

Introduced: 4/29/81
Referred: Judiciary

1 IN THE HOUSE

BY ZHAROFF

2 HOUSE JOINT RESOLUTION NO. 51

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 Requesting federal action concerning
6 damages in actions involving federal
7 contracts or permits.

8 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 WHEREAS in House Bill No. 515, which has been introduced in the Twelfth
10 Alaska Legislature,

11 "The legislature finds that court action seeking to prevent the State
12 of Alaska from issuing contracts or permits frequently causes substan-
13 tial money damages even though the final decision of the court finds
14 the action of the state was validly taken. This damage is a social
15 cost which must fall on someone. This cost is now borne by persons who
16 contract with the state or seek a permit from the state and by the
17 general public. The person who seeks to prevent state action bears a
18 minimal degree of the loss caused by that person's actions. It is the
19 policy of the state that in these types of court action the person
20 bringing the action should be responsible for the consequences whether
21 that person is acting to protect an alleged public interest or to
22 protect his own private interest."; and

23 WHEREAS the bill proposes as a partial solution the award of full
24 damages providing:

25 "Sec. 09.65.140. DAMAGES IN ACTION INVOLVING STATE CONTRACTS OR
26 PERMITS. A person who files an action which seeks to prevent the State
27 of Alaska from entering into or carrying out a contract or from issuing
28 a permit and a person who voluntarily joins as party plaintiff or
29 voluntarily appears in the action supporting the relief sought is

1 liable to the state or to a private person who suffers damages from the
2 action unless the plaintiff substantially prevails on the merits of the
3 action. The amount of damages includes all actual damages, all addi-
4 tional costs which may reasonably result from delay attributable to the
5 action, and all expenses reasonably incurred in defending the litigation
6 including actual attorney fees. Damages shall be awarded under this
7 section to the extent the damages are established regardless of whether
8 the action is in the public interest."; and

9 WHEREAS the problem addressed in House Bill No. 515 is even more acute
10 when federal actions are challenged since federal contracts or permits are
11 necessary for ever broader activities;

12 BE IT RESOLVED by the Alaska State Legislature that the members of the
13 Alaska delegation in Congress are requested to introduce and support the
14 enactment of federal legislation to accomplish on the federal level the same
15 placement of responsibility that House Bill No. 515 of the Alaska State
16 Legislature, Twelfth Legislature proposes on the state level.

17 COPIES of this resolution shall be sent to the Honorable Ted Stevens
18 and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don
19 Young, U.S. Representative, members of the Alaska delegation in Congress.
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