

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

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

HOUSE BILL 1608

By: Representative S. Meeks

For An Act To Be Entitled

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

Subtitle

TO ESTABLISH THE PUBLIC ENTITY
STREETLIGHT SYSTEM INVESTMENT ACT; AND TO
REDUCE PUBLIC ENTITY STREET LIGHTING
COSTS.

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

SECTION 1. Arkansas Code Title 14, is amended to add an additional chapter to read as follows:

CHAPTER 209

PUBLIC ENTITY STREETLIGHT SYSTEM INVESTMENT ACT

14-209-101. Title.

This chapter shall be known and may be cited as the "Public Entity Streetlight System Investment Act".

14-209-102. Legislative findings and intent.

(a) The General Assembly finds that:

(1) Taxpayers are mandated to pay the electric distribution company large sums every year to light municipal and many state-owned streets;

(2) Municipalities are limited in how to respond to and manage



this public safety resource because the municipalities do not own or control the streetlight fixtures within their borders;

(3) There is no incentive in the applicable electric rate tariff of an electric utility to install energy-efficient street lighting technologies that may reduce both power and maintenance expenses;

(4) There is no provision in the applicable electric rate tariff for municipalities to work collectively to manage the maintenance of the streetlight system; and

(5) Municipalities around the country have saved considerable resources by purchasing their streetlight systems from electric distribution companies and contracting for the maintenance independently.

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

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

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

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

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

(3) Reduce whole-system cost through municipal ownership and regional management and by eliminating the current "facilities charge";

(4) Provide innovative and proven technologies for more efficient lighting; and

(5) Provide more responsive service for lighting system repairs.

14-209-103. Definitions.

As used in this chapter:

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

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

(B) Owns the equipment for the streetlight system for a public entity; and

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

(2)(A) "Fixture" means the hardware or equipment used to light

streets.

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

(i) Convert electricity to light;

(ii) Distribute the light;

(iii) Position and protect the light source;

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

and

(v) Attach the lighting unit to the pole.

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

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

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

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

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

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

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

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

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

14-209-104. Streetlight system investment.

(a)(1) If a public entity receives streetlight system service from an electric utility in all or part of its jurisdiction, then after a due diligence cost impact study and upon notice to the electric utility of at

least sixty (60) days by the legislative body of the public entity, the public entity may:

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

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

(b) The electric utility shall be compensated for the original cost of the fixtures, less depreciation and amortization, and net any of the salvage value as of the date the public entity notifies the electric utility under this subdivision (a)(1).

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

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

(b) No charge shall be assessed for using poles other than the charge that is included in the electric rate tariff.

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

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

(B) Install new or replacement fixtures if:

(i) The fixtures are fully shielded;

(ii) The illuminance of a surface does not materially exceed what is adequate for the purpose of illumination under guidelines recommended by the Illuminating Engineering Society, as the guidelines existed on January 1, 2023, or the minimum illuminance recommendation by the United States Department of Transportation related to illumination of surfaces;

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

(iv) Unless a recognized standard or practice requires otherwise, the color temperature is not more than three thousand kelvin (3,000 K) for all other applications.

(2) If an electric utility does not sell its fixtures to the public entity, then at the request of the public entity, the electric utility shall coordinate with the public entity for the removal of any electric utility-owned fixtures in a timely manner and at no cost to the public entity.

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

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

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

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

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

(iii) Set reasonable new rates for newly adopted lighting equipment;

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

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

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

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

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

(3) At its own cost, the electric utility may audit the number and type of fixtures used by the public entity to confirm that the billing information is correct.

(d) The commission shall resolve any dispute regarding:

(1) The terms of the alternative tariff rate;

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

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

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

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

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

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

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