

Article 2. Power Cost Equalization Endowment Fund.

Sec. 42.45.070. Power cost equalization endowment fund established.

(a) The power cost equalization endowment fund is established as a separate fund of the authority. The fund consists of

- (1) legislative appropriations to the fund that are not designated for annual expenditure for the purpose of power cost equalization;
- (2) accumulated earnings of the fund;
- (3) gifts, bequests, contributions of money and other assets, and federal money given to the fund that are not designated for annual expenditure for power cost equalization; and
- (4) [Repealed, § 13 ch 60 SLA 2000.]

(b) Nothing in this section creates a dedicated fund.

(c) [Repealed, § 13 ch 60 SLA 2000.]

(a) The commissioner of revenue is the fiduciary of the fund. In managing the fund, the commissioner shall

- (1) have the same powers and duties as are provided in AS 37.10.071; and
- (2) invest the fund in a manner likely to achieve at least a four percent nominal return over a five-year period to meet the objectives of the power cost equalization and rural electric capitalization fund (AS 42.45.100).

(b) In managing the fund, the commissioner shall

- (1) consider the status of the fund's capital and the income generated on both current and probable future bases;
- (2) determine the appropriate investment objectives;
- (3) establish investment policies to achieve the objectives; and
- (4) act only in regard to the best financial interests of the fund.

(c) On July 1 of each year, the commissioner shall determine

- (1) the monthly average market value of the fund for the previous three closed fiscal years; and
- (2) the earnings of the fund for the previous closed fiscal year.

Effect of amendments. -

The 2015 amendment, effective May 12, 2015, in (a)(2), substituted "a four percent nominal return over a five-year period to meet the objectives of the power cost equalization and rural electric capitalization fund (AS 42.45.100)" for "a seven percent nominal return over time".

The 2016 amendment, effective July 21, 2016, in (c), designated a portion of (c) as (1) and inserted "closed" prior to "fiscal years"; added (c)(2). Although the 2016 amendments were to have taken effect June 30, 2016 under § 4, ch. 43, SLA 2016, the governor did not sign the bill until July 20, 2016, and so the actual effective date of the 2016 amendments was July 21, 2016, under AS 01.10.070(d).

Sec. 42.45.085. Use of the power cost equalization endowment fund.

(a) Five percent of the amount determined by the commissioner of revenue on July 1 of each year under AS 42.45.080(c)(1) may be appropriated for the following purposes:

- (1) funding the power cost equalization and rural electric capitalization fund (AS 42.45.100);
- (2) reimbursement to the Department of Revenue for the costs of establishing and managing the fund; and
- (3) reimbursement of other costs of administration of the fund.

(b) Nothing in this section creates a dedicated fund.

(c) If the amount appropriated under (a) of this section is insufficient to achieve the purposes of (a)(1) -

(3) of this section, the amount shall be prorated among the purposes listed in (a)(1) and (2) of this section.

(d) If the earnings of the fund for the previous closed fiscal year, as calculated under AS 42.45.080(c)(2), exceed the appropriation under (a) of this section for the current fiscal year, the legislature may appropriate 70 percent of the difference between the earnings of the fund for the previous closed fiscal year, as calculated under AS 42.45.080(c)(2), and the appropriation made under (a) of this section for the current fiscal year as follows:

- (1) if the amount calculated under this subsection is less than \$30,000,000, that amount to a community revenue sharing or community assistance fund; or
- (2) if the amount calculated under this subsection is \$30,000,000 or more,
  - (A) \$30,000,000 to a community revenue sharing or community assistance fund; and
  - (B) the remaining amount, not to exceed \$25,000,000, to the renewable energy grant fund established under AS 42.45.045, to the bulk fuel revolving loan fund established under AS 42.45.250, or for rural power system upgrades or to a combination of the funds or purposes listed in this subparagraph.

In AS 42.45.070 - 42.45.099, "fund" means the power cost equalization endowment fund established in AS 42.45.070.

### Article 3. Power Cost Equalization and Rural Electric Capitalization.

#### Sec. 42.45.100. Power cost equalization and rural electric capitalization fund.

(a) The power cost equalization and rural electric capitalization fund is established as a separate fund for the purpose of

(1) equalizing power cost per kilowatt-hour statewide at a cost close to or equal to the mean of the cost per kilowatt-hour in Anchorage, Fairbanks, and Juneau by paying money from the fund to eligible electric utilities in the state; and

(2) making grants to eligible utilities under AS 42.45.180 to improve the performance of the utility.

(b) The fund shall be administered by the authority as a fund distinct from the other funds of the authority. The fund is composed of

(1) money appropriated to provide power cost equalization to eligible electric utilities and to provide grants for utility improvements;

(2) money appropriated from the National Petroleum Reserve - Alaska special revenue fund under AS 37.05.530(g);

(3) money appropriated from the power cost equalization endowment fund (AS 42.45.070) under AS 42.45.085(a);

(4) gifts, bequests, contributions from other sources, and federal money; and

(5) interest earned on the fund balance.

(c) The fund is not a dedicated fund.

Revisor's notes. -

In 1999, in this section, "department" was changed to "authority" in accordance with § 91(b), ch. 58, SLA 1999. In 2000, in (a)(2) of this section, "making" was substituted for "to make" to correct a manifest error.

Administrative Code. -

For power cost equalization program, see 3 AAC 107, art. 1.

For utility improvements grant program, see 3 AAC 107, art. 2.

Opinions of attorney general. -

The Alaska Public Utilities Commission has the authority to promulgate standards for defining costs under the power cost equalization program (the article), and standards for generation efficiency. The commission is empowered to adopt these standards as regulations under AS 42.05.151, as long as the

provisions of the Administrative Procedure Act are followed (decided under former AS 44.83.162 - 44.83.165). May 16, 1988, Op. Att'y Gen.

The department is not required to pursue annual appropriations in order to disburse moneys in the southeast energy fund and the power cost equalization and rural electric capitalization fund once the legislature has capitalized those funds. September 27, 1995 Op. Att'y Gen.