



# LAWS OF ALASKA

**2008**

**Source**

SCS CSHB 152(FIN) am S

**Chapter No.**

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**AN ACT**

Establishing a renewable energy grant fund and describing its uses and purposes; establishing a renewable energy grant recommendation program; for the fiscal year ending June 30, 2009, authorizing the Alaska Energy Authority to distribute renewable energy grants and setting out the procedures to be followed to award those grants; establishing a state heating assistance program in addition to the federal heating assistance program; establishing an Alaska Renewable Energy Task Force; and providing for an effective date.

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**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

THE ACT FOLLOWS ON PAGE 1



## AN ACT

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2 a renewable energy grant recommendation program; for the fiscal year ending June 30, 2009,  
3 authorizing the Alaska Energy Authority to distribute renewable energy grants and setting out  
4 the procedures to be followed to award those grants; establishing a state heating assistance  
5 program in addition to the federal heating assistance program; establishing an Alaska  
6 Renewable Energy Task Force; and providing for an effective date.

7 \_\_\_\_\_  
8 \* **Section 1.** The uncoded law of the State of Alaska is amended by adding a new section  
9 to read:

10 LEGISLATIVE FINDINGS AND INTENT. (a) For secs. 3 and 6 of this Act, the  
11 legislature finds that

12 (1) an adequate, reliable, reasonably priced, and safe supply of energy is

1 necessary for Alaska's basic infrastructure and economic and technological development;

2 (2) Alaska possesses vast amounts of renewable energy resources in the form  
3 of wind, solar, geothermal, hydrothermal, wave, tidal, biomass, river in-stream, and  
4 hydropower;

5 (3) the legislature established the Alaska Energy Policy Task Force in 2003 to  
6 review and analyze the state's current and long-term energy needs;

7 (4) the task force found that one of Alaska's long-term energy needs is to  
8 identify and evaluate long-term fuel resources, and recommended that the state should  
9 increase the proportion of renewables in long-term fuel sources;

10 (5) the cost of fuels such as natural gas and diesel that Alaskans rely on in  
11 large part to generate electric power is steadily rising;

12 (6) residents of rural Alaska pay far more for electricity than residents who  
13 live on the Railbelt energy grid;

14 (7) there is virtually no fuel cost associated with renewable energy resources;

15 (8) other states and nations are working successfully to develop their  
16 renewable energy resources;

17 (9) the continued competitiveness and stability of the state's economy requires  
18 that the legislature consider national trends toward renewable energy development;

19 (10) renewable energy technology development promotes industry and creates  
20 jobs;

21 (11) clean renewable energy has many environmental and health benefits;

22 (12) locally produced renewable energy has many security benefits;

23 (13) modern, affordable, and efficient renewable energy technologies now  
24 exist;

25 (14) it is in the interest of the public for Alaska to develop its renewable  
26 energy resources; and

27 (15) natural gas can be considered as a last alternative for communities with  
28 no other reasonable renewable resources.

29 (b) It is the intent of the legislature that each year for the next five years \$50,000,000  
30 in capital funds be appropriated to fund projects recommended by the Alaska Energy  
31 Authority as described in secs. 3 and 6 of this Act.

1 (c) For sec. 7 of this Act, the legislature finds that  
2 (1) energy issues are among the most critical issues in the state; and  
3 (2) a thorough assessment of present and future state energy needs and  
4 requirements is necessary.

5 \* **Sec. 2.** AS 36.30.850(b) is amended by adding a new paragraph to read:

6 (46) contracts for delivery of home heating assistance under  
7 AS 47.25.626.

8 \* **Sec. 3.** AS 42.45 is amended by adding a new section to read:

9 **Sec. 42.45.045. Renewable energy grant fund and recommendation**  
10 **program.** (a) A renewable energy grant fund is established as a separate fund to  
11 finance certain energy projects in Alaska.

12 (b) The authority shall administer the fund as a fund distinct from other funds  
13 of the authority. The fund consists of

14 (1) money appropriated to the fund by the legislature to provide grants  
15 for certain energy projects determined by the legislature;

16 (2) gifts, bequests, contributions from other sources, and federal  
17 money;

18 (3) interest earned on the fund balance; and

19 (4) investments to be managed by the Department of Revenue, which  
20 shall be the fiduciary of the fund under AS 37.10.071.

21 (c) The fund is not a dedicated fund.

