

1 HB508  
2 162780-5  
3 By Representative Williams (JD)  
4 RFD: Judiciary  
5 First Read: 16-APR-15

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8 SYNOPSIS: Under existing law, a party seeking a  
9 restraining order, preliminary injunction, or order  
10 staying the operation of certain permits affecting  
11 an industrial operation may not be required to give  
12 security in an amount to the court where the action  
13 is pending which the court considers proper for  
14 costs incurred and damages suffered if the  
15 industrial operation is wrongfully enjoined or  
16 restrained.

17 This bill would require a party seeking a  
18 restraining order, preliminary injunction, or order  
19 staying the operation of certain permits affecting  
20 an industrial operation to give security in an  
21 amount to the court where the action is pending  
22 which the court considers proper for costs incurred  
23 and damages suffered if the industrial operation is  
24 wrongfully enjoined or restrained.

25 This bill would provide certain exemptions  
26 from the posting of security.  
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1 A BILL  
2 TO BE ENTITLED  
3 AN ACT

4  
5 Relating to civil court actions and injunctive  
6 relief; to require a party seeking a restraining order,  
7 preliminary injunction, or order staying the operation of  
8 certain permits affecting an industrial operation to give  
9 security in an amount to the court where the action is pending  
10 which the court considers proper for costs incurred and  
11 damages suffered if the industrial operation is wrongfully  
12 enjoined or restrained; and to provide certain exemptions from  
13 the posting of security.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. (a) Unless specifically exempt under the  
16 Code of Alabama 1975, a party seeking a restraining order,  
17 preliminary injunction, or order staying the operation of a  
18 permit that affects an industrial operation shall give  
19 security, in an amount the court considers proper, for costs  
20 that may be incurred and damages that may be suffered by the  
21 industrial operation if the industrial operation is wrongfully  
22 enjoined or restrained. Upon request of a party and if that  
23 party presents evidence, a relevant factor the court shall  
24 consider is the amount of wages and benefits for employees and  
25 payment to contractors and subcontractors of the industrial  
26 operation that may be suffered if the industrial operation is  
27 wrongfully enjoined or restrained. For purposes of this

1 subsection, industrial operation includes a construction,  
2 energy, or timber activity, road construction or maintenance,  
3 and oil, gas, and mineral exploration, development, production  
4 and government projects.

5 (b) The existence of security may not:

6 (1) Prohibit a person who is wrongfully enjoined or  
7 restrained from obtaining relief that may be available to that  
8 person.

9 (2) Limit the amount that a party may recover in the  
10 action.

11 (c) A party may not be required to give security if  
12 the challenged permitting decision or authorization is made by  
13 either of the following:

14 (1) The Alabama Department of Environmental  
15 Management under a program approved or delegated by the United  
16 States Environmental Protection Agency.

17 (2) The Department of Conservation and Natural  
18 Resources under a program approved or delegated by the Office  
19 of Surface Mining Reclamation and Enforcement in the United  
20 States Department of the Interior.

21 Section 2. This act shall become effective on the  
22 first day of the third month following its passage and  
23 approval by the Governor, or its otherwise becoming law.