

**CS FOR HOUSE BILL NO. 47(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 2/21/14

Referred: Rules

Sponsor(s): REPRESENTATIVES FEIGE AND CHENAULT, Johnson, Keller, Hughes, Hawker, Peggy Wilson, Thompson, Olson, Saddler, Stoltze, Pruitt, Lynn, Millett, LeDoux, Tammie Wilson, Gattis, Isaacson, Costello, Higgins, Nageak, Muñoz, Holmes, Neuman

SENATORS Giessel, Dyson

**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) Unless exempt under AS 09.68.040(a), a party seeking a restraining order,  
8 preliminary injunction, or order vacating or staying the operation of a permit that  
9 affects an industrial operation shall give security, in an amount the court considers  
10 proper, for costs that may be incurred and damages that may be suffered by the  
11 industrial operation if the industrial operation is wrongfully enjoined or restrained.  
12 Upon request of any party and when that party presents evidence, one relevant factor  
13 the court shall consider is the amount of wages and benefits for employees and  
14 payment to contractors and subcontractors of the industrial operation that may be

1 suffered if the industrial operation is wrongfully enjoined or restrained. In this  
2 subsection, "industrial operation" includes a construction, energy, or timber activity  
3 and oil, gas, and mineral exploration, development, and production.

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

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

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

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

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

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