22 (d) The authority shall, in consultation with the advisory committee  
23 established under (i) of this section and the Department of Natural Resources,

24 (1) develop a methodology for determining the order of projects that  
25 may receive assistance, including separate requirements for grant eligibility, and adopt  
26 regulations identifying criteria to evaluate the benefit and feasibility of projects for  
27 which an applicant applies for support from the legislature, with the most weight being  
28 given to projects that serve any area in which the average cost of energy to each  
29 resident of the area exceeds the average cost to each resident of other areas of the  
30 state, and significant weight being given to a statewide balance of grant funds and to  
31 the amount of matching funds an applicant is able to make available;

1                   (2) make recommendations to the legislature for renewable power  
2 production reimbursement grants; and

3                   (3) not later than 10 days after the first day of each regular legislative  
4 session, submit to the legislature a report summarizing and reviewing each grant  
5 application submitted under this section and a recommended priority for awarding  
6 grants.

7                   (e) In consultation with the advisory committee established in (i) of this  
8 section, the authority shall make recommendations to the legislature regarding eligible  
9 applicants' projects that finance feasibility studies, reconnaissance studies, energy  
10 resource monitoring, and construction of renewable energy projects, natural gas  
11 projects, or transmission or distribution infrastructure located in Alaska that meet the  
12 requirements of (f), (g), or (h) of this section, as applicable, and shall, at least once  
13 each year, solicit from the advisory committee funding recommendations for all  
14 grants.

15                  (f) For a renewable energy project to qualify for a grant recommendation  
16 under (e) of this section, the project must

17                   (1) be a new project not in operation on the effective date of this  
18 section or an addition to an existing project made after the effective date of this  
19 section; and

20                   (2) be a

21                               (A) hydroelectric facility;

22                               (B) direct use of renewable energy resources;

23                               (C) facility that generates electricity from fuel cells that use  
24 hydrogen from renewable energy resources or natural gas; or

25                               (D) facility that generates energy from renewable energy  
26 resources.

27                  (g) To qualify for a grant recommendation under (e) of this section, a project  
28 that is a natural gas project must benefit a community that

29                   (1) has a population of 10,000 or less; and

30                   (2) does not have economically viable renewable energy resources it  
31 can develop.

1 (h) To qualify for a grant recommendation under (e) of this section,  
2 transmission or distribution infrastructure must link a renewable energy project or  
3 natural gas project to the transmission or distribution infrastructure. A grant may be  
4 recommended under this subsection even if the grant applicant is not itself financing  
5 the construction of the renewable energy project or natural gas project.

6 (i) An advisory committee is established and consists of seven members,  
7 appointed as follows:

8 (1) five members shall be appointed by the governor to staggered  
9 three-year terms, with one representative to be appointed from each of the following  
10 groups:

11 (A) small Alaska rural electric utilities;

12 (B) large Alaska urban electric utilities;

13 (C) Alaska Native organizations;

14 (D) businesses or organizations engaged in the renewable  
15 energy sector; and

16 (E) the Denali Commission established under P.L. 105-277, 42  
17 U.S.C. 3121 note;

18 (2) one member of the house of representatives shall be appointed by  
19 the speaker of the house of representatives; and

20 (3) one member of the senate shall be appointed by the president of the  
21 senate.

22 (j) A member of the advisory committee appointed under (i) of this section  
23 serves without compensation but is entitled to travel and per diem expenses as  
24 provided in AS 39.20.180.

25 (k) The legislature may appropriate money for grants from the renewable  
26 energy grant fund for renewable energy projects described in this section.

27 (l) In this section,

28 (1) "eligible applicant" means an electric utility holding a certificate of  
29 public convenience and necessity under AS 42.05, independent power producer, local  
30 government, or other governmental utility, including a tribal council and housing  
31 authority;

- 1 (2) "fund" means the renewable energy grant fund;
- 2 (3) "hydroelectric facility" has the meaning given to the term "project"
- 3 under AS 42.45.350;
- 4 (4) "natural gas project" means use or access of natural gas other than
- 5 landfill or digester gas;
- 6 (5) "renewable energy resources" means
- 7 (A) wind, solar, geothermal, wasteheat recovery, hydrothermal,
- 8 wave, tidal, river in-stream, or hydropower;
- 9 (B) low-emission nontoxic biomass based on solid or liquid
- 10 organic fuels from wood, forest and field residues, or animal or fish products;
- 11 (C) dedicated energy crops available on a renewable basis; or
- 12 (D) landfill gas and digester gas.

13 \* **Sec. 4.** AS 47.25 is amended by adding new sections to read:

14 **Article 3A. Alaska Heating Assistance Program.**

15 **Sec. 47.25.621. Alaska heating assistance program.** (a) The Alaska heating

16 assistance program is established in the Department of Health and Social Services to

17 provide expanded eligibility for Alaska residents for home heating assistance, to the

18 extent funds are appropriated by the legislature for that purpose.

