

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

A Bill

HOUSE BILL 1421

5 By: Representative S. Meeks
6

For An Act To Be Entitled

8 AN ACT TO ESTABLISH THE PUBLIC ENTITY STREETLIGHT
9 SYSTEM INVESTMENT ACT; TO REDUCE PUBLIC ENTITY STREET
10 LIGHTING COSTS; AND FOR OTHER PURPOSES.
11

Subtitle

12 TO ESTABLISH THE PUBLIC ENTITY
13 STREETLIGHT SYSTEM INVESTMENT ACT; AND TO
14 REDUCE PUBLIC ENTITY STREET LIGHTING
15 COSTS.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code Title 14 is amended to add an additional
23 chapter to read as follows:

CHAPTER 209

PUBLIC ENTITY STREETLIGHT SYSTEM INVESTMENT ACT

14-209-101. Title.

27 This chapter shall be known and may be cited as the "Public Entity
28 Streetlight System Investment Act".
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14-209-102. Legislative findings and intent.

31 (a) The General Assembly finds that:

32 (1) Inefficient and excessive methods of street lighting are not
33 a cost-effective use of taxpayer money and add unnecessary pollutants to the
34 environment from the energy generation required to power the streetlight
35 system;
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1 (2) Municipalities and counties are limited in how to respond to
2 and manage this public safety resource because the streetlight fixtures
3 located within their borders are not owned or controlled by the municipality
4 or county;

5 (3) There is no incentive in the applicable tariff rate of an
6 electric utility to install energy-efficient street lighting technologies
7 that may reduce light pollution, energy usage, and maintenance expenses;

8 (4)(A) Light pollution has been implicated in the disruption of
9 the human and animal circadian rhythm and strongly suspected as an etiology
10 of suppressed melatonin production, depressed immune systems, and increases
11 in certain cancer rates, while disability glare poses safety risks,
12 especially among the elderly.

13 (B) In 2009, the findings in subdivision (a)(4)(A) of this
14 section prompted the American Medical Association to adopt resolutions
15 advocating the reduction of light pollution and glare through the use of
16 energy-efficient shielded lighting, and in 2016, the American Medical
17 Association advocated avoiding outdoor lighting with high levels of blue
18 light; and

19 (5) It is in the public interest to give municipalities and
20 counties the opportunity to reduce energy usage and light pollution.

21 (b) It is the intent of the General Assembly that this chapter shall:

22 (1) Reduce the cost of a public entity's streetlight system; and

23 (2) Improve service to citizens of this state by:

24 (A) Improving public safety through streetlight systems
25 that provide better illumination; and

26 (B) Reducing costs by allowing a public entity to own the
27 streetlight systems and area lighting systems and to enter into regional
28 agreements or contracts for maintenance and service with other public
29 entities.

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31 14-209-103. Definitions.

32 As used in this chapter:

33 (1) "Electric utility" means a public utility that:

34 (A) Provides streetlight system service to a public entity
35 under an electric tariff rate;

36 (B) Owns the equipment for the streetlight system for a

1 public entity; and

2 (C) Provides electric service to an area within the
3 jurisdiction of the public entity;

4 (2)(A) "Fixture" means the hardware or equipment used to light
5 streets.

6 (B) "Fixture" includes without limitation a light source,
7 together with the parts designed to:

8 (i) Convert electricity to light;

9 (ii) Distribute the light;

10 (iii) Position and protect the light source;

11 (iv) Connect the light source to the power supply;

12 and

13 (v) Attach the lighting unit to the pole.

14 (C) "Fixture" does not include the pole or mounting
15 surface;

16 (3) "Fully shielded" means a fixture that does not allow more
17 than two percent (2%) light emissions, either directly from a light source or
18 indirectly by reflection or refraction from any part of the lighting unit,
19 above a horizontal plane running through the lowest point on the fixture
20 where light is emitted;

21 (4) "Illuminance" means the level of light measured on an
22 intercepting surface;

23 (5) "Legislative body" means the quorum court of a county or the
24 council, board of directors, board of commissioners, or similar elected
25 government body of a public entity;

26 (6) "Light pollution" means general sky glow caused by the
27 scattering of artificial light in the atmosphere;

28 (7) "Light trespass" means excessive or unreasonable light
29 emitted by a fixture that shines directly beyond the boundaries of the
30 property on which the fixture is located;

31 (8) "Municipality" means a city of the first class, a city of
32 the second class, or an incorporated town;

33 (9) "Ordinance" means an ordinance, resolution, or other
34 appropriate legislative enactment of a legislative body; and

35 (10) "Public entity" means a municipality, county, or the state.

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1 14-209-104. Streetlight system investment.

2 (a)(1) If a public entity receives streetlight system service from an
3 electric utility, in all or part of its jurisdiction, then after a due
4 diligence cost impact analysis and upon notice to the electric utility of at
5 least sixty (60) days by the legislative body of the public entity, the
6 public entity may:

7 (A)(i) Purchase the fixtures owned by an electric utility
8 that are in the designated area of the public entity.

