

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011

# A Bill

SENATE BILL 721

4  
5 By: Senator Madison

## For An Act To Be Entitled

8 AN ACT TO STIMULATE ECONOMIC DEVELOPMENT AND JOB  
9 CREATION IN THE ENERGY ECONOMY AND PROVIDE FOR THE  
10 RECOVERY OF THE ELECTRIC UTILITY'S COSTS; AND FOR  
11 OTHER PURPOSES.

## Subtitle

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14 THE CLEAN ENERGY ACT OF 2011.  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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20 SECTION 1. Arkansas Code Title 23, Chapter 18, is amended to add an  
21 additional subchapter to read as follows:

22 Subchapter 10 -- Arkansas Clean Energy Act

23 23-18-1001. Title.

24 This subchapter shall be known and may be cited as the "Arkansas Clean  
25 Energy Act".

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27 23-18-1002. Legislative findings and declaration of purpose.

28 (a) The General Assembly finds that it is in the public interest to:

29 (1) Promote and encourage the wise development and use of this  
30 state's renewable energy resources;

31 (2) Foster investment in emerging renewable energy technologies  
32 using the renewable energy resources found within this state; and

33 (3) Require electric utilities to include renewable energy  
34 resources as an integral part of their energy portfolios.

35 (b) The purpose of this subchapter is to ensure that an electric  
36 utility will include renewable energy resources as an integral part



1 of its energy resource plan.

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3 23-18-1003. Definitions.

4 As used in this subchapter:

5 (1) "Commission" means the Arkansas Public Service Commission or  
6 the appropriate regulatory governing body for a public electric utility that  
7 is not regulated by the Arkansas Public Service Commission;

8 (2) "Dispatch-ability" means an electric utility's ability to  
9 utilize renewable energy generation throughout the electric grid;

10 (3) "Electric utility" means a publicly owned or an investor-  
11 owned utility, an electric cooperative, or a municipal utility that is  
12 engaged in the business of supplying electricity to an end user in this  
13 state;

14 (4) "Feed-in tariff" means a tariff approved by the commission  
15 that governs the purchase of energy from a renewable electric generation  
16 facility by an electric utility;

17 (5) "Renewable electric generation facility" means a facility  
18 for the generation of electric energy that:

19 (A) Is located within this state;

20 (B) Is fueled by a renewable energy resource; and

21 (C) Has an effective capacity of not more than twenty  
22 megawatts (20 MW); and

23 (6) "Renewable energy resource" means a solar, wind, water,  
24 geothermal, or biomass resource located within this state.

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26 23-18-1004. Requirement to purchase renewable energy.

27 (a) An electric utility shall file with the commission for a feed-in  
28 tariff that:

29 (1) Requires the electric utility to purchase the renewable  
30 energy produced by a renewable electric generation facility at the price and  
31 terms established by the commission for a period not to exceed twenty (20)  
32 years; and

33 (2) Contains those terms and conditions that are necessary to:

34 (A) Encourage the development and use of renewable energy  
35 resources to generate electricity;

36 (B) Protect the integrity and reliability of the electric

1 utility's electric system; and

2 (C) Protect the health, safety, and welfare of the public.

3 (b) After notice and hearing, the commission shall approve the feed-in  
4 tariff if:

5 (1) It is consistent with the Federal Power Act, 16 U.S.C. 12,  
6 as in effect on January 1, 2011;

7 (2) It finds the feed-in tariff is in the public interest; and

8 (3) The feed-in tariff is differentiated by:

9 (A) Renewable electric generation technology, including  
10 system, public policy, and environmental attributes;

11 (B) Size and capacity of the renewable electric generation  
12 facility; or

13 (C) Dispatch-ability of the renewable electric generation  
14 facility; and

15 (4) Included within the feed-in tariff is a consideration of  
16 the:

17 (A) Location of a renewable electric generation facility  
18 in excess of five hundred kilowatts (500 kW); or

19 (B) Cost of a necessary interconnection facility upgrade  
20 to connect a renewable electric generation facility in excess of five hundred  
21 kilowatts (500 kW).

22 (c)(1)(A) After the commission approves the feed-in tariff, the  
23 electric utility shall make the feed-in tariff available on a first-come,  
24 first-served basis to renewable electric generation facilities that are  
25 located within the allocated service territory of the electric utility.

26 (B) Unless the commission for good cause modifies  
27 the requirement for an electric utility under this subdivision (c)(1), the  
28 electric utility shall offer to purchase under the feed-in tariff at least  
29 twenty percent (20%) of its electricity supply requirement under subdivision  
30 (c)(1)(A) of this section from a residential or commercial renewable electric  
31 generation facility.

32 (2) If the renewable electric generation facility also consumes  
33 any of the energy generated, the renewable electric generation facility must  
34 first complete an energy audit performed by a certified third party to insure  
35 that prudent energy efficiency measures are implemented prior to making  
36 application for a contract for a renewable energy feed.

1           (3) An electric utility shall offer service or a contract under  
2 the feed-in tariff until the electric utility meets its proportionate share  
3 of a combined cumulatively rated generation capacity of the renewable  
4 electric generation facilities in this state equal to two hundred megawatts  
5 (200 MW).

6           (4) The determination of each electric utility’s proportionate  
7 share of the requirement under subdivision (c)(2) of this section shall be  
8 based on a comparison of the electric utility’s peak demand to the total  
9 statewide peak demand of all the electric utilities in the state.

10          (d) The electric utility shall retain any renewable energy credit that  
11 derives from a feed-in tariff.

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13          23-18-1005. Cost of necessary interconnection facilities.

14          The cost of an addition or a modification of an electric utility’s grid  
15 that is made at or beyond the point where the renewable electric generation  
16 facility interconnects with the electric utility’s grid for the sole purpose  
17 of receiving electricity from a renewable electric generation facility is the  
18 exclusive responsibility of the renewable electric generation facility unless  
19 the commission requires the electric utility to bear that cost or a portion  
20 of that cost under § 23-18-1006.

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22          23-18-1006. Cost recovery by an electric utility.

23          The commission shall permit an electric utility to:

24           (1) Recover the cost of electric energy purchased under a feed-  
25 in tariff that exceeds the electric utility’s avoided cost of generating the  
26 electric energy purchased from the renewable electric generation facility;  
27 and

28           (2) Recover and earn a return on the reasonable and prudent  
29 investment cost incurred by the electric utility for the construction of an  
30 electric system upgrade that is reasonably necessary to receive the electric  
31 energy purchased under the feed-in tariff.

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