

2011 DRAFTING REQUEST

Bill

Received: 01/18/2012

Received By: tkuczens

Wanted: As time permits

Companion to LRB:

For: Jim Holperin (608) 266-2509

By/Representing: Nathan

May Contact:

Drafter: tkuczens

Subject: Courts - civil procedure

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Sen.Holperin@legis.wisconsin.gov

Carbon copy (CC:) to: tracy.kuczenski@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

change venue in actions when the sole defendant is the state to Dane County or plaintiff's county of residence or principal place of business

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tkuczens 01/23/2012			_____			
/P1	tkuczens 02/08/2012	scalvin 02/07/2012	rschluet 02/07/2012	_____	sbasford 02/07/2012		S&L
		scalvin 02/08/2012		_____			
/1			phenry 02/08/2012	_____	lparisi 02/08/2012	ggodwin 02/08/2012	

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

At Intro
2/08/2012

<END>

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By/Representing: **Nathan**

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Drafter: **tkuczens**

Subject: **Courts - civil procedure**

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Extra Copies:

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/?	tkuczens 01/23/2012			_____			
/P1		scalvin 02/07/2012	rschluet 02/07/2012	_____	sbasford 02/07/2012		

FE Sent For:

SAC MD
2/8/12 11
2/8/12
ph
ph
<END>

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/?	tkuczens	2/2/12 sac /PI		_____			
FE Sent For:		2/7/12 /PI					

<END>

January 18, 2012

Sen. Holperin (Nathan's 62509)

Change venue in actions in which the sole defendant is the state
 (as affected by 2011 Wis. Act. 61) so that
 venue is as provided in SA 1 to SA 1 to 2011 SB 417:
 (a1705/1) (a1219/1)

- Dane city
- ~~city~~ county in which plaintiff
- ~~the~~ principal place of ~~residence~~ business of registered agent
 if located
- ~~the~~ county in which plaintiff resides.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRBa1219/1
TKK:jld:rs

**SENATE AMENDMENT 1,
TO 2011 SENATE BILL 117**

June 27, 2011 - Offered by Senator ZIPPERER.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 2, line 8: after "(3)" insert "(a)".

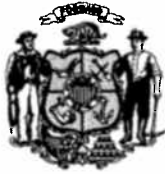
3 **2.** Page 2, line 12: delete lines 12 to 16 and substitute:

4 "SECTION 3g. 801.50 (3) of the statutes, as affected by 2011 Wisconsin Act 21,
5 is renumbered 801.50 (3) (a) and amended to read:

6 801.50 (3) (a) ~~All~~ Except as provided in ~~this subsection~~ pars. (b) and (c), all
7 actions in which the sole defendant is the state, any state board or commission, or
8 any state officer, employee, or agent in an official capacity shall be venued in ~~Dane~~
9 County the county designated by the plaintiff unless another venue is specifically
10 authorized by law.

11 (b) All actions relating to the validity or invalidly of a rule shall be venued as
12 provided in s. 227.40 (1).

13 **SECTION 3r.** 801.50 (3) (c) of the statutes is created to read:



State of Wisconsin
2011 - 2012 LEGISLATURE



LRBa1765/1
TKK:kjf:ph

**SENATE AMENDMENT 1,
TO SENATE AMENDMENT 1,
TO 2011 SENATE BILL 117**

October 25, 2011 - Offered by Senators HOLPERIN and VINEHOUT.

1 At the locations indicated, amend the amendment as follows:

2 **1.** Page 1, line 8: delete the material beginning with “Dane” and ending with
3 “plaintiff” on line 9 and substitute “Dane County, the plaintiff’s county of residence,
4 or the county in which the plaintiff’s principal place of business or registered agent
5 is located.”

6 (END)



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3895/2 P1

TKK...

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

sac & med

d-note
insert

1/23/12

Gen Cat

1 AN ACT ...; relating to: venue in actions in which the sole defendant is the state,
2 a state board or commission, or certain state officers, employees, or agents.

