

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 SENATE BILL NO. 863

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act providing for the award of costs and attorney
7 fees incurred by defendants acquitted of offenses and
8 by individuals who prevail in certain state administra-
9 tive proceedings; changing Rules 79 and 82, Rules of
10 Civil Procedure; and providing for an effective date."

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

12 * Section 1. AS 12.45 is amended by adding a new section to read:

13 Sec. 12.45.145. COSTS AND ATTORNEY FEES FOR ACQUITTED DEFENDANT.

14 (a) If a judgment of acquittal is entered in favor of a defendant
15 charged with committing an offense under state law, the court may allow
16 the defendant to recover the actual costs of defending the action,
17 including actual attorney fees, from the state. The court shall enter
18 on the record the amount of costs awarded to an acquitted defendant.

19 (b) If a defendant is charged in the same action with more than
20 one offense, he may not receive an award under this section if a judgment
21 of guilty is entered against him on any offense or lesser included
22 offense in that action.

23 (c) This section does not apply to a defendant represented by
24 counsel at public expense.

25 * Sec. 2. AS 09.50 is amended by adding new sections to read:

26 ARTICLE 7. COSTS AND ATTORNEY FEES IN ADMINISTRATIVE
27 PROCEEDINGS AND COURT ACTIONS.

28 Sec. 09.50.410. AWARD OF COSTS AND ATTORNEY FEES TO RESPONDENT IN
29 ADMINISTRATIVE PROCEEDING. (a) If an administrative proceeding is

1 commenced by a state agency against a person to impose a civil penalty
2 or to revoke, suspend, limit, or condition a right, authority, license,
3 or privilege and the proceedings terminate without the imposition of a
4 civil penalty or the revocation, suspension, limitation, or conditioning
5 of a right, authority, license, or privilege, the hearing officer or
6 other official who presides over the proceeding may allow the respondent
7 to recover from the state his actual costs of defense, including actual
8 attorney fees.

9 (b) In this section "state agency" means a department, office,
10 agency or other instrumentality of the state.

11 Sec. 09.50.420. AWARD OF COSTS AND ATTORNEY FEES TO DEFENDANT IN
12 CIVIL ACTION BROUGHT BY THE STATE. (a) If an individual defendant
13 prevails in a civil action brought by the state against that defendant,
14 the court may allow the defendant to recover the actual costs of defend-
15 ing the action, including actual attorney fees, from the state.

16 (b) This section does not apply to a defendant represented by
17 counsel at public expense.

18 * Sec. 3. This Act applies only to actions in which a judgment of acquit-
19 tal is entered, or to administrative proceedings or civil actions that are
20 terminated on or after the effective date of this Act.

21 * Sec. 4. Section 2 of this Act has the effect of changing Rules 79 and
22 82, Rules of Civil Procedure, to provide for the award of costs and attorney
23 fees to defendants who prevail in civil actions brought by the state.

24 * Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
25 070(c).