



1 created by statute.<sup>3</sup> Alaska's declaratory judgment statute, AS 22.10.020(g) does not  
2 provide such a right. Plaintiff's demand for a jury trial must fail.

3 Plaintiff's argument that there may be material facts in dispute and therefore a  
4 jury trial is required likewise misses the mark. The existence of factual disputes is not,  
5 by itself, sufficient to entitle a party to a jury trial. Moreover, Plaintiff's response failed  
6 to articulate any specific factual issue in its Complaint that could be decided by a jury  
7 and that could support any cognizable legal theory that would lead to a decision in  
8 Plaintiff's favor. This difficulty for Plaintiff is understandable since under no set of  
9 facts can Plaintiff prevail on its facial challenge to the constitutionality of HB 331.  
10

11  
12 This case is a facial challenge to a statute. A jury cannot determine what the  
13 words of a statute mean. A jury cannot determine what the words of the Alaska  
14 Constitution mean. Those are questions of legal interpretation solely within the  
15 authority of the judiciary.<sup>4</sup> The law at issue in this case has not been applied. No bonds  
16 have been issued. There is no action taken under the law to be reviewed by a jury. The  
17 only action taken has been the passage of the law itself. The choice of the Governor to  
18 submit legislation to the legislature is an executive power and a political question not  
19 reviewable by a court or a jury. Similarly, the choice of the legislature as to amounts to  
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24 <sup>3</sup> Alaska Civil Rule 38(a).

25 <sup>4</sup> *Wielechowski v. State*, 403 P.3d 1141, 1146 (Alaska 2017).

26 *Forrer v. SOA*

DEFS.' REPLY TO PLAINTIFF'S RESPONSE  
TO MOTION TO STRIKE DEMAND FOR JURY TRIAL

Case No. 1JU-18-00699CI

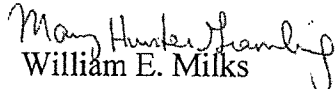
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1 appropriate and bills to pass are not matters that a jury may decide.<sup>5</sup> The role of a jury  
2 is not to review the findings and actions of the legislature. In sum, the legislative  
3 history of HB 331 is not subject to review or decision by a jury.  
4

5 Defendants' motion to strike Plaintiff's demand for a jury trial should be granted.

6 DATED: August 20, 2018.

7  
8 JAHNA LINDEMUTH  
ATTORNEY GENERAL

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18 **CERTIFICATE OF SERVICE**

19 The undersigned certifies that on this date, August  
20 20, 2018, true and correct copies of the foregoing  
21 were served via USPS, First Class mail, postage  
22 prepaid, addressed to:

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26   
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<sup>5</sup> See, *N. Kenai Peninsula Rd. Maint. Serv. Area v. Kenai Peninsula Borough*, 850 P.2d 636, 640 (Alaska 1993) (affirming dismissal of complaint for failure to state a claim on which relief could be granted and distinguishing the nonjusticiable issue of whether an ordinance was "right or wrong" with the legal issue of whether the ordinance required voter approval.).