

HOUSE BILL REPORT

SB 5831

As Reported By House Committee On:

Law & Justice

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

Brief Description: Eliminating provisions allowing adjacent counties as the venue of actions by or against counties.

Sponsors: Senators Newhouse, Deccio, Haugen and McCaslin.

Brief History:

Committee Activity:

Law & Justice: 4/2/97, 4/4/97 [DPA].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Radcliff; Sherstad and Skinner.

Staff: Trudes Hutcheson (786-7384).

Background: Statutes and case law govern where a lawsuit may be tried, which is the venue of the lawsuit. One venue statute focuses on whether the party to the lawsuit is a county. Another statute focuses on the type of lawsuit. Once a lawsuit has been commenced in one court, a party may move to change venue depending upon the circumstances.

When a county is the plaintiff, the action must be commenced in the superior court of the county in which the defendant resides or in the county adjoining the county bringing the suit. When a county is the defendant, the action may be commenced in the superior court of the county or of the adjoining county. According to the courts, the purpose of this statute is apparently to provide plaintiffs with alternative forums without the need to demonstrate bias or impartiality— and to provide a degree of protection to plaintiffs suing counties without unduly burdening the county officials who must respond to the charges.— *Cossel v. Skagit County*.

In a suit arising from an automobile accident, the plaintiff may bring the action in the county where the cause arose or in a county where at least one of the defendants resides. Sometimes a county may be a defendant in an automobile accident case. The courts have determined that this statute and the adjoining county statute are complementary and not in conflict. Therefore, in actions arising from an automobile accident, the plaintiff has the option of commencing an action against a county in either the county being sued, the adjoining county, or a county where one of the defendants resides.

A defendant may move to change the place of trial under certain circumstances, such as when an impartial trial cannot be had in the location, or for the convenience of the witnesses, or the ends of justice would be forwarded by the change.

Summary of Amended Bill: Actions against a county may be commenced in the superior court of that county or in either of the two nearest counties. Actions by a county must be commenced in the superior court of the county in which the defendant resides, or in either of the two counties nearest to the county bringing the action. The determination of the nearest counties is measured by travel time between county seats using major surface routes as determined by the Office of the Administrator for the Courts.

Amended Bill Compared to Original Bill: The original bill deleted the language regarding adjoining counties so that actions against a county may be brought in that county and actions by a county must be brought in the county where the defendant resides.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Counties should be treated in the same manner as cities and corporations. It is costly for counties being sued to travel long distances to other counties where the case is being heard. This bill will save the counties money.

Testimony Against: Because the county allocates the court's budget, there is a possible conflict of interest when a plaintiff sues the county in the county being sued. Allowing a case against a county to be heard in a different county retains the impartiality of the court system.

Testified: Ron Zirkle, Yakima County (pro); Gary Lowe, Washington State Association of Cities (pro); Doug Levy, City of Everett (con); and Larry Shannon, Washington State Trial Lawyers Association (con).