3 ~~(1) A public school district;~~
- 4 ~~(2) A correctional facility;~~
- 5 ~~(3) A juvenile detention facility;~~
- 6 ~~(4) An adult detention facility;~~
- 7 ~~(5) A mental health facility; or~~
- 8 ~~(6) A state-supported institution of higher education.~~

9 (a) A state agency, public corporation, county, or municipality shall
10 not use public funds to operate, maintain, install, or cause to be installed
11 a new or replacement permanent outdoor fixture unless the following
12 conditions are met:

13 (1) The permanent outdoor fixture is a fully shielded fixture
14 when the initial rated lumens of the lamp of the permanent outdoor fixture is
15 greater than one thousand eight hundred lumens (1,800 lm);

16 (2) The illuminance of a surface does not exceed what is
17 adequate for that purpose under guidelines recommended for that purpose by
18 the Illuminating Engineering Society of North America, as the guidelines
19 existed on January 1, 2017, or the minimum illuminance recommendation for
20 that purpose by the United States Department of Transportation, as the
21 recommendation existed on January 1, 2017; and

22 (3) Consideration has been given to the use of public funds for
23 the goals of eliminating glare, light pollution, and light trespass, reducing
24 energy use, and preserving the natural night environment.

25 (b) Illuminated roadway signage installed or replaced after the
26 effective date of this chapter shall be illuminated from within or from above
27 the roadway signage, except when illumination of the roadway signage from
28 within or above is not possible, or would create excessive cost or
29 maintenance issues.

30 (c)(1) An electric utility shall not operate, maintain, install, or
31 cause to be installed a fixture for new or replacement residential or
32 commercial security lighting unless the following conditions are met:

33 (A) The fixture is a fully shielded or partially shielded
34 fixture when the initial rated lumens of the lamp of the fixture is greater
35 than one thousand eight hundred lumens (1,800 lm); and

1 (B) The fixture is designed to maximize energy
2 conservation and to minimize light pollution, glare, and light trespass.

3 (2) If a property owner purchases a fixture that does not
4 conform to the requirements of subdivision (c)(1) of this section from a
5 third party, the electric utility, at the electric utility's discretion, may
6 install, operate, and service the fixture.

7 (d)(1) After taking into account all costs, including long-term costs,
8 associated with the operation and maintenance of a given fixture, the
9 Arkansas Public Service Commission shall ensure that the rate schedule for
10 public, residential, and commercial outdoor, security and street lighting
11 published by an electric utility for fixtures that are better shielded, use
12 lower wattage, and require less maintenance, are properly reflective of the
13 long-term cost of the fixtures and the energy consumption of the fixtures
14 over the life of the fixtures.

15 (e) A new mercury vapor lamp shall not be installed in the state by a
16 state agency, public corporation, county, municipality, public entity, or
17 utility.

18 (f) The Arkansas Department of Environmental Quality shall promulgate
19 regulations prohibiting any person or entity from knowingly placing or
20 disposing of the bulb or tube portion of an electric lighting device
21 containing hazardous levels of mercury in a landfill after January 1, 2008,
22 if:

23 (1) The electric lighting device contains more than two-tenths
24 milligram per liter (0.2 mg/l) of leachable mercury as measured by the
25 toxicity characteristic leaching procedure set out in Method 1311 of the
26 United States Environmental Protection Agency; and

27 (2) Adequate facilities exist for the public to properly dispose
28 of the electric lighting device described in subdivision (f)(1) of this
29 section.

30 (g) Any entity that installs new or replacement street or outdoor
31 lighting on behalf of a state agency, public corporation, county, or
32 municipality or that will become the responsibility of a state agency, public
33 corporation, county, or municipality shall comply with subsection (a) of this
34 section.

35
36 8-14-105. ~~Penalties~~ Exemptions.

1 ~~Violations of this chapter are punishable by:~~

2 ~~(1) A warning for a first offense; and~~

3 ~~(2) A fine of twenty five dollars (\$25.00) minus the replacement~~
4 ~~cost for each offending outdoor lighting fixture for a second or subsequent~~
5 ~~offense or for an offense that continues for thirty (30) calendar days from~~
6 ~~the date of the warning.~~

7 (a) Section 8-14-104 does not apply if:

8 (1) A federal law, rule, or regulation preempts § 8-14-104;

9 (2) Fire, police, rescue, correctional, or medical personnel
10 need outdoor lighting for temporary emergencies not to exceed thirty (30)
11 days in duration unless a waiver is granted by the Director of the Arkansas
12 Department of Emergency Management;

