

**HOUSE BILL NO. 121**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

**BY REPRESENTATIVES SUMNER, Mears, Mina, Armstrong**

**Introduced: 3/17/23**

**Referred: House Special Committee on Energy, Labor and Commerce**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to a renewable portfolio standard; relating to electrical energy**  
2 **transmission; relating to distributed energy systems; relating to power cost equalization;**  
3 **relating to the Alaska Energy Authority; and providing for an effective date."**

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

5 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
6 to read:

7 PURPOSE. The purpose of this Act is to establish a renewable portfolio standard that  
8 requires certain electric utilities to derive increasing percentages of the utility's net electricity  
9 sales from renewable energy resources. Nothing in this Act is intended to constitute  
10 implementation by the Regulatory Commission of Alaska of the federal Public Utility  
11 Regulatory Policies Act of 1978 (16 U.S.C. 2705).

12 \* **Sec. 2.** AS 42.05.391(a) is amended to read:

13 (a) Except as provided in AS 42.05.306, a public utility may not, as to rates,  
14 grant an unreasonable preference or advantage to any of its customers or subject a

1 customer to an unreasonable prejudice or disadvantage. A public utility may not  
 2 establish or maintain an unreasonable difference as to rates, either as between  
 3 localities or between classes of service. **A public utility offering net metering for**  
 4 **customers who install distributed energy systems is not engaging in rate**  
 5 **discrimination solely because some customers receive net metering.** A municipally  
 6 owned utility may offer uniform or identical rates for a public utility service to  
 7 customers located in different areas within its certificated service area who receive the  
 8 same class of service. Any uniform or identical rate shall, upon complaint, be subject  
 9 to review by the commission and may be set aside if shown to be unreasonable. **In this**  
 10 **subsection, "distributed energy system" has the meaning given in AS 42.05.930.**

11 \* **Sec. 3.** AS 42.05.780(a) is amended to read:

12 (a) An electric reliability organization shall file with the commission in a  
 13 petition for approval an integrated resource plan for meeting the reliability  
 14 requirements of all customers within its interconnected electric energy transmission  
 15 network in a manner that provides the greatest value, consistent with the load-serving  
 16 entities' obligations. An integrated resource plan must contain an evaluation of the full  
 17 range of cost-effective means for load-serving entities to meet the service  
 18 requirements of all customers, including additional generation, transmission, battery  
 19 storage, and conservation or similar improvements in efficiency. An integrated  
 20 resource plan must include options to meet customers' collective needs in a manner  
 21 that provides the greatest value, consistent with the public interest, regardless of the  
 22 location or ownership of new facilities or conservation activities. **An integrated**  
 23 **resource plan must include options by which each load-serving entity may satisfy**  
 24 **the renewable portfolio standard under AS 42.05.900.**

25 \* **Sec. 4.** AS 42.05.785(a) is amended to read:

26 (a) A public utility, including a public utility that is exempt from other  
 27 regulation under AS 42.05.711 or another provision of this chapter, that is  
 28 interconnected with an interconnected electric energy transmission network served by  
 29 an electric reliability organization certificated by the commission may not construct a  
 30 large energy facility unless the commission determines that the facility

31 (1) is necessary to the interconnected electric energy transmission

1 network with which it would be interconnected;

2 (2) complies with reliability standards; [AND]

3 (3) would, in a cost-effective manner, meet the needs of a load-serving  
4 entity that is substantially served by the facility; **and**

5 **(4) is not detrimental to a load-serving entity's ability to meet the**  
6 **renewable portfolio standard under AS 42.05.900.**

7 \* **Sec. 5.** AS 42.05 is amended by adding new sections to read:

8 **Article 11A. Renewable Portfolio Standard.**

9 **Sec. 42.05.900. Renewable portfolio standard.** (a) A load-serving entity that  
10 is subject to the standards of an electric reliability organization under AS 42.05.760  
11 shall comply with the renewable portfolio standard established in this section. Under  
12 the renewable portfolio standard, a load-serving entity's portfolio shall include sales  
13 from renewable energy resources in the following percentages:

14 (1) 25 percent by December 31, 2027;

15 (2) 55 percent by December 31, 2035;

16 (3) 80 percent by December 31, 2040.

