

Offered: 3/15/84
Referred: Finance

Original sponsor: Tischer

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 588 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL
6 For an Act entitled: "An Act providing for the award of costs and attorney
7 fees to persons who prevail in certain state adminis-
8 trative proceedings; and providing for an effective
9 date."

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

11 * Section 1. AS 09.50 is amended by adding a new section to read:

12 ARTICLE 7. COSTS AND ATTORNEY FEES IN ADMINISTRATIVE PROCEEDINGS.

13 Sec. 09.50.410. AWARD OF COSTS AND ATTORNEY FEES TO RESPONDENT
14 IN ADMINISTRATIVE PROCEEDING. (a) If action by a state agency re-
15 sults in an administrative proceeding in which the state agency takes
16 a position adverse to the respondent and the proceeding is to impose a
17 civil penalty or tax on a person or to revoke, suspend, limit, or
18 condition a person's right, authority, license, or privilege, the
19 hearing officer or other official who presides over the proceeding
20 shall allow the respondent to recover from the state the respondent's
21 costs of defense, including attorney fees, if the respondent prevails
22 in the administrative proceeding.

23 (b) If a civil penalty or tax is imposed on a person in an
24 administrative proceeding or the proceeding results in the revocation,
25 suspension, limitation, or conditioning of a right, authority, li-
26 cense, or privilege and the decision made in the administrative pro-
27 ceeding is reversed on the merits in a subsequent court proceeding,
28 the court shall allow the person who was the subject of that decision
29 to recover the costs of defense in the administrative proceeding,

1 including attorney fees.

2 (c) An award of costs and attorney fees made under this section
3 shall be 100 percent of the first \$2,000 of costs and attorney fees
4 and 75 percent of costs and attorney fees in excess of \$2,000.

5 (d) An award, of costs or attorney fees made under this section
6 may be appealed to the superior court.

7 (e) In this section "state agency" means a department, office,
8 agency or other instrumentality of the state, including the University
9 of Alaska.

10 * Sec. 2. This Act applies only to administrative proceedings that are
11 commenced after the effective date of this Act.

12 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
13 10.070(c).