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STATE OF ALASKA
THE LEGISLATURE

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
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May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary 2/5/85 1:30 pm

COMMITTEE REPORT
HOUSE

*affirmed
on today
11/20/85
JTB*

(7)

FURTHER:

1/25/85

Date: 2-5-85

The Committee on JUDICIARY has had HB 115

"An Act relating to setting of venue by supreme court rule."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 115 (jud) same title
 new title
- and recommends DO PASS
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ ittee

MEMBERS SIGNING
DO PASS

W. W. ...
WOOD E. ...
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MEMBERS HAVING
OTHER RECOMMENDATIONS:

... - *NOTE*

W. W. ...
 CHAIRMAN

UNFINISHED BUSINESS

HB 115

The Speaker waived the Judiciary Committee referral on HOUSE BILL NO. 115 (setting of venue by supreme court rule) at the request of the Chairman.

HB 115 was sent to the Rules Committee for placement on the calendar.

HB 199

The Speaker waived the Judiciary Committee referral on HOUSE BILL NO. 199 (relating to motor vehicles) at the request of the Chairman.

HB 199 was sent to the Rules Committee for placement on the calendar.

HCR 16

Representative Gruenberg added his name as co-sponsor to HOUSE CONCURRENT RESOLUTION NO. 16 (relating to the longevity bonus program).

HB 146

Representative Davis added his name as co-sponsor to HOUSE BILL NO. 146 (relating to housing loans for the permanently disabled).

ENGROSSMENT

HCSSJR 14(Res) was engrossed, signed by the Speaker and the Chief Clerk and transmitted to the Senate for consideration.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 115
 Title: An Act Relating to
 Setting of Venue
 Sponsor: _____
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Alaska Court System
 Program Category Affected: _____
 Administration of Justice
 BRU, Program or Subprogram(s) Affected: _____
 Trial Courts

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

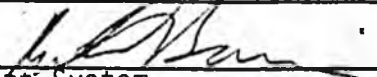
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Robert D. Fisher, Fiscal Officer Phone: 264-0561
 Division: Alaska Court System Date: 2/4/85
 Approved by Commissioner:  Date: 2/4/85
 Agency: Alaska Court System

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

Alaska House of Representatives

MEMO



Phone: 465-3725
Room: 214 Capitol

From the desk of CHIEF CLERK

TO: Judiciary DATE: 3/6/85

Please return the committee copies
of HB 199 and HB 115 to the Chief Clerk
They are being waived to Rules.

Alaska State Legislature



House of Representatives House Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4990

Act Snowden, Executive Director for the Court System
comments on the bill HB 115.

Our feeling was that we are just trying to put it in one place instead of seven separate places. It is hard for litigants, it is hard for juries, it is a pretty pro forma thing. If you would rather do it it is fine with us.

Question: Is this an erosion of legislative power and handing it over to the judiciary? Answer: we probably think it is a procedural thing and probably inherent in the power of the courts anyway but we're not pushing for it. If you really think it is important it certainly is not going to give us indigestion. We thought it would be best for the litigants and the attorneys. It is a very non-political thing. Venue is set by the Supreme Court opinion based on the Constitution and the transportation lines and the ethnic background of the community, more than anything else. And it would probably be easiest for us to do it, and we'd be glad to do it. But if it is certainly not the legislature's will it is not a bill we are willing to fight for.

major type of taxation which was not covered by this bill? Representative Martin stated those directly related to the individuals.

Number 375

Chairman Miller thanked Martin for his presentation and stated that the committee would keep the bill for further consideration. He then announced that the next item of business was consideration of HB 115. He stated that since the Senate had passed an identical bill, that HB 115 would be considered conceptually and that the committee would act on the Senate bill. In response to Representative Gruenberg, he stated that a bill from the Senate has to go to a standing committee before being referred to Rules and placement on the calendar. He further explained that the reason HB 115 was being reconsidered after committee approval at a prior meeting was that there appeared to be a technical problem in the statutory references AS 22.10. The problem could be solved by a letter to the Revisor asking for a change of title in the AS 22.15.080 to "Change of Venue". After this explanation, Representative Gruenberg withdrew his previously prepared amendment.

Number 440

Representative Sund stated he was concerned about the transfer of power from the legislature to the Supreme Court. Representative Phillips wondered whether a sunset provision would be appropriate. Representative Gruenberg stated that venue is a technical problem within the court's expertise and a non-political issue. He felt it would be easier for the court's to amend/change venue than for the legislature.

