




State of Wisconsin

LEGISLATIVE REFERENCE BUREAU


Appendix D

LRB BILL HISTORY RESEARCH APPENDIX

 The drafting file for 2011 LRB-0820 (For: DOA)

has been copied/added to the drafting file for


2011 LRB-0991 (For: Senator Fitzgerald)

 Are These “Companion Bills” ?? ... No



RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 01/21/2011 (Per: MGG & CMH)

 The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 12/29/2010 (Per: CMH)

A ☞ The 2011 drafting file for
LRB-0613

B ☞ The 2011 drafting file for
LRB-0614

C ☞ The 2011 drafting file for
LRB-0615

D ☞ The 2011 drafting file for
LRB-0616

☞ Compile Draft – Appendix C

has been copied/added to the drafting file for

2011 LRB-0820

(Jr1 Special Session Draft)

2011 DRAFTING REQUEST

Bill

Received: 12/01/2010

Received By: gmalaise

Wanted: Today

Companion to LRB:

For: Administration

By/Representing: Kevin Moore

May Contact:

Drafter: gmalaise

Subject: Administrative Law

Add. Drafters: phurley

Extra Copies: David Schmiedeke
Jennifer Kraus

Submit via email: YES

Requester's email: jennifer.kraus@wisconsin.gov

Carbon copy (CC:) to: david.schmiedicke@wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Venue in declaratory judgment actions and actions in which state is defendant

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>
/?	gmalaise 12/02/2010 phurley 12/03/2010	csicilia 12/03/2010		_____			S&L
/1			jfrantze 12/03/2010	_____	sbasford 12/03/2010		

LRB-0615

12/03/2010 12:29:16 PM

Page 2

FE Sent For:

<END>

2011 DRAFTING REQUEST

Bill

Received: 12/01/2010

Received By: **gmalaise**

Wanted: **Today**

Companion to LRB:

For: **Governor-elect 261-9184**

By/Representing: **Kevin Moore**

May Contact:

Drafter: **gmalaise**

Subject: **Administrative Law**

Addl. Drafters: **phurley**

Extra Copies:

Submit via email: **YES**

Requester's email: **kevin.moore@wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Venue in declaratory judgment actions and actions in which state is defendant

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>
--------------	----------------	-----------------	--------------	----------------	------------------	-----------------	-----------------

1?	gmalaise	1 gjs 12/3 10	12/3 j	km 12/3 pk			
----	----------	------------------	-----------	---------------	--	--	--

FE Sent For:

<END>

Malaise, Gordon

From: Moore, Kevin E - GOT [Kevin.Moore@wisconsin.gov]
Sent: Monday, November 29, 2010 1:45 PM
To: Malaise, Gordon
Cc: Champagne, Rick
Subject: Draft Request 3 of 4
Attachments: Dane County Circuit Court Reform.pdf

Good Afternoon Gordon-

Please find attached sample drafting language related to Dane County Court Jurisdiction:

Thank you.

Kevin Moore
Policy Director
Office of Governor-Elect Scott Walker
608-261-9184
kevin.moore@wisconsin.gov
www.walkertransition.wi.gov



11/29/2010

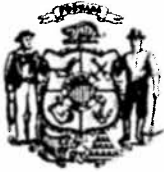
Statutory Language

227.40 Declaratory judgment proceedings.

(1) Except as provided in sub. (2), the exclusive means of judicial review of the validity of a rule shall be an action for declaratory judgment as to the validity of such rule brought in the circuit court for ~~Dane County~~ the county where the plaintiff resides. The officer, board, commission or other agency whose rule is involved shall be the party defendant. The summons in such action shall be served as provided in s. 801.11 (3) and by delivering a copy to such officer or to the secretary or clerk of the agency where composed of more than one person or to any member of such agency. The court shall render a declaratory judgment in such action only when it appears from the complaint and the supporting evidence that the rule or its threatened application interferes with or impairs, or threatens to interfere with or impair, the legal rights and privileges of the plaintiff. A declaratory judgment may be rendered whether or not the plaintiff has first requested the agency to pass upon the validity of the rule in question.

