

HB

341

<TARGET><BILL>HB 341</BILL><SUBJECT>HB
341</SUBJECT><COMM>HJUD29</COMM></TARGET>

ALASKA STATE LEGISLATURE



REPRESENTATIVE ANDY JOSEPHSON

MEMORANDUM

Date: March 15, 2016
To: Representative LeDoux, Chair
House Judiciary Committee
From: Rep. Josephson
Re: Hearing Request for House Bill 341

Representative LeDoux:

I respectfully request a hearing in the House Judiciary Committee for House Bill 341 relating to a repeal of the Alaska Statutes Civil Codes' prohibition on the court considering public interest motivations in the determination of fee awards and whether a party should pay a bond.

HB 341 aims to return to the court the authority to decide issues of fee awards and bonds merely under the guidance of Civil Rule 82 and jurisprudence. Further, it intends to allow ease of access to the courts by plaintiffs bringing questions of genuine public interest.

Attached is the requested sponsor statement, copy of the bill, sectional analysis and supporting materials. I would be happy to prepare any other necessary documents or provide additional information. The departments will prepare fiscal notes when the bill is scheduled for a hearing. As this legislation will have statewide impact, I suggest that hearings be teleconferenced to all LIO's. I can provide a witness list prior to a hearing. Feel free to contact me anytime. Thank you for your consideration.

Best regards,

A handwritten signature in cursive script that reads "Andy Josephson".

ALASKA STATE LEGISLATURE



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Sectional Analysis: House Bill 341

“Judicial Discretion over Attorneys’ Fees & Bonds”

Section 1: Repeals AS 09.60.10(b) and AS 09.68.040(c), relating to attorney fees and costs and to limitation on exemptions from posting a bond by a party in certain cases

ALASKA STATE LEGISLATURE



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Sponsor Statement

House Bill 341: Judicial Discretion over Attorneys' Fees & Bonds

House Bill 341 is a repeal of the Alaska Statutes Civil Codes' prohibition on the court considering public interest motivations in the determination of fee awards and whether a party should pay a bond. It aims to return to the court the authority to decide issues of fee awards and bonds merely under the guidance of Civil Rule 82 and jurisprudence. Further, it intends to allow ease of access to the courts by plaintiffs bringing questions of genuine public interest.

Alaska is the only state in the U.S. that allows for awarding partial attorneys' fees to prevailing parties in most civil cases. Although Civil Rule 82 provides default standards for fee awards, judges may deviate from these standards based on a list of factors including whether an onerously high fee award would deter future litigation. Prior to 2003, the Alaska Supreme Court ruled that there must be a public interest exception "to encourage plaintiffs to raise issues of public interest by removing the awesome financial burden of such a suit." (Anchorage v. McCabe 1977). The Court relied on U.S. Supreme Court precedent in an early Civil Rights Act case, holding that those acting as 'private attorneys general' should not be overly burdened by fee awards. (Newman v. Piggie Park, 1968).

In 2003, however, the Alaska Legislature overturned this precedent and took away the judiciary's authority to consider public interest motivations in determining fee awards and whether to require a bond. Now, HB 341 aims to put the power back in the hands of the court by allowing them to rely solely on Civil Rule 82, precedent, and judicial discretion to decide issues of fee awards and bonds.

I invite you to discuss this issue with me further and urge you to support this legislation.