

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

As Engrossed: S4/19/21  
**A Bill**

SENATE BILL 689

By: Senator B. Ballinger  
By: Representative Beck

### **For An Act To Be Entitled**

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

### **Subtitle**

TO AMEND ARKANSAS LAW TO ALLOW A MUNICIPAL ELECTRIC UTILITY TO FINANCE COSTS ASSOCIATED WITH STORMS AND RELATED PERILS; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. DO NOT CODIFY. Legislative finding and intent.

(a) The General Assembly finds that:

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

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

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



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

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

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

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

(L) Storm recovery costs;

SECTION 3. Arkansas Code § 14-203-102, concerning definitions used in the Municipal Electric System Financing Act, is amended to add additional subdivisions to read as follows:

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

(A) A named tropical storm;

(B) A named hurricane;

(C) A tornado;

(D) An ice storm;

(E) A snow storm;

(F) A flood;

(G) An earthquake; or

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

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

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

(i) Increased operating costs;

(ii) Increased capital costs;  
(iii) Increased natural gas costs;  
(iv) Increased fuel costs;  
(v) Increased power costs; and  
(vi) Costs to fund storm recovery reserves or to replenish any shortfall in storm recovery reserves.

SECTION 4. Arkansas Code Title 14, Chapter 203, Subchapter 1, is amended to add an additional section to read as follows:

14-203-119. Storm recovery costs.

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

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

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

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

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

(2) Utilizing any grant funding or assistance to reduce the amount of storm recovery costs that may be available to the municipality.

SECTION 5. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that due to the recent historic winter storm, the high prices paid for energy by municipal electric utilities could necessitate a substantial increase in rates paid by consumers; that storm recovery costs could be securitized and financed with prompt legislative action; and that this act is immediately necessary because authorization is required for securitization financing for storm recovery costs that may lower the financing costs or mitigate the impact on rates and benefit customers in this state. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

*/s/B. Ballinger*