9 (ii)(a) A public entity shall compensate an electric
10 utility for the fixtures acquired under subdivision (a)(1)(A)(i) of this
11 section.

12 (b) The electric utility shall be compensated
13 for:

14 (1) The original cost of the fixtures;

15 (2) Less depreciation;

16 (3) Less amortization; and

17 (4) Net any of the salvage value as of
18 the date the public entity notifies the electric utility under this
19 subdivision (a)(1).

20 (iii) Upon the payment of compensation described in
21 subdivision (a)(1)(A)(ii)(a) of this section, the public entity shall have
22 the right to use, sell, alter, remove, or replace the acquired fixtures in
23 any way it deems appropriate under an ordinance passed by a legislative body.

24 (iv)(a) Other than an electric utility, a person
25 that controls the right to the space on a pole, lamp post, or other mounting
26 surface previously used by the electric utility for the fixtures shall allow
27 the public entity to assume the rights and obligations of the electric
28 utility with respect to the space for the unexpired term of the lease,
29 easement, or other agreement under which the electric utility used the space,
30 if the public entity is subject to the same terms and conditions that the
31 owners of the pole make to others that attach to the poles as provided under
32 § 23-4-1001 et seq.

33 (b) In the assumption of the rights and
34 obligations of the electric utility by the public entity, the public entity
35 shall not restrict, impede, or prohibit universal access for the provision of
36 electric or other services.

1 (v) If a fixture acquired under this section needs
2 to be replaced, the new fixture shall also comply with subdivision (a)(1)(B)
3 of this section; or

4 (B) Install new or replacement fixtures if:

5 (i) The fixtures are fully shielded;

6 (ii) The illuminance of a surface does not
7 materially exceed what is adequate for the purpose of illumination under
8 guidelines recommended for the purpose of illumination by the Illuminating
9 Engineering Society, as the guidelines existed on January 1, 2021, or the
10 minimum illuminance recommendation by the United States Department of
11 Transportation related to illumination of surfaces;

12 (iii) Consideration has been given to minimizing
13 glare, light pollution, and light trespass, reducing energy use, and
14 preserving the natural night environment; and

15 (iv) Unless a recognized standard or practice
16 requires otherwise, the color temperature is not more than:

17 (a) Four thousand kelvin (4,000 K) for state
18 highways and major thoroughfares; and

19 (b) Three thousand kelvin (3,000 K) for all
20 other applications.

21 (2) If an electric utility does not sell its fixtures to the
22 public entity, then:

23 (A) At the request of the public entity, the electric
24 utility shall coordinate with the public entity for the removal of any
25 electric utility-owned fixtures in a timely manner; and

26 (B) The public entity shall reimburse the electric utility
27 for the cost of removal of the fixtures by the electric utility.

28 (b) An electric utility that receives notice under subdivision (a)(1)
29 of this section shall:

30 (1)(A) File an alternative tariff rate with the Arkansas Public
31 Service Commission for providing electric power to the fixtures within sixty
32 (60) days of receipt of the notice.

33 (B) The alternative tariff rate described in subdivision
34 (b)(1)(A) of this section shall:

35 (i) Provide for the monthly bills for street and
36 area lighting;

1 (ii) Include a schedule of energy charges based on a
2 determination of annual kilowatt-hour usage per lumen rating or nominal
3 wattage of all types of lighting equipment;

4 (iii) Set reasonable new rates for newly adopted
5 light equipment;

6 (iv) Be structured so as to allow options for
7 various street lighting controls, including both conventional dusk and dawn
8 operation using photocell or scheduling controls, as well as schedule-based
9 dimming or on-and-off controls that dim or turn off street lights during
10 periods of low activity; and

11 (v) Not be required to include facility, support,
12 maintenance, or accessory charges; and

13 (2) Provide space on any pole, lamp post, or other mounting
14 surface owned by the electric utility that can safely be used for the
15 mounting of the fixtures.

16 (c)(1) A public entity that owns fixtures shall notify the electric
17 utility providing electric service to the fixtures of any changes in the
18 number or type of fixtures within sixty (60) days of the installation of new
19 or replacement fixtures under subdivision (a)(1)(B) of this section.

20 (2) The electric utility shall adjust the monthly billing to
21 reflect the alteration of the fixtures within sixty (60) days of the
22 notification of the alteration of the fixtures under subdivision (c)(1) of
23 this section.

24 (3) The electric utility may audit the number and type of
25 fixtures used by the public entity to confirm the billing information is
26 correct.

27 (d) The commission shall resolve any dispute regarding:

28 (1) The terms of the alternative tariff rate;

29 (2) The compensation to be paid the electric utility;

30 (3) The terms on which space is to be provided to the public
31 entity on poles; and

32 (4) Any other matter arising in connection with the exercise of
33 the option provided in this section.

34 (e) If a public entity provides for itself or contracts for the
35 installation or maintenance of street and area light fixtures, the public
36 entity shall require:

1 (1) Appropriate levels of training and certification of
2 personnel providing pole service to ensure public and worker safety;

3 (2) Evidence of twenty-four-hour call capacity; and

4 (3) A committed timely response schedule for both emergency and
5 routine outages of the fixtures.

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