

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 4013

BY DELEGATES HANSHAW, C. MILLER, OVERINGTON,

GRAVES, WESTFALL, ANDERSON, FRICH, COOPER,

ATKINSON, R. ROMINE, AND HOLLEN

[Passed March 10, 2018; in effect ninety days from passage.]

1 AN ACT to amend and reenact §6-9A-6 of the Code of West Virginia, 1931, as amended; to amend
2 and reenact §14-2-2a of said code, and to amend and reenact §56-1-1 of said code, all
3 relating to venue in West Virginia state courts; providing that the circuit court in the county
4 where the public agency regularly meets is a proper venue for certain claims; providing that
5 any civil action in which the governing board of any state institution of higher education or
6 any state institution of higher education is made a party defendant shall be brought in the
7 circuit court of the county wherein the cause of action arose, unless otherwise agreed upon;
8 providing that nonresidents may not bring actions in the courts of this state unless all or a
9 substantial part of the acts or omissions giving rise to the claim occurred in the state;
10 providing an effective date; providing that nonresidents may file actions in the state courts if
11 they cannot otherwise obtain jurisdiction in the state where the action arose, unless barred
12 by the statute of limitations in the state the action arose; requiring the filing of an affidavit;
13 providing that the provisions do not apply to actions filed against West Virginia citizens,
14 residents, corporations, or other corporate entities; providing that each plaintiff must
15 establish venue; providing that persons may not intervene or join in a pending action as
16 plaintiff unless they independently establish venue; providing that courts shall dismiss claims
17 without prejudice if venue is not proper as to a nonresident plaintiff; providing that venue is
18 proper as to other defendants if venue is proper as to one defendant with respect to all
19 actions arising out of the same transaction or occurrence; providing a definition of
20 “nonresident”; and providing exceptions for members of the armed forces of the United
21 States and students of any college or university of this state.

Be it enacted by the Legislature of West Virginia:

CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

ARTICLE 9A. OPEN GOVERNMENTAL PROCEEDINGS.

§6-9A-6. Enforcement by injunctions; actions in violation of article voidable; voidability of bond issues.

1 The circuit court in the county where the public agency regularly meets has jurisdiction
2 and is a proper venue to enforce this article upon civil action commenced by any citizen of this
3 state within 120 days after the action complained of was taken or the decision complained of was
4 made. Where the action seeks injunctive relief, no bond may be required unless the petition
5 appears to be without merit or made with the sole intent of harassing or delaying or avoiding return
6 by the governing body.

7 The court is empowered to compel compliance or enjoin noncompliance with the
8 provisions of this article and to annul a decision made in violation of this article. An injunction may
9 also order that subsequent actions be taken or decisions be made in conformity with the
10 provisions of this article: *Provided*, That no bond issue that has been passed or approved by any
11 governing body in this state may be annulled under this section if notice of the meeting at which
12 the bond issue was finally considered was given at least 10 days prior to the meeting by a Class
13 I legal advertisement published in accordance with the provisions of §59-3-1 *et seq.* of this code
14 in a qualified newspaper having a general circulation in the geographic area represented by that
15 governing body.

16 In addition to or in conjunction with any other acts or omissions which may be determined
17 to be in violation of this article, it is a violation of this article for a governing body to hold a private
18 meeting with the intention of transacting public business, thwarting public scrutiny and making
19 decisions that eventually become official action.

20 Any order which compels compliance or enjoins noncompliance with the provisions of this
21 article, or which annuls a decision made in violation of this article shall include findings of fact and
22 conclusions of law and shall be recorded in the minutes of the governing body.

CHAPTER 14. CLAIMS DUE AND AGAINST THE STATE.

ARTICLE 2. CLAIMS AGAINST THE STATE.

§14-2-2a. Venue for suits and actions involving state institutions of higher education.

1 (a) Notwithstanding the provisions of §14-2-2 of this code, any civil action in which the
2 governing board of any state institution of higher education, any state institution of higher
3 education, or any department or office of any of those entities, or any officer, employee, agent,
4 intern or resident of any of those entities, acting within the scope of his or her employment, is
5 made a party defendant, shall be brought in the circuit court of any county wherein the cause of
6 action arose, unless otherwise agreed by the parties.

7 (b) The exclusive venue provisions of this section are not applicable to:

8 (1) An action involving an entity or person named in subsection (a) of this section as
9 garnishee or suggestee; and

10 (2) A proceeding for injunctive or mandamus relief involving the taking, title, or collection
11 for or prevention of damage to real property, and where general laws or court rules provide that
12 proper venue is in the county in which the real property affected is situate.