Analysis by the Legislative Reference Bureau

was 2
2011 Wisconsin Act 61 (Act 61) changed the rules governing venue in a civil action in which the sole defendant is the state, a state board or commission, or certain state officers (action), and in appeals of a judgment or order in such an action. Before the enactment of Act 61, all such actions, with certain exceptions, were required to be brought in Dane County, and appeals of an order or decision in the action were required to be brought in the court of appeals district containing the court from which the judgment or order is appealed. Act 61 provides that an action may be brought in the county designated by the plaintiff, and an appeal of a judgment or order in the action may be brought in a court of appeals district selected by the party appealing the decision or order, but not in the court of appeals district containing the court from which the judgment or order is appealed.

This bill changes the rules governing venue in an action so that an action may be brought in Dane County, the plaintiff's county of residence, or the county in which the plaintiff's principal place of business or registered agent is located. The bill also provides that an appeal of a judgment or order in an action brought in the plaintiff's county of residence or the county in which the plaintiff's principal place of business or registered agent is located may be brought in a court of appeals district selected by the party appealing the decision or order, but not in the court of appeals district containing the court from which the judgment or order is appealed.

**2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3895/?ins
TKK:.....

1 **Insert 2-17**

2 **SECTION 1.** 801.50 (3) (b) of the statutes, as affected by 2011 Wisconsin Act 61,
3 is amended to read:

4 801.50 (3) (b) All actions relating to the validity or ~~invalidly~~ invalidity of a rule
5 shall be venued as provided in s. 227.40 (1).

History: 1983 a. 204, 228, 389, 538; 1985 a. 234, 291; 1987 a. 208; 1993 a. 318, 319; 1997 a. 283; 1999 a. 150 s. 672; 2001 a. 30 s. 108; 2001 a. 109; 2007 a. 1; 2009 a. 28, 42, 261; 2011 a. 21, 38, 39, 61.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3895/dh
TKK:.....

- date -

Sac Amad

Senator Holperin:

I have two questions about this draft; together, these questions raise the prospect of inconsistent applications of the rules governing appeals from cases heard in Dane County.

1. As drafted, this bill provides that, when an appeal is taken from an action brought in the plaintiff's county of residence or from the county in which the plaintiff's principal place of business or registered agent is located, the appeal must be heard in the court of appeals district selected by the appellant, but that court of appeals district may not be the appeals district that contains the court from which the judgment or order is appealed. The bill does not, however, require an appeal of a case brought in Dane County to be heard in a court of appeals district that does not contain Dane County. Is that your intent?

2. If an appeal is brought from an action venued in Dane County for the reason that Dane County is the plaintiff's county of residence or the county in which the principal place of business of the plaintiff is located, the appeal may not be in the court of appeals district that contains Dane County. Is that your intent? ✓

Please let me know if you would like to make any changes to the draft to address these issues. Also, this draft contains a correction to current law s. 801.50 (3) (b), in which the word "invalidly" appears instead of "invalidity." ✓ Let me know if you have any questions or concerns about including this correction.

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3895/P1dn
TKK:sac&med:rs

February 7, 2012

Senator Holperin:

I have two questions about this draft; together, these questions raise the prospect of inconsistent applications of the rules governing appeals from cases heard in Dane County.

1. As drafted, this bill provides that, when an appeal is taken from an action brought in the plaintiff's county of residence or from the county in which the plaintiff's principal place of business or registered agent is located, the appeal must be heard in the court of appeals district selected by the appellant, but that court of appeals district may not be the district that contains the court from which the judgment or order is appealed. The bill does not, however, require an appeal of a case brought in Dane County to be heard in a court of appeals district that does not contain Dane County. Is that your intent?

2. If an appeal is brought from an action venued in Dane County for the reason that Dane County is the plaintiff's county of residence or the county in which the principal place of business of the plaintiff is located, the appeal may not be in the court of appeals district that contains Dane County. Is that your intent?

Please let me know if you would like to make any changes to the draft to address these issues. Also, this draft contains a correction to current law s. 801.50 (3) (b), in which the word "invalidly" appears instead of "invalidity." Let me know if you have any questions or concerns about including this correction.

