

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Amended: 5/1/03

Offered: 4/30/03

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

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to state permitted projects; and providing for an effective date."**

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

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

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

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

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

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

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

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

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

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

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

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