801.50 Venue in civil actions or special proceedings.

(3) All actions in which the sole defendant is the state, any state board or commission or any state officer, employee or agent in an official capacity shall be venued in ~~Dane County~~ in the county where the plaintiff resides unless another venue is specifically authorized by law. If the plaintiff is a nonresident, venue shall be the circuit court for the county where the dispute arose.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0615?
GMM&PJH.....

Today

D-Note

Handwritten signature and initials

SA
+ JPH

Gen Cat

1 AN ACT ...; relating to: venue in a declaratory judgment action seeking judicial
2 review of the validity of an administrative rule and in an action in which the
3 sole defendant is the state.

Analysis by the Legislative Reference Bureau

Under current law, subject to certain exceptions, the exclusive means of judicial review of the validity of an administrative rule is by an action for declaratory judgment as to the validity of the rule brought in the circuit court for Dane County. This bill permits a declaratory judgment action seeking judicial review of the validity of an administrative rule to be brought in the county where the party asserting the invalidity of the rule resides or has its principal place of business.

Insert
analysis
FL-SL

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

4 SECTION 1. 227.40 (1) of the statutes is amended to read:
5 227.40 (1) Except as provided in sub. (2), the exclusive means of judicial review
6 of the validity of a rule shall be an action for declaratory judgment as to the validity
7 of such the rule brought in the circuit court of the county where the party asserting
8 the invalidity of the rule resides or has its principal place of business or, if that party

Handwritten signature and the word "for"

1 is a nonresident or does not have its principal place of business in this state, in the
 2 circuit court for Dane County. The officer, ~~board, commission~~ or other agency whose
 3 rule is involved shall be the party defendant. The summons in ~~such~~ the action shall
 4 be served as provided in s. 801.11 (3) and by delivering a copy to ~~such~~ that officer or,
 5 if the agency is composed of more than one person, to the secretary or clerk of the
 6 agency ~~where composed of more than one person~~ or to any member of ~~such~~ the agency.
 7 The court shall render a declaratory judgment in ~~such~~ the action only when it
 8 appears from the complaint and the supporting evidence that the rule or its
 9 threatened application interferes with or impairs, or threatens to interfere with or
 10 impair, the legal rights and privileges of the plaintiff. A declaratory judgment may
 11 be rendered whether or not the plaintiff has first requested the agency to pass upon
 12 the validity of the rule in question.

Order, 67 Wis. 2d 585, 775 (1975); 1977 c. 29, 449; 1981 c. 278 s. 6; 1983 a. 90; 1983 a. 191 s. 6; 1985 a. 182 s. 26, 55 (1), 57; Stats. 1985 s. 227.40; 1987 a. 403 s. 23; 1989 a. 31; 1991 a. 316; 1995 a. 27; 1999 a. 82; 2003 a. 145; 2005 a. 249.

13
14
15
16
17

SECTION 9309. Initial applicability; Circuit Courts.

(1) VENUE IN DECLARATORY JUDGMENT ACTIONS. The treatment of section 227.40
 (1) of the statutes first applies to an action for declaratory judgment commenced in
 the effective date of this subsection.

(END)

Insert
BILLPSH

Insert
Initial app

on

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0615/ins
GMM&PJH

or is not a natural person

INSERT ANALYSIS PJH:

anal: text

Under current law, any civil action or special proceeding in which the state, a state board or commission, or a state officer, employee, or agent acting in his or her official capacity is the sole defendant, is venued in Dane County. Under the bill, those actions are venued in the county where the plaintiff resides unless a different venue is specifically authorized by law. Under the bill, if a plaintiff is not a resident of the state, the action is venued in the county where the dispute arose.

INSERT BILL PJH:

SECTION 1. 801.50 (3) of the statutes is amended to read:

801.50 (3) All actions in which the sole defendant is the state, any state board or commission or any state officer, employee or agent in an official capacity shall be venued in ~~Dane County~~ the county where the plaintiff resides unless another venue is specifically authorized by law. If the plaintiff is a nonresident, the action shall be venued in the county where the dispute arose.

or is not a natural person

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.

