

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

Senate Bill 673

BY SENATOR SWOPE

[Introduced March 19, 2021; referred
to the Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §56-1-1b, relating to venue for bringing a civil action or conducting
3 proceedings under a construction contract.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. VENUE.

§56-1-1b. Venue for bringing civil action under a construction contract.

1 (a) In this chapter, "construction contract" means a contract, subcontract, or agreement
2 entered into or made by an owner, architect, engineer, contractor, construction manager,
3 subcontractor, supplier, or material or equipment lessor for the design, construction, alteration,
4 demolition, renovation, remodeling, or repair of, or for the furnishing of material or equipment for
5 a building, structure, appurtenance, or other improvement to or on public or private real property,
6 including moving, demolition, and excavation connected with the real property. The term
7 construction contract includes an agreement to which an architect, engineer, or contractor and an
8 owners lender are parties regarding an assignment of the construction contract or other
9 modifications thereto.

10 (b) Where a party whose principal place of business is in the State of West Virginia enters
11 into a construction contract on or after July 1, 2021, to design, manage construction of, construct,
12 alter, repair, maintain, move, demolish, or excavate, or supply goods, equipment, or materials for
13 the construction, alteration, repair, maintenance, movement, demolition, or excavation of a
14 building, structure, appurtenance, road, bridge, or tunnel which is physically located in the State
15 of West Virginia, any cause of action arising under such construction contract may be brought in
16 the jurisdiction where the construction project is located, or such other jurisdiction where the
17 venue is proper under the provisions of this chapter. Any provision in the contract mandating that
18 such action. be brought in a location outside the State of West Virginia shall be unenforceable.

19 (c) The venue for any arbitration proceedings required in such a construction contract
20 entered into on or after July 1, 2021, shall be in the State of West Virginia. If the construction

21 contract provides for arbitration proceedings outside the State of West Virginia, such provision is
22 unenforceable and arbitration proceedings shall be in the county or city where the work is to be
23 performed, unless the parties agree to conduct the proceedings elsewhere within the State of
24 West Virginia. The enforceability of the remaining provisions of the arbitration agreement and the
25 method of selecting a forum for the conduct of the arbitration proceedings are as provided in this
26 Code, the Federal Arbitration Act (9 U.S.C. § 1, *et seq.*), and any applicable rules of arbitration.

NOTE: The purpose of this bill is to allow for civil actions where a party's principal place of business is in West Virginia, and the construction project is in West Virginia, may be brought in West Virginia for any construction contract entered into on or after July 1, 2021. Further, such venue selection clauses in the construction contract mandating the action be brought outside West Virginia is unenforceable. Providing further, that arbitration proceedings mandating arbitration provisions for a construction contract entered into on or after July 1, 2021 take place in West Virginia and, to the extent it requires arbitration to be conducted elsewhere, such provision is unenforceable.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.