

STATE OF ALASKA
THE LEGISLATURE

1994

Source
SCR 4 am H

Legislative
Resolve No.
25



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

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

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

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

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

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

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

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

WHEREAS litigation over the issuance of permits is a significant economic burden to both the state and permit applicants; and

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

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

WHEREAS this interpretation of Alaska Civil Rule 82 fosters litigation to prevent or delay natural resource development and encourages special litigation organizations to use the economic burden of litigation to obstruct natural resource development; and

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

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

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

COPIES of this resolution shall be sent to the Honorable Daniel A. Moore, Jr., Chief Justice of the Alaska Supreme Court; to the Honorable Robert L. Eastaugh, Allen T. Compton, Warren W. Matthews, and Jay A. Rabinowitz, associate justices of the Alaska Supreme Court.