

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 86(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/30/03

Referred: Rules

Sponsor(s): REPRESENTATIVES FATE, Wolf, Foster, Rokeberg, Holm, Kott, Lynn, Chenault, Dahlstrom,
Wilson, Heinze

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to civil liability for malicious claims against state permitted projects;**
2 **and providing for an effective date."**

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

4 *** Section 1.** AS 09.68 is amended by adding a new section to read:

5 **Sec. 09.68.050. Civil liability for malicious claim against state permitted**
6 **project.** (a) A person who initiates or maintains a malicious claim against a state
7 permitted project is, in addition to any other penalty or sanction provided by law,
8 liable in a civil action to the permittee or owner of the project for all of the following:

9 (1) actual damages suffered by the permittee or owner of the project as
10 a result of the malicious claim, including

11 (A) wages and salaries paid to employees or contractors idled
12 or put to nonproductive labor as a result of prosecution of the malicious claim;
13 and

14 (B) increased material costs caused by prosecution of the

1 malicious claim; and

2 (2) incidental or consequential damages arising under contracts
3 associated with the project that were caused by prosecution of the malicious claim.

4 (b) The liability of a person for damages under this section is in addition to
5 liability for an award of reasonable attorney fees and costs that may be made to a
6 prevailing party under the Alaska Rules of Civil Procedure.

7 (c) For purposes of this section, a person "initiates or maintains a malicious
8 claim against a state permitted project" if

9 (1) the person initiates or maintains a legal or administrative claim,
10 including an original claim, a counterclaim, or a cross-claim, against a project or
11 activity in the state requiring one or more permits, authorizations, or approvals from a
12 state agency;

13 (2) the claim is rejected by a court or administrative tribunal of
14 competent jurisdiction or otherwise terminated adverse to the person;

15 (3) the claim is initiated or maintained in bad faith for an end other
16 than the end it was designed to accomplish;

17 (4) the person acts with malice in initiating or maintaining the claim;

18 and

19 (5) the permittee or owner of the project is damaged by the initiation or
20 maintenance of the claim.

21 * **Sec. 2.** This Act takes effect immediately under AS 01.10.070(c).