17 (b) A purchase power agreement entered into between a load-serving entity  
18 and a renewable electrical energy producer will be considered to satisfy all or part of  
19 the percentages required under (a) of this section if

20 (1) the effective date of the purchase power agreement is before the  
21 end of the compliance period;

22 (2) the purchase power agreement guarantees that the renewable  
23 electrical energy producer will deliver the renewable electrical energy to the load-  
24 serving entity not later than two years after the compliance period; and

25 (3) the purchase power agreement is approved by the commission in  
26 accordance with AS 42.05.381 and 42.05.431(a) and (b) before the end of the  
27 compliance period; if the purchase power agreement is not approved by the  
28 commission, the load-serving entity may be subject to a noncompliance fine under  
29 AS 42.05.915.

30 (c) To qualify as part of a load-serving entity's portfolio, renewable energy  
31 resources used by a load-serving entity must be located within the load-serving entity's

1 service area, connected to the same interconnected electric energy transmission  
2 network that serves the load-serving entity's customers, or located within the service  
3 area of an electric utility whose customers receive power cost equalization under  
4 AS 42.45.100 - 42.45.150.

5 (d) A load-serving entity may satisfy the renewable portfolio standard through  
6 energy produced by distributed energy systems, regardless of whether the energy is  
7 acquired by the load-serving entity or used by the customer.

8 (e) A load-serving entity's compliance with the renewable portfolio standard  
9 shall be based on historical data, collected in a manner consistent with industry  
10 standards and commission regulations.

11 (f) A load-serving entity shall design and implement an accounting system to  
12 verify compliance with the renewable portfolio standard to ensure that renewable  
13 electrical energy is counted only once for the purpose of meeting the renewable  
14 portfolio standard.

15 (g) The commission shall, by regulation, develop a proxy for the ratio of net  
16 energy acquired by a load-serving entity at metered intervals to total energy produced  
17 from distributed energy systems. Using the proxy, the commission shall determine an  
18 estimate of total energy produced by distributed energy systems available to satisfy a  
19 load-serving entity's renewable portfolio standard. The commission shall update the  
20 proxy developed under this subsection not less than once every five years.

21 (h) A load-serving entity may also satisfy the renewable portfolio standard  
22 through renewable energy credits that qualify as part of the load-serving entity's  
23 portfolio under AS 42.05.910.

24 (i) A load-serving entity may also satisfy the renewable portfolio standard  
25 with energy consumption displaced because of energy efficiency investments made in  
26 whole or part with payments under AS 42.05.915(g), if the displaced consumption is  
27 documented under a program established by the state.

28 **Sec. 42.05.905. Reporting.** (a) Beginning March 1, 2025, a load-serving entity  
29 subject to the renewable portfolio standard shall submit an annual report to the  
30 commission that documents the load-serving entity's progress toward satisfying the  
31 renewable portfolio standard under AS 42.05.900 in the preceding calendar year. The

1 annual report must document the entity's total production from distributed energy  
2 systems and net electricity sales from renewable energy resources for the applicable  
3 calendar year, document the entity's satisfaction of penalties imposed under  
4 AS 42.05.915, and include the information required by the commission.

5 (b) The commission shall adopt regulations governing the reporting  
6 requirements under (a) of this section to document compliance and minimize the  
7 administrative costs and burden on a load-serving entity.

8 (c) The commission may investigate a load-serving entity's compliance with a  
9 renewable portfolio standard and collect any information necessary to verify and audit  
10 the information provided to the commission by the load-serving entity.

11 **Sec. 42.05.910. Renewable energy credits.** (a) To qualify as part of a load-  
12 serving entity's portfolio, renewable energy credits must be bundled renewable energy  
13 credits from generation located within a load-serving entity's service area or connected  
14 to the same interconnected electric energy transmission network that serves the load-  
15 serving entity's customers or must be purchased from generation located within the  
16 service area of an electric utility that serves customers who receive power cost  
17 equalization under AS 42.45.100 - 42.45.150.

18 (b) A renewable energy credit may be used only once and then must be  
19 retired.

20 (c) Each load-serving entity is responsible for tracking and demonstrating that  
21 a renewable energy credit used to comply with the renewable portfolio standard is  
22 derived from a renewable energy resource, that the load-serving entity has not  
23 previously used, traded, sold, or otherwise transferred the renewable energy credit, and  
24 that the renewable energy credit is retired upon its use.

25 (d) A renewable energy credit may be traded, sold, or otherwise transferred for  
26 value.

27 (e) Revenue received by a load-serving entity for the trade, sale, or transfer of  
28 a renewable energy credit shall be credited to the load-serving entity's cost of power  
29 adjustment to the benefit of the load-serving entity's customers.

