
Judiciary Committee

HB 2602

Title: An act relating to venue of actions by or against counties.

Brief Description: Modifying certain venue of action provisions.

Sponsors: Representatives Nealey and Jinkins.

Brief Summary of Bill

- Permits the defendant, in an action brought by a county against a resident of that same county, to move the action to either of the two judicial districts nearest that county.
- Declares, as against public policy, void and unenforceable, any provision in any contract with any county that requires that an action arising under the contract be commenced in that county.

Hearing Date: 2/4/14

Staff: Cece Clynch (786-7195).

Background:

Venue concerns the county in which a lawsuit may be or must be filed. It is different than jurisdiction, which concerns whether a court has the power to hear and determine a case. Venue statutes and rules determine which court, of those that may have jurisdiction over an action, is the proper court to hear and determine a case. Generally, venue is not essential to allow a court to proceed and proper venue may be waived by a party who fails to make an objection to improper venue in a timely manner.

There are many venue statutes that vary depending upon the type of action and the parties. For instance:

- The general venue statute allows an action to be brought in any county in which the defendant, or one of the defendants, resides.

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- A plaintiff may file a suit against a county in any of the following places:
 - the superior court of such county; or
 - the superior court of either of the two nearest judicial districts. (The Administrative Office of the Courts has predetermined the two nearest judicial districts and this information is online.)
- An action brought by a county shall be commenced in:
 - the superior court in which the defendant resides; or
 - either of the two judicial districts nearest to the county bringing the action.
- An action regarding title to real property, or the right to possession or title to personal property, is to be brought where the property is situated.
- Actions for personal injury may be brought in either the county in which the cause of action arose or in the county in which the defendant resides.

Contracts often include provisions specifying the venue of any action that may arise out of the contract. Generally, courts enforce these provisions even if they differ from what a particular venue statute or rule may provide. Similarly, parties to an action may stipulate in writing or by consent in open court that the place of trial may be changed and, in the event of such a stipulation, the court must order the agreed upon change.

Grounds for a change of venue motion include: the county is the wrong county; an impartial trial cannot be had; it will be more convenient for the witnesses or the ends of justice will be served; or, the judge is disqualified. If the plaintiff has brought the action in the wrong county, the plaintiff must pay the costs of transfer and may be ordered to pay the defendant's attorneys fees. Otherwise, the party seeking the change pays the associated cost of transfer.

Summary of Bill:

In an action brought by a county against a resident of the same county, the defendant shall be permitted to move the action to either of the two nearest judicial districts. A request to move the action must be done in accordance with the court rules for civil proceedings.

Any provision in any contract with any county that requires that an action arising under the contract be commenced in the superior court of that county is declared against public policy and is void and unenforceable. This is not to be construed, however, as voiding any contractual provision requiring arbitration.

Appropriation: None.

Fiscal Note: Requested on February 1, 2014.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.