19 (b) The heating assistance program established under this section is in addition

20 to the federal low-income heating and energy assistance provided under 42 U.S.C.

21 8621 - 8629 (Low-Income Home Energy Assistance Act of 1981), as amended, and

22 implementing regulations.

23 **Sec. 47.25.622. Duties.** The department shall

- 24 (1) administer the Alaska heating assistance program provided under
- 25 AS 47.25.621;
- 26 (2) adopt regulations under AS 44.62 (Administrative Procedure Act)
- 27 to carry out the purpose of the program;
- 28 (3) coordinate payments among other heating assistance programs to
- 29 avoid duplication of payments.

30 **Sec. 47.25.623. Eligibility.** An individual is eligible for home heating

31 assistance payments under the Alaska home heating assistance program if the

1 individual

2 (1) is a resident of the state;

3 (2) is physically present and resides in a home in the state when the  
4 home heating costs are incurred;

5 (3) has gross household income above 150 percent but that does not  
6 exceed 225 percent of the federal poverty guideline for Alaska set by the United States  
7 Department of Health and Human Services and revised under 42 U.S.C. 9902(2);

8 (4) meets other eligibility requirements specified in regulations  
9 adopted under AS 47.25.622.

10 **Sec. 47.25.624. Appeal rights.** Except as provided in AS 47.25.626(e), an  
11 individual who receives a determination from the department that denies, limits, or  
12 modifies home heating payments under AS 47.25.621 - 47.25.626, other than a  
13 determination based on insufficient funding of the program, may request a hearing  
14 before the department under regulations adopted by the department.

15 **Sec. 47.25.625. Ability to recover or recoup improper home heating**  
16 **assistance payments.** An individual is liable to the department for the value of  
17 assistance improperly paid under AS 47.25.623 if the improper payment was based on  
18 inaccurate or incomplete information provided by the individual. In a civil action  
19 brought by the state to recover from the individual the value of the assistance  
20 improperly paid, the state may recover from the individual the costs of investigation  
21 and prosecution of the civil action, including attorney fees as determined under court  
22 rules.

23 **Sec. 47.25.626. Regional heating assistance program.** (a) The department  
24 may develop a regional Alaska heating assistance program for the administration of  
25 AS 47.25.621 - 47.25.626 to provide home heating assistance in a uniform and cost-  
26 effective manner in a region of this state if an Alaska Native organization is authorized  
27 to implement a federally approved tribal family assistance plan that includes that  
28 region and has been awarded a tribal energy assistance grant for a program that  
29 includes that region under 42 U.S.C. 8623(d).

30 (b) The department may award contracts to implement a program developed  
31 under (a) of this section. A contract authorized for delivery of home heating assistance

1 under a regional Alaska heating assistance program under this section is exempt from  
2 the competitive bid requirements of AS 36.30 (State Procurement Code). Subject to  
3 appropriation, a contract under this section must be in an amount that represents a fair  
4 and equitable share of the money appropriated for the Alaska heating assistance  
5 program under AS 47.25.621 - 47.25.626 to serve the state residents specified in (a) of  
6 this section. The authority provided under this section to contract is in addition to the  
7 authority to contract in AS 47.05.015 or other law.

8 (c) The department may award a contract under this section only to an  
9 organization that

10 (1) has been awarded a tribal energy assistance grant under 42 U.S.C.  
11 8623(d) for a program that includes that region;

12 (2) agrees to administer home heating assistance under AS 47.25.621 -  
13 47.25.626 to state residents in the region; and

14 (3) agrees to implement an appeals process as described in (e) of this  
15 section.

16 (d) Records pertaining to recipients of home heating assistance under a  
17 contract awarded under this section are confidential and not subject to disclosure  
18 under AS 40.25.100 - 40.25.220.

19 (e) An organization that receives a contract under this section shall provide an  
20 appeals process to applicants for or recipients of home heating assistance covered by  
21 the contract awarded under this section. The appeals process must be the same as the  
22 method available under AS 47.25.624, except that the decision reached shall be  
23 considered a recommended decision to the department. Within 30 days after receiving  
24 a recommended decision, the department shall review the recommended decision and  
25 issue a decision accepting or rejecting the recommended decision. If the department  
26 rejects the recommended decision, the department shall independently review the  
27 record and issue its final decision. The final decision of the department on the matter  
28 is appealable to the courts of this state.

29 (f) If the department establishes a regional Alaska heating assistance program  
30 and awards a contract to provide home heating assistance under this section, a person  
31 applying for home heating assistance under AS 47.25.621 - 47.25.626 in the region of

1 the state covered by the regional Alaska heating assistance program may obtain home  
2 heating assistance from the department only through the organization designated by  
3 the department to serve the region.

