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Bullock/Wallace
1/10/14

CS FOR HOUSE BILL NO. 47()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

**Sponsor(s): REPRESENTATIVES FEIGE AND CHENAULT, Johnson, Keller, Hughes, Hawker,
Peggy Wilson, Thompson, Olson, Saddler, Stoltze, Pruitt, Lynn, Millett**

A BILL

FOR AN ACT ENTITLED

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

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 *** Section 1. AS 09.40.230 is amended by adding new subsections to read:**

7 (b) A party seeking a restraining order, preliminary injunction, or order
8 vacating or staying the operation of a permit that affects an industrial operation shall
9 give security in an amount the court considers proper for costs that may be incurred
10 and damages that may be suffered by the industrial operation if the industrial operation
11 is wrongfully enjoined or restrained. The court shall consider the amount of wages and
12 benefits for employees and payment to contractors and subcontractors of the industrial
13 operation that may be suffered if the industrial operation is wrongfully enjoined or
14 restrained. In this subsection, "industrial operation" includes a construction, energy, or

1 timber activity and oil, gas, and mineral exploration, development, and production.

2 (c) The existence of security under (b) of this section does not

3 (1) prohibit a person who is wrongfully enjoined or restrained from
4 obtaining relief that may be available to that person; or

5 (2) limit the amount that a party may recover in the action.

6 (d) A party is not required to give security under (b) of this section if the
7 challenged permitting decision or authorization is made by

8 (1) the Department of Environmental Conservation under AS 46.03 or
9 AS 46.14 in a program approved or delegated by the United States Environmental
10 Protection Agency; or

11 (2) the Department of Natural Resources under AS 27.21 in a program
12 approved or delegated by the Office of Surface Mining Reclamation and Enforcement
13 in the United States Department of the Interior.