13 (c) This section applies only to proceedings not prohibited by the constitutional immunity
14 of the state from suit under section thirty-five, article VI of the Constitution of the State.

CHAPTER 56. PLEADING AND PRACTICE.

ARTICLE 1. VENUE.

§56-1-1. Venue generally.

1 (a) Any civil action or other proceeding, except where it is otherwise specially provided,
2 may hereafter be brought in the circuit court of any county:

3 (1) Wherein any of the defendants may reside or the cause of action arose, except that an
4 action of ejectment or unlawful detainer must be brought in the county wherein the land sought to
5 be recovered, or some part thereof, is;

6 (2) If a corporation or other corporate entity is a defendant, wherein its principal office is
7 or wherein its mayor, president or other chief officer resides; or if its principal office be not in this
8 state, and its mayor, president or other chief officer do not reside therein, wherein it does

9 business; or if it is a corporation or other corporate entity organized under the laws of this state
10 which has its principal office located outside of this state and which has no office or place of
11 business within the state, the circuit court of the county in which the plaintiff resides or the circuit
12 court of the county in which the seat of state government is located has jurisdiction of all actions
13 at law or suits in equity against the corporation or other corporate entity, where the cause of action
14 arose in this state or grew out of the rights of stockholders with respect to corporate management;

15 (3) If it is to recover land or subject it to a debt, where the land or any part may be;

16 (4) If it is against one or more nonresidents of the state, where any one of them may be
17 found and served with process or may have estate or debts due him, her, or them;

18 (5) If it is to recover a loss under any policy of insurance upon either property, life or health
19 or against injury to a person, where the property insured was situated either at the date of the
20 policy or at the time when the right of action accrued or the person insured had a legal residence
21 at the date of his or her death or at the time when the right of action accrued;

22 (6) If it is on behalf of the state in the name of the Attorney General or otherwise, where
23 the seat of government is; or

24 (7) If a judge of a circuit is interested in a case which, but for such interest, would be proper
25 for the jurisdiction of his or her court, the action or suit may be brought in any county in an adjoining
26 circuit.

27 (b) Whenever a civil action or proceeding is brought in the county where the cause of
28 action arose under the provisions of subsection (a) of this section, if no defendant resides in the
29 county, a defendant to the action or proceeding may move the court before which the action is
30 pending for a change of venue to a county where one or more of the defendants resides and upon
31 a showing by the moving defendant that the county to which the proposed change of venue would
32 be made would better afford convenience to the parties litigant and the witnesses likely to be
33 called, and if the ends of justice would be better served by the change of venue, the court may
34 grant the motion.

35 (c) For all civil actions filed on or after July 1, 2018, a nonresident of the state may not
36 bring an action in a court of this state unless all or a substantial part of the acts or omissions giving
37 rise to the claim asserted occurred in this state: *Provided*, That unless barred by the statute of
38 limitations or otherwise time barred in the state where the action arose, a nonresident of this state
39 may file an action in state court in this state if the nonresident cannot obtain jurisdiction in either
40 federal or state court against the defendant in the state where the action arose. A nonresident
41 bringing such an action in this state shall be required to establish, by filing an affidavit with the
42 complaint for consideration by the court, that the action cannot be maintained in the state where
43 the action arose due to lack of any legal basis to obtain personal jurisdiction over the defendant:
44 *Provided, however*, that the provisions of this subsection do not apply to civil actions filed against
45 West Virginia citizens, residents, corporations, or other corporate entities.

46 In a civil action where more than one plaintiff is joined, each plaintiff must independently
47 establish proper venue. A person may not intervene or join in a pending civil action as a plaintiff
48 unless the person independently establishes proper venue. If venue is not proper as to any such
49 nonresident plaintiff in any court of this state, the court shall dismiss the claims of such plaintiff
50 without prejudice to refile in a court in any other state or jurisdiction. When venue is proper as to
51 one defendant, it is also proper as to any other defendant with respect to all actions arising out of
52 the same transaction or occurrence.

53 For purposes of this subsection, "nonresident" means any person, whether a citizen of
54 this state or another state, who was domiciled outside the State of West Virginia at the time of
55 the acts or omissions giving rise to the claim asserted: *Provided*, That a member of the armed
56 forces of the United States who is stationed beyond the territorial limits of this state, but who
57 was a resident of this state at the time of his or her entry into such service, and any full-time
58 student of any college or university of this state, even though he or she is paying nonresident
59 tuition, is considered a resident under this subsection.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2018.

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Governor