4 \* **Sec. 5.** AS 42.45.045 is repealed June 30, 2013.

5 \* **Sec. 6.** The uncoded law of the State of Alaska is amended by adding a new section to  
6 read:

7 RENEWABLE ENERGY GRANTS DURING STATE FISCAL YEAR 2009. (a) For  
8 the fiscal year ending June 30, 2009, from an appropriation made under the statement of intent  
9 set out in sec. 1(b) of this Act, the Alaska Energy Authority shall distribute grants to  
10 applicants determined by the authority and that meet the criteria in AS 42.45.045(f) - (h),  
11 added by sec. 3 of this Act, based on the procedure described in (b) of this section.

12 (b) For administering grants under AS 42.45.045(f) - (h), added by sec. 3 of this Act,  
13 for the fiscal year ending June 30, 2009, notwithstanding AS 42.45.045(d), (e), and (i) - (l),  
14 added by sec. 3 of this Act,

15 (1) the Alaska Energy Authority shall submit to the Legislative Budget and  
16 Audit Committee for review a revised program setting out the proposed grants;

17 (2) 45 days shall elapse before commencement of expenditures under the  
18 revised program unless the Legislative Budget and Audit Committee earlier recommends  
19 otherwise;

20 (3) should the Legislative Budget and Audit Committee recommend within the  
21 45-day period that the Alaska Energy Authority not award the grants as set out in the revised  
22 program, the Alaska Energy Authority shall again review the grant applications and, if the  
23 Alaska Energy Authority determines to authorize the expenditures, the Alaska Energy  
24 Authority shall provide the Legislative Budget and Audit Committee with a statement of the  
25 Alaska Energy Authority's reasons before commencement of expenditures making the  
26 approved grants.

27 \* **Sec. 7.** The uncoded law of the State of Alaska is amended by adding a new section to  
28 read:

29 ALASKA RENEWABLE ENERGY TASK FORCE. (a) There is established in the  
30 legislative branch of state government the Alaska Renewable Energy Task Force. The task  
31 force consists of seven voting members appointed as follows:

1 (1) the speaker of the house of representatives shall appoint three members  
2 from the house of representatives;

3 (2) the president of the senate shall appoint three members from the senate;  
4 and

5 (3) the governor shall appoint one member.

6 (b) The chair of the task force shall be a legislative member selected by a majority  
7 vote of the members of the task force. The staff of the members who are legislators shall serve  
8 as staff to the task force.

9 (c) The task force shall prepare a report that includes

10 (1) an assessment of future statewide renewable energy needs; and

11 (2) recommendations for a statewide energy plan to fulfill the state's  
12 renewable energy needs.

13 (d) Members of the task force are entitled to transportation expenses and per diem  
14 allowances provided by law.

15 (e) The task force shall meet at least four times. The task force may meet in  
16 communities in the state that are using or considering sources of renewable energy.

17 (f) The task force shall submit written reports of its findings and recommendations to  
18 the legislature

19 (1) before March 1, 2009; and

20 (2) before March 1, 2010.

21 (g) The Alaska Renewable Energy Task Force is terminated on April 16, 2010.

22 \* **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to  
23 read:

24 **TRANSITION: RENEWABLE ENERGY PROJECT ADVISORY COMMITTEE.**  
25 For the initial appointments made to the advisory committee under AS 42.45.045(i)(1), added  
26 by sec. 3 of this Act, two members serve for one year, two for two years, and three for three  
27 years.

28 \* **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to  
29 read:

30 **TRANSITION: RETROACTIVITY OF REGULATIONS.** Notwithstanding a contrary  
31 provision of AS 44.62.240, if the Department of Health and Social Services expressly

1 designates in a regulation adopted under AS 47.25.622(2), enacted by sec. 4 of this Act, that  
2 the regulation applies retroactively to November 1, 2007, and is necessary to implement,  
3 interpret, make specific, or otherwise carry out AS 47.25.621 and 47.25.623, enacted by sec. 4  
4 of this Act, the regulation may apply retroactively to November 1, 2007.

5 \* **Sec. 10.** Sections 1(c) and 7 of this Act are repealed April 16, 2010.

6 \* **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to  
7 read:

8 RETROACTIVITY OF CERTAIN PROVISIONS OF THIS ACT. AS 47.25.621 and  
9 47.25.623, enacted by sec. 4 of this Act, are retroactive to November 1, 2007.

10 \* **Sec. 12.** Sections 2, 4, 9, and 11 of this Act takes effect immediately under  
11 AS 01.10.070(c).