

2020 Regular Session

SENATE BILL NO. 263

BY SENATOR MIZELL

LEGIS POWERS/FUNCTIONS. Designates venue for any challenge to the authority of the legislature or a legislative entity or any challenge to the issuance or enforcement of a legislative subpoena. (8/1/20)

1 AN ACT  
2 To amend and reenact R.S. 13:5104(A) and R.S. 24:6, relative to venue for suits against the  
3 legislature or a legislative entity; to provide venue for any suit challenging to the  
4 authority of the legislature or either house thereof; to provide venue for any  
5 challenging the authority of any committee, commission, or agency of the legislative  
6 branch; to provide venue for any suit challenging the issuance or enforcement of a  
7 legislative subpoena; to provide venue for any offense of contempt of the legislature;  
8 and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 13:5104(A) is hereby amended and reenacted to read as follows:

11 §5104. Venue

12 A. ~~All~~ **Except as provided in R.S. 24:6, all** suits filed against the state of  
13 Louisiana or any state agency or against an officer or employee of the state or state  
14 agency for conduct arising out of the discharge of his official duties or within the  
15 course and scope of his employment shall be instituted before the district court of the  
16 judicial district in which the state capitol is located or in the district court having  
17 jurisdiction in the parish in which the cause of action arises.

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Section 2. R.S. 24:6 is hereby amended and reenacted to read as follows:

§6. Contempt prosecution; subpoenas, venue

A. Any Notwithstanding any other provisions of law to the contrary ~~notwithstanding~~, any offense of contempt, as defined by the provisions of R.S. 24:4(A), shall be deemed to have been committed and the trial of the offender for such offense may take place in any of the following parishes:

(1) ~~the~~ The parish where the subpoena issued;

(2) ~~the~~ The parish where the offender was served with the subpoena ~~or~~;

(3) ~~the~~ The parish where the subpoena ordered the offender to give testimony or to produce papers or other evidence, ~~and the trial of the offender for such offense may take place in any of such parishes.~~

B.(1) Notwithstanding any other provision of law to the contrary, the Nineteenth Judicial District Court shall be the proper venue for any challenge made by a person who is compelled to appear to give testimony or to produce papers or other evidence by the legislature, either house thereof, or any committee, commission, or agency of the legislative branch pursuant to Article III, Section 7 of the Constitution of Louisiana when specifically and expressly granted subpoena power, including but not limited to R.S. 24:2, 513, 554, 655, or 665, provided the challenge is filed with the court prior to the time the person is declared in contempt of the legislature pursuant to R.S. 24:4, 513, 655, or 665.

(2) The challenges for which the venue provided Paragraph (1) of this Subsection shall apply include any of the following:

(a) Any challenge to the authority of the legislature or of the senate or house of representatives.

(b) Any challenge to the authority of any legislative committee, commission, or agency of the legislative branch.

(c) Any challenge to the issuance or enforcement of a legislative subpoena.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jerry J. Guillot.

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## DIGEST

SB 263 Original

2020 Regular Session

Mizell

Present law requires that all suits filed against the state or any state agency or against an officer or employee of the state or state agency for conduct arising out of the discharge of his official duties or within the course and scope of his employment shall be instituted before the district court of the judicial district in which the state capitol is located or in the district court having jurisdiction in the parish in which the cause of action arises.

Proposed law provides an exception for certain suits against the legislature and legislative agencies as provided below. Otherwise retains present law.

Present law provides that either the senate or the house of representatives may send for persons and papers, and compel, or subpoena, their attendance or production whenever necessary in the investigation of any matter before either chamber. Present law further provides that the chairman or acting chairman of any committee of the senate or house of representatives, or of any joint committee composed of members from both, may administer the oath to any witness who may be called before them to testify in relation to any subject referred to them for their consideration.

Present law provides that, in the performance of his duties, the legislative auditor may compel, or subpoena, the production of public and private documents and records. Present law further provides that the legislative auditor and the chairman of the Legislative Audit Advisory Council may jointly issue a subpoena for the production of documentary evidence to compel the production of any books, documents, records, papers, films, tapes, and electronic data processing media regarding any transaction involving a governmental entity.

Present law specifically provides the power of subpoena to the Joint Legislative Committee on the Budget and the Joint Legislative Committee on Capital Outlay.

Present law provides that whenever the legislature or either house of the legislature, or whenever any committee of either house or any joint committee of both houses or any subcommittee that has been specifically and expressly granted subpoena power, has summoned any person as a witness to give testimony or to produce papers or other evidence upon any matter under inquiry before such house, committee, joint committee, or subcommittee, such person will be guilty of contempt of the legislature if he or she does any of the following:

- (1) Willfully defaults by failing to appear or to produce papers or other evidence, as ordered.
- (2) Having appeared, refuses to take the oath or affirmation of a witness.
- (3) Having appeared, refuses to answer any question pertinent to the question under inquiry.

Present law provides that whoever is found guilty of contempt of the legislature will be punished by a fine of not more than \$1,000 or by imprisonment for not more than six months, or both. Present law further provides that any contempt of the legislature charge will be deemed to have been committed and trial of the offender may take place, for the purposes of venue, in any of the following parishes:

- (1) The parish where the subpoena is issued.

- (2) The parish where the offender was served with the subpoena.
- (3) The parish where the subpoena ordered the offender to give testimony or to produce papers or other evidence, and the trial of the offender for such offense may take place in any of such parishes.

Proposed law retains present law but provides that any challenge to a subpoena of a witness for testimony or documents, which is made prior to the time in which a witness is declared to be in contempt of the legislature, must be made in the 19th JDC in Baton Rouge. Proposed law specifies those challenges to a subpoena, which are to be heard in the 19th JDC, to include any of the following:

- (1) Challenge to the authority of the legislature or of the senate or house of representatives.
- (2) Challenge to the authority of any legislative committee, commission, or agency of the legislative branch.
- (3) Challenge to the issuance or enforcement of a legislative subpoena.

Effective August 1, 2020.

(Amends R.S. 13:5104(A) and R.S. 24:6)