

SENATE BILL NO. 123

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Introduced: 3/26/99

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to public interest litigants and to attorney fees; and amending
2 Rule 82, Alaska Rules of Civil Procedure."

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

4 * **Section 1.** AS 09.60.010 is amended to read:

5 **Sec. 09.60.010. Costs and attorney fees allowed prevailing party.** The
6 supreme court shall determine by rule or order the costs, if any, that may be allowed
7 a prevailing party in a civil action. Unless specifically authorized by statute or by
8 agreement between the parties, attorney fees may not be awarded to a party in a civil
9 action for personal injury, death, or property damage related to or arising out of fault,
10 as defined in AS 09.17.900, unless the civil action is contested without trial, or fully
11 contested as determined by the court. Attorney fees may only be awarded to or
12 against a public interest litigant as provided in Rule 82(g), Alaska Rules of Civil
13 Procedure, on the effective date of this Act.

14 * **Sec. 2.** Rule 82, Alaska Rules of Civil Procedure, is amended by adding a new

1 subsection to read:

2 (g) **Apportionment of Attorney's Fees for Public Interest Litigants.** When
3 awarding attorney's fees to a public interest litigant, the court shall apportion the fees
4 by issues presented in the pleadings and may award fees only for an issue upon which
5 the public interest litigant was the prevailing party. In a case that goes to trial, the
6 court shall award a prevailing public interest litigant 30 percent of the litigant's
7 reasonable actual attorney's fees that were necessarily incurred on issues upon which
8 the litigant was the prevailing party and shall, in a case resolved without trial, award
9 the prevailing public interest litigant 20 percent of the litigant's reasonable actual
10 attorney's fees that were necessarily incurred on each issue upon which the litigant was
11 the prevailing party. If the court finds that an issue presented by a public interest
12 litigant upon which the litigant was not the prevailing party was not well grounded in
13 fact, or was not warranted by existing law or a good faith argument for the extension,
14 modification, or reversal of existing law, the court may award attorney's fees under (b)
15 of this rule to the party prevailing on that issue.

16 * **Sec. 3.** Section 1 of this Act takes effect only if sec. 2 of this Act receives the two-thirds
17 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.