30 **Sec. 42.05.915. Noncompliance fine; waiver.** (a) If the commission  
31 determines that a load-serving entity failed to meet the renewable portfolio standard

1 under AS 42.05.900, after notice and an opportunity for hearing, the entity is, each  
2 year that the entity fails to meet the renewable portfolio standard, subject to a fine of  
3 \$20 for every megawatt hour that the entity is below the renewable portfolio standard.

4 (b) The commission may waive the noncompliance fine in whole or in part  
5 upon determination that a load-serving entity is unable to meet the renewable portfolio  
6 standard because of reasons outside the reasonable control of the load-serving entity as  
7 set out in (c) of this section or the entity establishes a good cause for noncompliance  
8 as set out in (d) of this section.

9 (c) The following events or circumstances are outside of a load-serving  
10 entity's reasonable control:

- 11 (1) weather-related damage;
- 12 (2) natural disasters;
- 13 (3) failure of renewable electrical energy producers to meet contractual  
14 obligations to the load-serving entity;
- 15 (4) transmission network constraint that prevents the load-serving  
16 entity from partially or fully using renewable electrical energy for net electricity sales;
- 17 (5) global pandemics; and
- 18 (6) acts of war.

19 (d) The following factors may establish good cause for noncompliance:

- 20 (1) the actions taken by the load-serving entity to procure the  
21 renewable electrical energy;
- 22 (2) the extent of good faith efforts by the load-serving entity to  
23 comply;
- 24 (3) the lack of past failures to comply;
- 25 (4) the likelihood and amount of future renewable electrical energy to  
26 be procured by the load-serving entity;
- 27 (5) the effect of the noncompliance fine on the load-serving entity  
28 considering the size or ownership of the load-serving entity;
- 29 (6) the good faith effort by the load-serving entity to meet the  
30 renewable portfolio standard after an event or circumstance enumerated in (c) of this  
31 section.

1 (e) If the commission waives all or part of a noncompliance fine, the  
2 commission may require additional reporting from a load-serving entity to  
3 demonstrate the entity is taking all reasonable actions under its control to satisfy the  
4 renewable portfolio standard.

5 (f) A fine paid by a load-serving entity under this section may not be included  
6 or recovered in rates, but the load-serving entity may recover a payment made to a  
7 customer under (g) of this section.

8 (g) A load-serving entity may, within one year after the commission imposes a  
9 noncompliance fine, satisfy the fine by paying a customer all or a portion of the  
10 customer's costs of installing a distributed energy system or energy efficiency  
11 technologies. When paying customer costs of installing a distributed energy system,  
12 the load-serving entity shall, if total requests for costs exceed the amount of the  
13 noncompliance fine, prioritize customers with mean household annual incomes at or  
14 below 80 percent of the median census district income where the load-serving entity of  
15 the customer is located.

16 **Sec. 42.05.920. Exemptions.** (a) A load-serving entity is exempt from  
17 compliance with the renewable portfolio standard under AS 42.05.900 if the aggregate  
18 net electricity sales for all load-serving entities on the interconnected electric energy  
19 transmission network meets or exceeds the aggregate renewable portfolio standard for  
20 all load-serving entities on the interconnected electric energy transmission network.

21 (b) If an exemption under (a) of this section does not apply, a load-serving  
22 entity is exempt from its first noncompliance with a renewable portfolio standard. An  
23 exemption under this subsection does not apply for the compliance period ending  
24 December 31, 2040.

25 **Sec. 42.05.925. Net metering.** (a) A load-serving entity subject to the  
26 renewable portfolio standard under AS 42.05.900 shall monthly credit in a tariff the  
27 account of a retail customer for the number of kilowatt-hours, at the full retail rate per  
28 kilowatt-hour, of electric energy supplied by the customer's distributed energy system  
29 to the load-serving entity. The tariff may not limit the aggregate capacity that  
30 customers may install unless the commission, after a hearing, finds that capacity  
31 limitation is necessary to protect system reliability.

1 (b) For up to seven years after a customer's distributed energy system is  
2 connected to the load-serving entity and generates power, a credit under (a) of this  
3 section that exceeds the customer's monthly bill for service will roll over to the  
4 following month and continue to roll over until used. Unused credits expire on  
5 March 31 of each year.

6 (c) The credits under (b) of this section are not available for a distributed  
7 energy system installed before July 1, 2023.

