

HOUSE BILL NO. 176

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES GREEN, Rokeberg, James

Introduced: 3/31/99

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to attorney fees and costs and the granting of public interest
2 litigant status in proceedings related to administrative actions and inactions; and
3 amending Rules 79 and 82, Alaska Rules of Civil Procedure, and Rule 508,
4 Alaska Rules of Appellate Procedure."

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

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

7 **Sec. 09.60.010. Costs and attorney fees allowed prevailing party.** The
8 supreme court shall determine by rule or order the costs, if any, that may be allowed
9 a prevailing party in a civil action. Unless specifically authorized by statute or by
10 agreement between the parties, attorney fees may not be awarded to a party in a civil
11 action for personal injury, death, or property damage related to or arising out of fault,
12 as defined in AS 09.17.900, unless the civil action is contested without trial, or fully
13 contested as determined by the court. A party bringing a civil action that seeks
14 judicial review of an action or a failure to act by a department of the executive

1 **branch of state government may not be awarded public interest litigant status,**
2 **and the prevailing party in the action is entitled to an award of attorney fees and**
3 **costs as in other civil actions.**

4 * **Sec. 2.** AS 44.62.300 is amended by adding a new subsection to read:

5 (b) An interested person bringing an action under this section may not be
6 granted public interest litigant status by a court, and the prevailing party in the action
7 is entitled to an award of attorney fees and costs as in other civil actions.

8 * **Sec. 3.** AS 44.62.560 is amended by adding a new subsection to read:

9 (f) A person bringing an appeal under this section may not be granted public
10 interest litigant status by a court, and the prevailing party in the appeal is entitled to
11 an award of attorney fees and costs as in other appeals.

12 * **Sec. 4.** AS 09.60.010, as amended by sec. 1 of this Act, AS 44.62.300(b), added by
13 sec. 2 of this Act, and AS 44.62.560(f), added by sec. 3 of this Act, have the effect of
14 amending Rules 79 and 82, Alaska Rules of Civil Procedure, and Rule 508, Alaska Rules of
15 Appellate Procedure, relating to awards of attorney fees and costs, by providing that the
16 prevailing party in an action that seeks judicial review of executive department action or
17 inaction, in a declaratory judgment action under AS 44.62.330, or in an appeal under
18 AS 44.62.560 is entitled to an award of attorney fees and costs as in other civil actions and
19 appeals and that public interest litigant status may not be granted to a person bringing an
20 action or appeal under those statutes.

21 * **Sec. 5.** Sections 1 - 3 of this Act take effect only if sec. 4 of this Act receives the two-
22 thirds majority vote of each house of the legislature required under art. IV, sec. 15,
23 Constitution of the State of Alaska.