

SENATE CONCURRENT RESOLUTION NO. 4
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR TAYLOR

Introduced: 3/29/93
Referred: JUDICIARY

A RESOLUTION

1 Relating to the Alaska Supreme Court's interpretation of Alaska Rule of Civil
2 Procedure 82 and requesting that the court modify its interpretation of that rule.

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

4 WHEREAS Alaska's future economic well-being depends on the wise use and
5 development of natural resources; and

6 WHEREAS natural resource development is dependent upon the issuance of permits
7 by state and federal agencies; and

8 WHEREAS applicants for permits must demonstrate that they have mitigated
9 environmental impacts before state and federal agencies may issue permits; and

10 WHEREAS natural resource development requires substantial financial investment by
11 developers before applications for permits may be approved; and

12 WHEREAS national and international special interest groups oppose natural resource
13 development in Alaska and elsewhere; and

14 WHEREAS some special interest groups have founded, and support financially, special
15 organizations dedicated to litigation over the issuance of permits in Alaska and elsewhere; and

16 WHEREAS litigation over the issuance of permits is a significant economic burden

1 to both the state and permit applicants; and

2 **WHEREAS** litigation over the issuance of permits is intended to further the goals and
3 objectives of national and international special interest groups, delay or terminate the process
4 of issuing permits by state and federal agencies, and deprive Alaskans of the opportunities that
5 wise development of natural resources will bring; and

6 **WHEREAS** the Alaska Supreme Court has interpreted Alaska Rule of Civil Procedure
7 82 to allow special litigation organizations to recover full attorney fees if successful when all
8 other prevailing litigants may recover only partial attorney fees, and to relieve special
9 litigation organizations from paying attorney fees to prevailing parties; and

10 **WHEREAS** the interpretation of Alaska Civil Rule 82 that favors special litigation
11 organizations fosters litigation to prevent or delay natural resource development and
12 encourages special litigation organizations to use the economic burden of litigation to obstruct
13 natural resource development; and

14 **WHEREAS** national and international special interest groups opposed to natural
15 resource development in Alaska and elsewhere publicize their efforts in the courts in order to
16 raise funds;

17 **BE IT RESOLVED** that the Alaska State Legislature requests the Alaska Supreme
18 Court to modify its interpretation of Alaska Civil Rule 82 to permit all prevailing parties to
19 recover attorney fees and costs, including those who prevail over parties represented by special
20 litigation organizations opposed to natural resource development in the state; and be it

21 **FURTHER RESOLVED** that the Alaska State Legislature requests the Alaska
22 Supreme Court to recognize that organizations specially founded to oppose natural resource
23 development in Alaska and elsewhere through litigation over permits bring actions to further
24 their private economic interests lacking general importance.

25 **COPIES** of this resolution shall be sent to the Honorable Daniel A. Moore, Jr., Chief
26 Justice of the Alaska Supreme Court; to the Honorable Edmond W. Burke, Allen T. Compton,
27 Warren W. Matthews, and Jay A. Rabinowitz, associate justices of the Alaska Supreme Court.