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3895/P1

TKK:sac&med:rs

stays

PMNR

insert

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2/8/12

wanted 2/10/12 or sooner

regen cat

1 AN ACT to amend 752.21 (2), 801.50 (3) (a) and 801.50 (3) (b) of the statutes;
2 relating to: venue in actions in which the sole defendant is the state, a state
3 board or commission, or certain state officers, employees, or agents.

Analysis by the Legislative Reference Bureau

2011 Wisconsin Act 61 (Act 61) changed the rules governing venue in a civil action in which the sole defendant is the state, a state board or commission, or certain state officers (action), and in appeals of a judgment or order in such an action. Before the enactment of Act 61, all such actions, with certain exceptions, were required to be brought in Dane County, and appeals of an order or decision in the action were required to be brought in the court of appeals district containing the court from which the judgment or order was appealed. Act 61 provides that an action may be brought in the county designated by the plaintiff, and an appeal of a judgment or order in the action may be brought in a court of appeals district selected by the party appealing the decision or order, but not in the court of appeals district containing the court from which the judgment or order is appealed.

This bill changes the rules governing venue in an action so that an action may be brought in Dane County, the plaintiff's county of residence, or the county in which the plaintiff's principal place of business or registered agent is located. The bill also provides that an appeal of a judgment or order in an action brought in the plaintiff's county of residence or the county in which the plaintiff's principal place of business or registered agent is located may be brought in a court of appeals district selected

as designated by the plaintiff

must be heard in the court of appeals district which contains the court from which the action was appealed.

Insert 2-1

by the party appealing the decision or order, but not in the court of appeals district containing the court from which the judgment or order is appealed.

FE-SAL

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 752.21 (2) of the statutes, as created by 2011 Wisconsin Act 61, is
2 amended to read:

3 752.21 (2) A judgment or order appealed from an action venued in ~~a~~ the
4 plaintiff's county designated by the plaintiff to the action of residence or the county
5 in which the plaintiff's principal place of business or registered agent is located as
6 provided under s. 801.50 (3) (a) shall be heard in a court of appeals district selected
7 by the appellant but the court of appeals district may not be the court of appeals
8 district that contains the court from which the judgment or order is appealed.

9 SECTION 2. 801.50 (3) (a) of the statutes, as affected by 2011 Wisconsin Act 61,
10 is amended to read:

11 801.50 (3) (a) Except as provided in pars. (b) and (c), all actions in which the
12 sole defendant is the state, any state board or commission, or any state officer,

13 employee, or agent in an official capacity shall be venued in the county designated

14 by the plaintiff Dane County, the plaintiff's county of residence, or the county in

15 which the plaintiff's principal place of business or registered agent is located, unless

16 another venue is specifically authorized by law. as

17 SECTION 3. 801.50 (3) (b) of the statutes, as affected by 2011 Wisconsin Act 61,
18 is amended to read:

19 801.50 (3) (b) All actions relating to the validity or ~~invalidly~~ invalidity of a rule
20 shall be venued as provided in s. 227.40 (1).

21 SECTION 4. Initial applicability.

plain

plain

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3895/P2ins
TKK:sac&med:rs

1 **Insert 2-1**

2 **SECTION 1.** 752.21 (1) of the statutes, as affected by 2011 Wisconsin Act 61, is
3 renumbered 752.21 and amended to read:

4 **752.21** ^{Venue. ← **BOLD**} ~~Except as provided in sub. (2), a~~ judgment or order appealed to the
5 court of appeals shall be heard in the court of appeals district which contains the
6 court from which the judgment or order is appealed.

History: 1977 c. 187; 2011 a. 61.

7 **SECTION 2.** 752.21 (2) of the statutes, as created by 2011 Wisconsin Act 61, is
8 repealed.

Godwin, Gigi

From: Meinholz, Susan

Sent: Wednesday, February 08, 2012 3:27 PM

To: LRB.Legal

Subject: Draft Review: LRB 11-3895/1 Topic: change venue in actions when the sole defendant is the state to Dane County or plaintiff's county of residence or principal place of business

Please Jacket LRB 11-3895/1 for the SENATE.