INSERT INITIAL APP PJH:

non stat: init app

(2) VENUE IN CERTAIN ACTIONS AGAINST THE STATE. The treatment of section 801.50 (3) of the statutes first applies to an action commenced on the effective date of this subsection.

use autonumber, not hand number

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

LRB-0615/1dn

GMMa:.....

J. G. S.

- date -

Kevin:

A person bringing a declaratory judgment action under s. 227.40 is not always going to be a resident of this state. That person might be a nonresident or might not have his or her principal place of business in this state. Accordingly, this draft retains venue in Dane County for nonresidents.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.wisconsin.gov

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

LRB-0615/1dn
GMM:cjs:jf

December 3, 2010

Kevin:

A person bringing a declaratory judgment action under s. 227.40 is not always going to be a resident of this state. That person might be a nonresident or might not have his or her principal place of business in this state. Accordingly, this draft retains venue in Dane County for nonresidents.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.wisconsin.gov



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0615/1
GMM&PJH:cjs:jf

2011 BILL

- 1 **AN ACT to amend** 227.40 (1) and 801.50 (3) of the statutes; **relating to:** venue
2 in a declaratory judgment action seeking judicial review of the validity of an
3 administrative rule and in an action in which the sole defendant is the state.

Analysis by the Legislative Reference Bureau

Under current law, subject to certain exceptions, the exclusive means of judicial review of the validity of an administrative rule is by an action for declaratory judgment as to the validity of the rule brought in the circuit court for Dane County. This bill permits a declaratory judgment action seeking judicial review of the validity of an administrative rule to be brought in the county where the party asserting the invalidity of the rule resides or has its principal place of business.

Under current law, any civil action or special proceeding in which the state, a state board or commission, or a state officer, employee, or agent acting in his or her official capacity is the sole defendant, is venued in Dane County. Under the bill, those actions are venued in the county where the plaintiff resides unless a different venue is specifically authorized by law. Under the bill, if a plaintiff is not a resident of the state or is not a natural person, the action is venued in the county where the dispute arose.

For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

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

BILL

1 **SECTION 1.** 227.40 (1) of the statutes is amended to read:

2 227.40 (1) Except as provided in sub. (2), the exclusive means of judicial review
3 of the validity of a rule shall be an action for declaratory judgment as to the validity
4 of ~~such the~~ rule brought in the circuit court for the county where the party asserting
5 the invalidity of the rule resides or has its principal place of business or, if that party
6 is a nonresident or does not have its principal place of business in this state, in the
7 circuit court for Dane County. The officer, ~~board, commission~~ or other agency whose
8 rule is involved shall be the party defendant. The summons in ~~such the~~ action shall
9 be served as provided in s. 801.11 (3) and by delivering a copy to ~~such that~~ officer or,
10 if the agency is composed of more than one person, to the secretary or clerk of the
11 agency ~~where composed of more than one person~~ or to any member of ~~such the~~ agency.
12 The court shall render a declaratory judgment in ~~such the~~ action only when it
13 appears from the complaint and the supporting evidence that the rule or its
14 threatened application interferes with or impairs, or threatens to interfere with or
15 impair, the legal rights and privileges of the plaintiff. A declaratory judgment may
16 be rendered whether or not the plaintiff has first requested the agency to pass upon
17 the validity of the rule in question.

18 **SECTION 2.** 801.50 (3) of the statutes is amended to read:

19 801.50 (3) All actions in which the sole defendant is the state, any state board
20 or commission or any state officer, employee or agent in an official capacity shall be
21 venued in ~~Dane County~~ the county where the plaintiff resides unless another venue
22 is specifically authorized by law. If the plaintiff is a nonresident or is not a natural
23 person, the action shall be venued in the county where the dispute arose.

24 **SECTION 9309. Initial applicability; Circuit Courts.**

BILL

1 (1) VENUE IN DECLARATORY JUDGMENT ACTIONS. The treatment of section 227.40
2 (1) of the statutes first applies to an action for declaratory judgment commenced on
3 the effective date of this subsection.

4 (2) VENUE IN CERTAIN ACTIONS AGAINST THE STATE. The treatment of section
5 801.50 (3) of the statutes first applies to an action commenced on the effective date
6 of this subsection.

7

(END)