

Offered: 4/30/84  
Referred: Rules

Original sponsor: Tischer

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

CS FOR HOUSE BILL NO. 588 (Finance)

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 on a person or to revoke, suspend, limit, or condition a  
18 person's right, authority, license, or privilege, the hearing officer  
19 or other official who presides over the proceeding shall allow the  
20 respondent to recover from the state the respondent's costs of de-  
21 fense, including attorney fees, if the respondent prevails in the  
22 administrative proceeding.

23 (b) If a civil penalty is imposed on a person in an administra-  
24 tive proceeding or the proceeding results in the revocation, suspen-  
25 sion, limitation, or conditioning of a right, authority, license, or  
26 privilege and the decision made in the administrative proceeding is  
27 reversed on the merits in a subsequent court proceeding, the court  
28 shall allow the person who was the subject of that decision to recover  
29 from the state the reasonable costs of the appeal and the

1 administrative proceeding, including reasonable attorney fees.

2 (c) An award of attorney fees under this section may not exceed  
3 \$75 an hour for services actually performed by an attorney for the  
4 prevailing party, and the total amount of an award of attorney fees  
5 may not exceed \$10,000 unless the prevailing party demonstrates and  
6 the hearing officer or court determines that extreme hardship or  
7 inequity would result from the limitation.

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

10 (e) The provisions of this section do not apply to a claim for  
11 costs or attorney fees that is specifically authorized by statute or  
12 by rule of court.

13 (f) In this section "state agency" means a department, office,  
14 agency or other instrumentality of the state, including the University  
15 of Alaska.

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

18 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
19 10.070(c).