

SUBJECT: County suit venue to recover permit security for overweight vehicle damage

COMMITTEE: Transportation — favorable, without amendment

VOTE: 9 ayes — Alexander, Hawley, Y. Davis, Edwards, Hamric, Hill, Noriega, Pickett, Swinford

0 nays

0 absent

SENATE VOTE: On final passage, April 2 — voice vote

WITNESSES: No public hearing

BACKGROUND: The Texas Department of Transportation (TxDOT) issues permits for oversize and overweight trucks operating on public roadways. Permit-holders must obtain blanket bonds from sureties or letters of credit from insured financial institutions of \$15,000.

TxDOT and county governments may recover on bonds or credit letters by suing permit-holders and issuers under Transportation Code, sec. 623.016. County governments may file suit in district courts:

- ! in counties where defendants reside;
- ! in Texas counties where they have their principal places of business, if the defendant is a corporation or partnership; or
- ! in counties where the damage occurred, if defendants are corporations or partnerships with their principal places of business out of state.

DIGEST: SB 545 would strike restrictions on venue in Transportation Code, sec. 623.016 to provide that a county could file suit in district court in:

- ! the county in which the defendant resided;
- ! the county in which the defendant had its principal place of business in Texas; or
- ! the county in which the damage occurred.

This bill would take effect September 1, 2001. It would apply only to lawsuits filed on or after that date.

**SUPPORTERS
SAY:**

County roads continue to sustain damage from more and heavier trucks. In many counties, repair costs per mile average \$70,000. Currently, county governments may bring suits in their local district courts to recover part of their repair costs from sureties or financial institutions only if the trucks involved are owned or operated by an out-of-state corporation. Otherwise, counties must file suit where the defendant lives or, if the defendant is incorporated, does business. As a practical matter, along with bringing suit for sureties, counties typically sue owner/operators for actual damages exceeding bonded amounts in the same lawsuits. Venue restrictions often make overall cost recovery more difficult by causing delays and increasing legal expenses.

It would make sense to file suit where the basis for a claim occurred and all evidence existed. Counties should not be penalized by needlessly onerous venue restrictions inhibiting their ability to provide safe roads. Removing these restrictions would restore balance to the legal process, help achieve more accountability, and streamline cost recovery. Counties already are limited to recovering \$15,000 per vehicle from sureties or financial institutions, which seldom covers the cost of repairs. They should not be hindered from recovering their entire repair costs. Reducing recovery costs would mean more money to counties for roads.

**OPPONENTS
SAY:**

Counties already can file separate suits against trucking companies for actual damages in courts in the counties where the road damage allegedly occurred. Sureties are not the targets. This bill would increase the amount of litigation against truckers and those who underwrote their operations. Inevitably, increased legal costs would be passed on to customers and consumers.

NOTES:

A related bill, SB 220 by Shapiro, which would restrict travel by overweight trucks over load-restricted roads and bridges and broaden weight enforcement, has been set on the House General State Calendar for May 18.