

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

As Engrossed: H2/24/21

# 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.

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

##### (a) The General Assembly finds that:

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29 (1) Inefficient and excessive methods of street lighting are not  
30 a cost-effective use of taxpayer money and add unnecessary pollutants to the  
31 environment from the energy generation required to power the streetlight  
32 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 full cutoff 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) "Full cutoff" means a fixture that does not allow more than  
17 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 of intent to purchase or  
5 notice of intent to discontinue streetlight service to the electric utility  
6 of at least sixty (60) days by the legislative body of the public entity, the  
7 public entity may:

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

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

13 (b) The electric utility shall be compensated  
14 for the lesser of:

15 (1) The original cost of the fixtures, less  
16 depreciation and amortization, plus the net of any of the salvage value as of  
17 the date the public entity notifies the electric utility under this  
18 subdivision (a)(1); or

19 (2) The fair market value of the fixtures as  
20 agreed to by the electric utility and the public entity.

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

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

34 (iv) If a fixture acquired under this section needs  
35 to be replaced, the new fixture shall also comply with subdivision (a)(1)(B)  
36 of this section; or

1 (B) Install new or replacement fixtures if:

2 (i) The fixtures are full cutoff;

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

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

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

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

16 (b) Three thousand kelvin (3,000 K) for all  
17 other applications.

18 (C) A public entity may request a rate review at the time  
19 of installation of new fixtures or streetlight control technology.

20 (2) If an electric utility does not sell its fixtures to the  
21 public entity, then at the request of the public entity, the electric utility  
22 shall coordinate with the public entity for the removal of any electric  
23 utility-owned fixtures in a timely manner.

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

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

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

31 (i) Provide for the monthly bills for street and  
32 area lighting;

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

36 (iii) Set reasonable new rates for newly adopted

1 light equipment;

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

7 (v) Not include facility, support, maintenance,  
8 accessory charges, or other complementary fees related to attachment or  
9 utility infrastructure; and

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

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

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

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

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

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

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

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

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

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

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

36 (2) Evidence of a system to receive reports of outages; and

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(3) A committed timely response to outages.

*/s/S. Meeks*