Number 486

Chairman Miller called on Art Snowden, Executive Director for the Court System to comment on the bill. Mr. Snowden stated that reasoning behind the bill was that consideration of seven different references, including venue maps, facility studies, travel, judge assignment, etc. was necessary prior to a decision on venue. Venue was difficult for citizens to understand, it was best for litigants and attorney and easier for the court if the court decided venue. He felt it was a procedural thing, but that the court system was not willing to "fight" over this bill. In response to Miller's

Karla Forsythe, General Counsel for the Alaska Court System. In response to Representative Phillips' question as to why HB 115 was introduced. (He asked why we were doing it. Also, the statutes had been changed quite a bit last year).

"Right now the venue statutes provides that venue in criminal cases is situated in an urban area ... within a judicial district and then within a Senate Election district. The Senate Election District creates the problem. Every time that the State is reapportioned, that means that our venue setting must change. That has an impact on jury selection, on transportation of defendants. The thought would be what the mechanism that we could use that will still achieve the constitutional goals and objectives for venue setting. And at the same time be easy to administer. The thought would be that the court can keep on top of it rather than having to worry about changing statute every time the state is reapportioned. The particular problem arises in right now in two locations of the state. The one that has been of the most concern is criminal cases out in Bethel. Because of the way the judicial district cuts, the people who should go to Bethel who, if you read that statute strictly would have to go to Nome. Last year we did request an amendment, I believe its a new paragraph g that lets the Chief Justice by order provide for exceptions to the venue statute. That, we think, has gotten us over, we hope it has gotten us over any constitutional challenges in the meantime. But what this means that is to figure out venue is properly situated for a case, you have to look at seven separate documents. Various things - court orders, the statutes, court rules, the thought was to put it all in one place. In one place where it can easily be found and to put that in the Supreme Court rules."

Regarding effective date of January 6

"Mr. Gruenberg suggested that to me prior to the meeting. I don't really, I would say that's something the court system on its own suggested, I do think it's a good idea. We do need some time to get the venue maps together. I'm sure ... it may not be a year depending on when this measure passes. I had suggested six months. I don't know when the magic date would be. I think we could probably do it in three months - it would normally be the case, but I am certainly welcome to suggestions to give us a little more time."

In response to Representative Taylor's question that the committee be assured that the Supreme Court will modify.

"We have on the administrative staff a rules attorney, who name is Don Bellarmine who is infinitely involved in this, he is ready to go the moment this legislation passes, he will get to work on a venue map. So, I feel comfortable assuring you that will happen."

Regarding an earlier date, what date would she like.

"It doesn't really matter to me. Part of depends on when this measure passes. If we can assume that its going to be relatively noncontroversial, we won't have to wait until May, so ... August. ... I don't think so. I think it might just be easier to stick with the three months. We'll have it done by then. And if we don't, we'll certainly have it done, I'm sure there have been other effective dates that have been passed by one or two days. But, (Representative Gruenberg suggested the first of September because he was concerned about there being venue regulations.) That would certainly be satisfactory."

Representative Gruenberg suggested an amendment. That a new section two be added reading "This act ... or the usual language, I guess ... This act takes effect September 1... become effective September 1 ... whatever the normal language is, September 1, 1985."

Representative Clocksin asked "I'm not quite clear from your discussion how long it's going to take for a rule to be submitted. I've often advocated for maximum public, or at least attorney involvement, in the adoption of Supreme Court rules. The concern is that if this legislature gets out in the middle of May and they have till September the first to adopt a rule that will find a shortage of public involvement in the adoption of a Supreme Court rule. How long does it take to get a Supreme Court rule approved?"

Karla Forsyth responds: "It can take from one day to forever but I... in this instance I think that probably what would happen is a couple of weeks to set it up and it's not as if it is a new idea. There is a person on staff who is already thinking about it, who's already been talking to the area court administrators. I would say a couple of weeks to draft, run it by the Supreme Court, I would circulate it to the bar assuming that that's what the Supreme Court wants to do and they've wanted to do that with every rule change recently. I would say that it can be accomplished in three months."

Question: You mentioned something about a constitutional test. What is the issue?

Karla Forsyth responds: The Supreme Court decision *State v. Aldorado* basically provides that the jury must be composed of a cross-section from the area in which the crime was committed. The Supreme Court used language in that case suggesting that it is an appropriate way to figure out whether you've got a cross section would be to use a senate election district, which worked for a couple of years and then got us into problems. The problem in Bethel is people whose community ties are with Bethel are having their trial conducted in Nome. So the intercultural disparity might lead to a Constitutional challenge. That issue has not been litigated in Alaska... Right now the problem occurs in Bethel and also in Southeast. And I believe a strict reading of the statute would and you can correct me on this, Representative Taylor, is that cases from Sitka would go to Cordova. And it is just a totally irrational result. The problem is using the word senate election district.

