

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

As Engrossed: S4/19/21

A Bill

SENATE BILL 689

5 By: Senator B. Ballinger
6 By: Representative Beck
7

For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS LAW TO ALLOW A MUNICIPAL
10 ELECTRIC UTILITY TO FINANCE COSTS ASSOCIATED WITH
11 STORMS AND RELATED PERILS; TO ALLOW THE FINANCING BY
12 A MUNICIPAL ELECTRIC UTILITY OF COSTS TO PURCHASE
13 GAS, FUEL, OR POWER IN PREPARATION FOR OR IN RESPONSE
14 TO A STORM; TO DECLARE AN EMERGENCY; AND FOR OTHER
15 PURPOSES.
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Subtitle

18 TO AMEND ARKANSAS LAW TO ALLOW A
19 MUNICIPAL ELECTRIC UTILITY TO FINANCE
20 COSTS ASSOCIATED WITH STORMS AND RELATED
21 PERILS; AND TO DECLARE AN EMERGENCY.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 SECTION 1. DO NOT CODIFY. Legislative finding and intent.

28 (a) The General Assembly finds that:

29 (1) The State of Arkansas has recently experienced severe
30 snowstorms that have impacted the operational, capital, fuel, and power costs
31 of electric utilities;

32 (2) The Arkansas Electric Utility and Gas Utility Storm Recovery
33 Securitization Act, § 23-18-901 et seq., allows certain electric utilities
34 and gas utilities to issue bonds and use the proceeds to pay costs related to
35 storm recovery but does not apply to municipal electric utilities;

36 (3) The Municipal Electric System Financing Act, § 14-203-101 et



1 seq., does not currently provide that payment of storm recovery costs are an
2 allowed purpose of revenue bonds by a municipal electric utility; and

3 (4) A customer of a municipal electric utility would benefit
4 greatly if a municipal electric utility were allowed to issue bonds under the
5 Municipal Electric System Financing Act, § 14-203-101 et seq., to pay costs
6 related to severe storms over time and avoid excessive rate increases.

7 (b) It is the intent of the General Assembly to provide municipal
8 electric utilities the authority to issue bonds to pay costs associated with
9 severe storms if the Arkansas Public Service Commission has similarly
10 authorized the issuance of bonds by an electric utility or a gas utility
11 under the Arkansas Electric Utility and Gas Utility Storm Recovery
12 Securitization Act, § 23-18-901 et seq.

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14 SECTION 2. Arkansas Code § 14-203-102(3), concerning the definition of
15 "costs" under the Municipal Electric System Financing Act, is amended to add
16 an additional subdivision to read as follows:

17 (L) Storm recovery costs;
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19 SECTION 3. Arkansas Code § 14-203-102, concerning definitions used in
20 the Municipal Electric System Financing Act, is amended to add additional
21 subdivisions to read as follows:

22 (9) "Storm" means, individually or collectively:

23 (A) A named tropical storm;

24 (B) A named hurricane;

25 (C) A tornado;

26 (D) An ice storm;

27 (E) A snow storm;

28 (F) A flood;

29 (G) An earthquake; or

30 (H) Any other significant weather event or natural
31 disaster; and

32 (10)(A) "Storm recovery costs" means costs that are reasonable
33 and necessary and costs that are incurred or expected to be incurred in
34 preparation for or in response to a storm.

35 (B) "Storm recovery costs" includes without limitation:

36 (i) Increased operating costs;

1 (ii) Increased capital costs;
2 (iii) Increased natural gas costs;
3 (iv) Increased fuel costs;
4 (v) Increased power costs; and
5 (vi) Costs to fund storm recovery reserves or to
6 replenish any shortfall in storm recovery reserves.
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8 SECTION 4. Arkansas Code Title 14, Chapter 203, Subchapter 1, is
9 amended to add an additional section to read as follows:

10 14-203-119. Storm recovery costs.

11 (a) A municipality shall not issue bonds for the sole purpose of
12 paying storm recovery costs related to a storm unless:

13 (1) The Arkansas Public Service Commission has previously
14 adopted a financing order that allows for the issuance of storm recovery
15 bonds by a public utility due to the same storm; or

16 (2) Upon request to the commission for an emergency storm
17 declaration.

18 (b) A municipality that issues bonds for the purpose of payment of
19 storm recovery costs shall take reasonable steps to mitigate the financial
20 impact of bonds on customers of a municipal electric utility by:

21 (1) Pursuing recovery of costs incurred during storm recovery
22 operations that were unnecessary or unreasonable; and

23 (2) Utilizing any grant funding or assistance to reduce the
24 amount of storm recovery costs that may be available to the municipality.
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26 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the
27 General Assembly of the State of Arkansas that due to the recent historic
28 winter storm, the high prices paid for energy by municipal electric utilities
29 could necessitate a substantial increase in rates paid by consumers; that
30 storm recovery costs could be securitized and financed with prompt
31 legislative action; and that this act is immediately necessary because
32 authorization is required for securitization financing for storm recovery
33 costs that may lower the financing costs or mitigate the impact on rates and
34 benefit customers in this state. Therefore, an emergency is declared to
35 exist, and this act being immediately necessary for the preservation of the
36 public peace, health, and safety shall become effective on:

- 1 (1) The date of its approval by the Governor;
- 2 (2) If the bill is neither approved nor vetoed by the Governor,
- 3 the expiration of the period of time during which the Governor may veto the
- 4 bill; or
- 5 (3) If the bill is vetoed by the Governor and the veto is
- 6 overridden, the date the last house overrides the veto.

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/s/B. Ballinger

APPROVED: 4/26/21