

Offered: 5/23/84
Referred: Finance

Original sponsor: Tischer

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 SENATE CS FOR 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 ADJUDICATION PROCEEDING. (a) If action by a state
15 agency results in an administrative adjudication proceeding under
16 AS 44.62.330 - 44.62.630 in which the state agency takes a position
17 adverse to the respondent and the adjudication proceeding is to impose
18 a civil penalty on a person or to revoke, suspend, limit, or condition
19 a person's right, authority, license, or privilege, the hearing offi-
20 cer or other official who presides over the adjudication proceeding
21 shall allow the respondent to recover from the state the respondent's
22 reasonable costs of defense, including reasonable attorney fees, if
23 the respondent prevails in the adjudication proceeding.

24 (b) If a civil penalty is imposed on a person in an administra-
25 tive adjudication proceeding under AS 44.62.330 - 44.62.630 or the
26 adjudication proceeding results in the revocation, suspension, limita-
27 tion, or conditioning of a right, authority, license, or privilege and
28 the decision made in the adjudication proceeding is reversed on the
29 merits in a subsequent court proceeding, the court shall allow the

1 person who was the subject of that decision to recover from the state
2 the reasonable costs of the appeal and the adjudication proceeding,
3 including reasonable attorney fees.

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

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

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

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

18 * Sec. 2. This Act applies only to administrative adjudication proceed-
19 ings under AS 44.62.330 - 44.62.630 that are commenced after the effective
20 date of this Act.

21 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
22 10.070(c).