13 (3) The outdoor lighting fixture is necessary for worker safety
14 and is used on a temporary basis for nighttime work, including without
15 limitation work performed on:

16 (A) Projects or improvements relating to the construction,
17 reconstruction, improvement, or maintenance of a street, highway, building,
18 structure, or facility; and

19 (B) Farms, ranches, dairies, and feedlots and in
20 industrial, drilling, mining, or oil and gas facilities;

21 (4) The lighting is part of a navigational lighting system for
22 an airport or on a navigable waterway or provides other lighting necessary
23 for aircraft or watercraft safety;

24 (5)(A) In a situation in which there are special lighting
25 requirements, such as sports facilities, or historic decorative
26 considerations, monuments, decorative lighting on bridges over navigable
27 waterways, or the lighting of the United States flag under the Federal Flag
28 Code, 4 U.S.C. §§ 4-10.

29 (B) However, lighting exempted under subdivision (a)(5)(A)
30 of this section shall be selected and installed to shield the lamp or lamps
31 from direct view to the greatest extent possible and to minimize upward
32 lighting and light trespass;

33 (6)(A) The lighting is for a public or private state correction
34 facility, a detention facility, or a mental health facility.

35 (B) For lighting exempted under subdivision (a)(6)(A) of
36 this section, § 8-14-104 shall serve only as a guideline;

1 (7)(A) The outdoor fixture existed and was legally installed
2 before the effective date of this act.

3 (B)(i)(a) If a outdoor fixture exempted under subdivision
4 (a)(7)(A) of this section is to be replaced, the outdoor fixture shall be
5 brought into compliance with § 8-14-104, unless the governing body determines
6 that excessive cost, excessive structural modifications, or safety concerns
7 prevent compliance.

8 (b) As used in subdivision (a)(7)(A)(ii)(a) of
9 this section, "governing body" means an agency director, an elected official,
10 or a body responsible for the fixture.

11 (ii)(a) If a governing body makes a determination
12 under subdivision (7)(B)(i) or subdivision (7)(B)(ii) of this section, the
13 governing body shall submit an annual report to the Arkansas Pollution
14 Control and Ecology Commission, outlining the current status of exempted
15 fixtures and the efforts or plans that have been made to bring the exempted
16 fixtures into compliance.

17 (b) The commission shall determine the time
18 and manner for submission of the annual report required under subdivision
19 (a)(7)(B)(iii)(a) of this section.

20 (c) If the commission determines that a state
21 agency, public corporation, county, municipality, public or charter school,
22 or college or university has brought into compliance with § 8-14-104 all
23 fixtures that can be brought into compliance, the commission shall no longer
24 require the agency, public corporation, county, municipality, public or
25 charter school, or college or university to submit the annual report.

26 (C)(i) From time to time, at the discretion and in the manner
27 determined by the commission, the commission shall compile the reports
28 required under subdivision (7)(B) of this section into one (1) comprehensive
29 report.

30 (ii) The commission shall:

31 (a) File the comprehensive report required
32 under subdivision (7)(C)(i) of this section with the cochairs of the
33 Legislative Council; and

34 (b) Make each comprehensive report required
35 under subdivision (7)(C)(i) of this section available to the general public
36 in a manner determined by the commission.

1 (b) Upon petition to the commission, in the manner and method
2 established by the commission, the commission may waive any provision of this
3 chapter on a case-by-case basis if consideration has been given to reduce
4 light pollution, save taxpayer dollars, and to protect the nighttime
5 environment.

6 (c)(1) A waiver under subsection (b) of this section may be appealed
7 to the commission by a citizen of the city or county where the waiver was
8 applied.

9 (2) The commission shall then hold a public hearing to hear all
10 sides, before making a final determination.

11
12 8-14-106. Enforcement.

13 ~~This chapter may be enforced by a town, city, or county of this state~~
14 ~~by seeking injunctive relief in a court of competent jurisdiction.~~

15 This chapter shall be enforced by:

16 (1) The governing body of a political subdivision of the state
17 within its jurisdiction;

18 (2) A local or state code enforcement agency within the
19 jurisdiction of the governing body of a political subdivision of the state;
20 and

21 (3)(A) The Arkansas Department of Environmental Quality within
22 its jurisdiction.

23 (B) If appropriate, the Arkansas Department of
24 Environmental Quality may refer any cases to a local or state code
25 enforcement agency or to a governing body of a political subdivision of the
26 state.

