

CS FOR HOUSE BILL NO. 145(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 5/8/03

Referred: Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to public interest litigants and to attorney fees."**

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

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

4 **Sec. 09.60.010. Costs and attorney fees allowed prevailing party.** The
5 supreme court shall determine by rule or order the costs, if any, that may be allowed a
6 prevailing party in a civil action. Unless specifically authorized by statute or by
7 agreement between the parties, attorney fees may not be awarded to a party in a civil
8 action for personal injury, death, or property damage related to or arising out of fault,
9 as defined in AS 09.17.900, unless the civil action is contested without trial, or fully
10 contested as determined by the court. **In a civil action related to, or an appeal from**
11 **an administrative agency contesting, a decision of the Department of**
12 **Environmental Conservation, the Department of Fish and Game, or the**
13 **Department of Natural Resources through which one or more of those agencies**
14 **makes a coastal consistency determination or adopts regulations, or for which**
15 **there was an opportunity for the public to comment to the agency before the final**

1 agency decision and to seek administrative review before the agency following the
2 initial agency decision, attorney fees may only be awarded to or against a public
3 interest litigant in the same manner as attorney fees may be awarded to or
4 against a nonpublic interest litigant.

5 * **Sec. 2.** AS 09.60.010 is amended by adding a new subsection to read:

6 (b) In this section, "public interest litigant" means a party bringing a civil
7 action or appeal that

8 (1) is designed to effectuate strong public policies;

9 (2) will benefit numerous people;

10 (3) could only be expected to be brought by a private party; and

11 (4) the party bringing the civil action or appeal would lack sufficient economic
12 incentive to bring if it did not involve issues of general importance.

13 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 **APPLICABILITY.** This Act applies to all civil actions and appeals filed on or after
16 the effective date of this Act.