

ALASKA STATE LEGISLATURE

House District 6
Co-Chair House Resources Committee
Transportation Committee
Fisheries Committee
Joint Armed Services Committee



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Sponsor Statement for HB 47

"An Act requiring a party seeking a restraining order, preliminary injunction, or order vacating or staying the operation of a permit affecting an industrial operation to give security in the amount the court considers proper for costs incurred and damages suffered if the industrial operation is wrongfully enjoined or restrained."

Under current law the cost to bring a public litigant lawsuit against a legally permitted project is in effect zero. There is very little risk in bringing a suit. All the risk is borne by the defendants. These actions do shutdown projects at significant costs to working Alaskans, businesses and the state treasury. HB 47 seeks to remedy the situation by leveling the playing field.

HB 47 parallels the requirements of Alaska Civil Rule 65(c). As written, 65(c) states: *"no restraining order or preliminary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained"*.

HB47 closely mirrors the language of Alaska Civil Rule 65(c) in order to clarify that the proposed statute would not change the court rule. The court already has the ability to require security. In most instances, it is not being done. HB 47 simply requests that part of the court's deliberation process should include payment of wages and benefits for employees, payments to contractors and sub-contractors of the industrial operation that is being shutdown. The amount of security and how it is calculated is totally within the hands of the court.

Additionally, the language already in Alaska Civil Rule 65(c) stating, *"No such security shall be required of the state or a municipality or an officer or agency thereof"* has not been changed.