27
28 8-14-107. ~~Provisions supplemental~~ Violations.

29 ~~The provisions of this chapter are cumulative and supplemental and~~
30 ~~shall not apply within a town, city, or county of this state that by~~
31 ~~ordinance has adopted provisions restricting light pollution that are equal~~
32 ~~to or more stringent than the provisions of this chapter.~~

33 (a) A person that violates this chapter is subject to:

34 (1) For a first offense, a warning;

1 (2) For a subsequent offense or an offense that continues for
2 thirty (30) days after the date of the warning, a fine of twenty-five dollars
3 (\$25.00); and

4 (3) For an offense continuing for more than sixty (60) days
5 after the date of the warning, a fine of twenty-five dollars (\$25.00) for
6 each offending fixture for each calendar month the violation continues.

7 (b) Money raised by fines assessed under subsection (a) of this
8 section shall be deposited into the general fund of the agency, public
9 corporation, county, municipality assessing the fine.

10
11 8-14-108. Illuminated roadway signage – Electronic messaging centers.

12 (a) If roadway signage is illuminated with external fixtures:

13 (1) The external fixtures shall be directed and designed
14 so that a majority of the light falls upon the roadway sign's surface; and

15 (2) The external fixtures do not create glare, light
16 trespass, or excessive amounts of light pollution.

17 (b)(1) Commercial and advertising roadway signage and devices,
18 including billboards and electronic message centers, installed or replaced
19 after the effective date of this chapter that are within one-half (1/2) mile
20 of and visible from a highway system shall not prevent the driver of a
21 vehicle from having a clear and unobstructed view of official signs and
22 approaching or merging traffic.

23 (2) If a commercial and advertising roadway sign or device is
24 illuminated with an external fixture:

25 (A) The external fixture shall be directed and designed so
26 that a majority of the light falls upon the advertisement surface; and

27 (B) The external fixture does not create glare, light
28 trespass, or excessive amounts of light pollution.

29 (3) If a commercial and advertising roadway sign or device is an
30 electronic message center:

31 (A) The commercial and advertising roadway sign or device
32 shall:

33 (i) Be equipped with a sensor or other device that
34 automatically determines the ambient light conditions and is programmed to
35 automatically dim appropriately;

1 (ii) Not be of an intensity or brilliance that may
2 cause glare or impair the vision of a driver of a motor vehicle, or
3 otherwise interfere with a driver's operation of a motor vehicle;

4 (iii) Not change intensity or expose its message for
5 less than four (4) seconds; and

6 (iv) Not exceed three lux (3 lx) over the ambient
7 light as measured with an illuminance meter.

8 (4) A measurement required under this subsection shall:

9 (A) Not be made within thirty (30) minutes after sunset or
10 thirty (30) minutes before sunrise;

11 (B) Be taken from or as close as is practically possible
12 to directly in front of or perpendicular from the center point of the face of
13 the roadway signage from a height of five feet (5') or approximately the same
14 height as a driver's eye level;

15 (C) Be taken from or as close as is practically possible
16 to a distance from the roadway signage in feet according to the formula:
17 square root of the area of the commercial and advertising roadway sign or
18 device in square feet times one hundred (100);

19 (D) Be taken with the roadway signage displaying a solid
20 white image or if monochrome a solid image of the roadway signage's color;
21 and

22 (E) Be taken with the roadway signage on and compared to
23 the ambient light with the sign off.

24 (5) Under this subsection, roadway signage is considered visible
25 from the highway system if it or light emitting from it is plainly visible to
26 a driver of a vehicle who is proceeding in a legally designated direction and
27 traveling at the posted speed limit.

28 (6) Billboards and electronic message centers installed before
29 the effective date of this chapter that are within one-half (1/2) mile of and
30 visible from a highway system shall be brought into compliance within five
31 (5) years after the effective date of this chapter.

32 (7) Remote sensing equipment shall not be installed on a sign
33 for the purpose of personalizing advertisements displayed on an electronic
34 message center.

35
36 8-14-109. Chapter cumulative and supplemental.

1 This chapter is cumulative and supplemental and shall not apply within
2 a county or municipality that, by ordinance or resolution, has adopted
3 provisions restricting light pollution that are equal to or more stringent
4 than the provisions of this chapter.

5
6 SECTION 3. EFFECTIVE DATE. This act becomes effective on October 1,
7 2017.

8
9 */s/S. Meeks*

10
11
12 Referred by the Arkansas House of Representatives
13 Prepared by: VJF