Representative Taylor stated that you technically could have a case arising in Yakutat that would be tried in Sitka. And literally, it could occur that you could have a case in Metlakatla tried in Yakutat. It is a complete distortion, but it is possible under those rules. What has really happened over the years is that the major urban centers, of course, that's where all the jury trial, nobody goes out in the bush and tried jury trials. So, as a consequence, venue is always grabbed by the District Attorney who would then file in the major metropolitan area for a crime that may have occurred way out. And, then the DA would assist that everything would have to be tried in Anchorage, Ketchikan and Juneau or whatever, though the events may have occurred among a group of people that have no relationship to all, so to speak, with that city. I think allowing the Supreme Court to come up with something is probably a better shot than what we had under the old Senate district, but we are giving up something and we need to be aware of it. And that is the political boundary line which at least assisted in requiring the court to adhere to certain ethnic and geographically similar groups of people when we select a jury panels. We are giving that up, but I have

faith that these people will do a good job in coming up with a better statute than we have. distortion of

that the legislature might be totally surrendering its prerogative to set venue and asked why the court couldn't address venue under existing statutes.

Ms. Forsythe stated that currently venue was established with reference to statutes, Court Rules, election district maps, availability of facilities, presiding judge orders and transportation orders (routes) and that it was not flexible enough to meet the requirements of the Eldorado case.

Number 348 Representative Clocksin commented that the Supreme Court was under no legal obligation to get input and that venue was not a matter of procedure but a matter of substance.

Number 410 Representative Sund moved the bill with the amendment, adding an effective date of January 1, 1986 with individual recommendations. The motion was passed unanimously.

Number 416 Chairman Miller introduced the next item of business: HB 116, an act relating to judicial vacancy.

Number 431 Fran Bremson, Chairman Judicial Council, testified in favor of the bill, stating it would allow the council to start its work earlier in the event of a judicial vacancy.

Committee members questioned Mr. Bremson about the difference of a vacancy caused by nonfiling for electional approval and a retirement or death.

Mr. Bremson and Representative Taylor gave examples from personal experience of the time involved in appointing judges.

Number 534 After discussion about the openness of the title, Chairman Miller suggested that the bill be moved out, but that the title be amended. He stated staff would check with all members before filing the retitled bill.

Number 540 Representative Gruenberg moved the bill be passed with an amended title, with individual recommendations. There were no objections and the bill was passed out.

Number 550 Chairman Miller introduced the bill dealing

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 6, 1985

SUBJECT: Venue of court actions - House Bill 115

TO: Representative M. Mike Miller
Chair, House Judiciary Committee

FROM: Billy G. Berrier *BGB*
Director
Division of Legal Services

You have asked whether if House Bill 115 which provides that venue for court actions shall be set under rules established by the Supreme Court is adopted will the requirement of Section 15, Article IV of the constitution then require a two-thirds vote to change the statute.

In my opinion it will not.

The court in practice has repeatedly treated the statute governing venue as matters of substance and therefore not subject to the requirement of Section 15. The effect of this bill is to allow the court to establish venue.

The mechanism of the court's action is by court rule but the question involved is not the mechanism but whether the subject matter is substantive or procedural. This bill does not, nor cannot, affect that question. Therefore the vote requirement for changing the law adopted by the bill is the same as that required to enact it, a single majority of the full membership.

BGB:ojb
J11/058

IN THE LEGISLATURE OF THE STATE OF ALASKA 117
FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to setting of venue by
supreme court rule."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

*Section 1. AS 22.10.030 is repealed and re-enacted to read:
Sec. 22.10.030. Where actions are to be brought, venue for
all actions shall be set according to rules established by the
Alaska Supreme Court.

Sec. 22.10.030. Where actions are to be brought: (a) All actions in ejectment or for the recovery of the possession of, quieting title to, for the partition of, or the enforcement of liens upon, real property shall be commenced in the superior court in the judicial district in which the real property, or any part of it affected by the action, is situated.

(b) If, in a civil action other than one specified in (a) of this section, a defendant can be personally served within a judicial district of the state, the action against that defendant shall be commenced in that judicial district or in the judicial district in which the claim arose.

(c) All prosecutions for crimes and offenses shall be commenced in the judicial district in which the crime or offense was committed.

(d) Subject to AS 22.10.040, a trial and any precedent or antecedent hearings in an action shall be conducted in a senate district within the judicial district at a location which would best serve the convenience of the parties and witnesses. However, if there is any part of more than one senate district within the boundaries of a borough, the trial and related hearings shall be conducted within the borough's boundaries at a location which would best serve the convenience of the parties and witnesses. If the presiding judge of the district determines that there are no facilities, reasonably suited to the purpose, available for the trial or related hearings in the senate district specified in this subsection, the presiding judge may direct the proceedings to be held in the nearest senate district with reasonably suitable facilities.

