State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: S2/4/19

A Bill

SENATE BILL 139

By: Senator M. Johnson

For An Act To Be Entitled

AN ACT TO AMEND THE LAWS CONCERNING VENUE IN THE JUDICIARY; TO PROMOTE EFFICIENT VENUE TRANSFER; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAWS CONCERNING VENUE IN THE JUDICIARY; TO PROMOTE EFFICIENT VENUE TRANSFER; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 16-60-201(e), concerning the change of venue for a civil action, is amended to read as follows:

(e)(1) A defendant in a civil action ~~under § 16-60-104(3)~~ or special proceeding against the state, a state board or commission, a state board member or commissioner, or a state officer that is brought due an official act of the defendant may obtain ~~an order for~~ a change of venue ~~by motion requesting a transfer~~ to one (1) of the following counties:

(A) Pulaski County;

(B) ~~Any~~ A county in which one (1) of the plaintiffs, or in the case of a certified class action, any member of the class, resides, conducts business, or maintains a principal place of business; or

(C) If no plaintiff is a resident of Arkansas, any county in the ~~state~~ State of Arkansas.

(2)(A) The venue of the civil action ~~shall be changed upon a showing that the proposed transferee county is a proper venue as set forth in this subsection~~ or special proceeding shall be changed upon the filing by the

defendant of a notice of transfer with the clerk of the transferor court and the clerk of the transferee court.

(B) The notice of transfer filed with the clerk of the transferee court shall include a copy of all pleadings, process, or other documents or other items filed in the civil action or special proceeding.

(C) Upon filing of the notice of transfer, the transferor court shall no longer have jurisdiction over the civil action or special proceeding.

(3)(A) A party to the civil action or special proceeding may, within five (5) business days of being served with the notice of transfer, file an objection in the transferee court that the county of the transferee court is not a proper venue as set forth in subdivision (e)(1) of this section.

(B)(i) The transferee court shall hold a hearing on an objection raised under subdivision (e)(3)(A) of this section within five (5) days of the filing of the objection.

(ii) If the transferee court determines that it is not a proper venue as set forth in subsection (e)(1) of this section, it shall immediately order that the civil action or special proceeding be returned to the transferor court.

(f) For purposes of this section, a corporation, limited liability company, limited liability partnership, or similar entity is a resident of Arkansas only if the corporation, limited liability company, limited liability partnership, or similar entity:

(1) Is organized under the laws of the this state; or

(2) Maintains its principal place of business in this state.

(g) As used in this section:

(1) “Transferee court” means the court to which a defendant elects to transfer a civil action or special proceeding under subdivision (e)(1) of this section;

(2) “Transferor court” means the court in which the original pleadings were filed; and

(3) “Special proceeding” includes a legal action recognized by *or contemplated under Rule 81 of the Arkansas Rules of Civil Procedure.*

(h)(1) Except as provided under subdivision (h)(2) of this section, this section does not apply to an action under the Arkansas Tax Procedure

Act, § 26-18-101 et seq., or to an action for protection against taxes, fees, or other charges challenged as illegal exactions under Arkansas Constitution, Article 16, § 13.

(2) This section does apply to an action challenging an expenditure of public funds as an illegal exaction under Arkansas Constitution, Article 16, § 13.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the people of the State of Arkansas will benefit from immediate access to the most efficient venues for prosecution of litigation in which the state is a party. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/M. Johnson