8 **Sec. 42.05.930. Definitions.** In AS 42.05.900 - 42.05.930,

9 (1) "bundled renewable energy credits" means renewable energy  
10 credits that are sold or used together with their associated energy;

11 (2) "compliance period" means each period identified in  
12 AS 42.05.900(a);

13 (3) "distributed energy system" means a renewable energy resource  
14 that is located on any property owned or leased by a customer within the service  
15 territory of the load-serving entity that is interconnected on the customer's side of the  
16 utility meter;

17 (4) "interconnected electric energy transmission network" has the  
18 meaning given in AS 42.05.790;

19 (5) "load-serving entity" has the meaning given in AS 42.05.790;

20 (6) "megawatt hour" means 1,000,000 watts of electricity being used in  
21 one hour and includes the steam equivalent of a megawatt hour;

22 (7) "renewable electrical energy" means electricity or energy generated  
23 from renewable energy resources;

24 (8) "renewable energy credit" means one credit equal to the generation  
25 attributes of one megawatt hour that is derived from a renewable energy resource  
26 located within the load-serving entity's service area or within the interconnected  
27 electric energy transmission network where a load-serving entity's service area is  
28 located, or purchased from generation located within the service area of an electric  
29 utility that serves customers who receive power cost equalization under AS 42.45.100  
30 - 42.45.150; where fossil and renewable fuels are co-fired in the same generating unit,  
31 the unit is considered to generate renewable electrical energy in direct proportion to

1 the percentage of the total heat input value represented by the heat input value of the  
2 renewable fuels;

3 (9) "renewable energy resource" means a resource, other than  
4 petroleum, nuclear, natural gas, or coal, that naturally replenishes over a human, not a  
5 geological, time frame, is ultimately derived from solar power, water power, or wind  
6 power, comes from the sun or from thermal inertia of the earth, and minimizes the  
7 output of toxic material in the conversion of the energy; in this paragraph, "resource"  
8 includes

9 (A) solar and solar thermal energy, wind energy, and kinetic  
10 energy of moving water, including

11 (i) waves, tides, or currents;

12 (ii) run-of-river hydropower, in-river hydrokinetic;

13 (iii) conventional hydropower, lake tap hydropower;

14 (iv) water released through a dam; and

15 (v) geothermal energy;

16 (B) waste to energy systems, including

17 (i) wood;

18 (ii) landfill gas produced by municipal solid waste or  
19 fuel that has been manufactured in whole or significant part from  
20 waste;

21 (iii) biofuels produced in the state; and

22 (iv) thermal energy produced from a geothermal heat  
23 pump using municipal solid waste, including biogenic and  
24 anthropogenic fractions;

25 (10) "renewable portfolio standard" means the required percentage of a  
26 load-serving entity's net electrical energy sales to customers in the entity's service area  
27 that is represented by renewable electrical energy as required under AS 42.05.900(a);

28 (11) "transmission network constraint" means a lack of transmission  
29 line capacity to deliver electricity without exceeding thermal, voltage, and stability  
30 limits designed to ensure reliability of the interconnected electric energy transmission  
31 network.

1 \* **Sec. 6.** AS 42.45.110(a) is amended to read:

2 (a) The costs used to calculate the amount of power cost equalization for all  
3 electric utilities eligible under AS 42.45.100 - 42.45.150 include all allowable costs,  
4 except return on equity, used by the commission to determine the revenue requirement  
5 for electric utilities subject to rate regulation under AS 42.05. The costs used in  
6 determining the power cost equalization per kilowatt-hour shall exclude any other type  
7 of assistance that reduces the customer's costs of power on a kilowatt-hour basis and  
8 that is provided to the electric utility within 60 days before the commission determines  
9 the power cost equalization per kilowatt-hour of the electric utility. In calculating  
10 power cost equalization, the commission may not consider validated costs or kilowatt-  
11 hour sales associated with a United States Department of Defense facility, **revenue**  
12 **from the sale of recovered heat, or revenue from the sale of renewable energy**  
13 **credits acquired under AS 42.05.910.**

14 \* **Sec. 7.** AS 44.83.940 is amended by adding a new subsection to read:

15 (b) Not later than the first day of the first regular session of each legislature,  
16 the authority shall submit a report to the senate secretary and chief clerk of the house  
17 of representatives and notify the legislature that the report is available. The report  
18 must identify the authority's progress in developing renewable energy resources in  
19 rural regions of the state, evaluate renewable energy resource development in rural  
20 regions, identify infrastructure necessary for rural renewable energy projects, and  
21 evaluate the feasibility and cost of rural renewable energy projects.

22 \* **Sec. 8.** This Act takes effect July 1, 2023.