(e) Actions in cases not covered by this section may be commenced in any judicial district of the state.

(f) Failure to make timely objection to improper venue waives the requirements of this section.

(g) The chief justice of the supreme court may make exceptions to the requirements of this section if, consistent with the state and federal constitutions, the chief justice determines that transportation facilities reasonably require venue in an urban center in an adjoining judicial or senate district. (§ 17(2) ch 50 SLA 1959; am § 1 ch 126 SLA 1971; am § 1 ch 66 SLA 1972; am § 1 ch 137 SLA 1984)

Cross references. -- For judicial district in which action may be brought to compel compliance with surface coal mining laws, see AS 27.21.950(d); for commencement of civil actions by persons adversely affected by failure to comply

with Alaska Surface Coal Mining Control and Reclamation Act, see AS 27.21.950(d).

Effect of amendments. -- The 1984 amendment, effective July 3, 1984, added subsection (g).

14-0393
Ford
1/18/85✓

JAN 19 1985

BY THE JUDICIARY COMMITTEE
(For the Chief Justice of
the Alaska Supreme Court)

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IN THE HOUSE

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to setting of venue by supreme court
rule."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 22.10.030 is repealed and reenacted to read:

Sec. 22.10.030. WHERE ACTIONS ARE TO BE BROUGHT. Venue for all
actions shall be set under rules established by the supreme court.

KS

Alaska State Legislature



House of Representatives House Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4990

February 15, 1985

Mr. David Dierdorff
Revisor of Statutes
Division of Legal Services
Court Bldg., Room 601
Juneau, Alaska 99811

Re: "Venue" heading, AS 22.15.080

Dear Mr. Dierdorff:

The House Judiciary Committee, in considering HB 115, "An Act relating to setting of venue by supreme court rule", noted that the section heading of AS 22.15.080 is misleading and should be changed by the Revisor of Statutes.

The section is titled "Venue" but the subject of the section is change of venue. Similar language to that in AS 22.15.080 is also in AS 22.10.080, which is titled "Change of Venue." "Change of Venue" would be the appropriate title for AS 22.15.080.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Miller".

M. Mike Miller, Chairman
House Judiciary Committee

MMM/ks



Alaska Court System

State of Alaska

303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8611

HB 115

March 13, 1985

Representative Mike Miller
Capitol Building, Room 122
Juneau, Alaska 99811

Re: CS HB 115 (Jud)

Dear Representative Miller:

I am writing on behalf of the Alaska Supreme Court to clarify the court's intent in requesting passage of HB 115, an act relating to setting of venue.

Venue is the particular court location in which a case will be heard. As you know, this bill would permit the supreme court to set venue by rule. Venue is now established by statute. Because the Alaska Constitution requires a fair cross section of jurors, the statute sets venue in a senate district within the judicial district where the crime occurred. The statute also requires consideration of whether facilities are available to hold a trial, including housing for the judge and jurors and space which can be used as a courtroom. Finally, as a result of an amendment last session adding AS 22.10.030(g), transportation routes for jurors, parties and witnesses can be considered, but only by special order of the chief justice.

To determine proper venue under existing law, a person must review AS 22.10.030, Criminal Rule 18.1, the current election district map, the recommendation of the administrative director to the presiding judge of the judicial district about available facilities, the presiding judge's order upholding or overturning the administrative director's recommendation, and an order of the chief justice establishing certain transportation exceptions pursuant to AS 22.10.030(g). These documents must be reviewed in each case, because facilities and transportation routes frequently change.

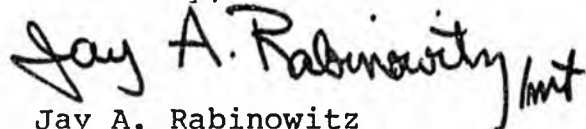
March 13, 1985
Page Two

A supreme court rule would allow attorneys and the public to determine venue by looking at one document rather than six. Under such a rule the court would create a venue map, and would change venue depending on changes in facilities, populations and transportation patterns. Under the rule, trial would be set in local communities by boundaries resulting from communities of interest and transportation patterns, rather than by senate districts, which do not always reflect these considerations.

Venue setting, unlike jurisdiction, is procedural in nature. Venue setting by supreme court rule is subject to all state and federal constitutional requirements, and in no way usurps the legislature's role in preserving the public's substantive rights. It is our belief that setting venue by court rule will not only streamline this process and reduce the cost to litigants, but will also promote the court's goal of making justice accessible to people throughout Alaska.

Thank you for your consideration of our views.

Sincerely,

A handwritten signature in cursive script that reads "Jay A. Rabinowitz" followed by a small mark that appears to be "mt".

Jay A. Rabinowitz
Chief Justice