

BILL ANALYSIS

S.B. 587

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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Office of the Attorney General (OAG) is authorized under Chapter 123 (Attorney General Participation In Proceedings Involving Charitable Trusts) of the Property Code to intervene in any proceeding involving a charitable trust on behalf of the general interest of the state. Jurisdiction is currently based on where the estate was probated, even if it was many years ago. This is a logistical problem for the OAG. If the OAG asserts a breach of fiduciary duty by the executor of an estate, the Charitable Trust Section of the OAG would like to be able to file its case in Travis County.

S.B. 587 allows a statutory probate court of Travis County to have concurrent jurisdiction with another court under Section 4A (General Probate Court Jurisdiction; Appeals) of the Texas Probate Code, which relates to a charitable trust proceeding. The OAG would have the jurisdictional authority to conduct proceedings in Travis County, which will save money in travel expenses.

As proposed, S.B. 587 amends current law relating to jurisdiction in certain proceedings brought by the attorney general with respect to charitable trusts.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Section 123.005, Property Code, as follows:

Sec. 123.005. New heading: BREACH OF FIDUCIARY DUTY: VENUE; JURISDICTION. (a) Creates this subsection from existing text. Makes no further changes.

(b) Provides that a statutory probate court of Travis County has concurrent jurisdiction with any other court on which jurisdiction is conferred by Section 4A (General Probate Court Jurisdiction; Appeals), Texas Probate Code, in a proceeding brought by the attorney general alleging breach of a fiduciary duty with respect to a charitable trust created by a will that has been admitted to probate.

SECTION 2. Makes application of this Act prospective.

EFFECTIVE DATE

Upon passage or September 1, 2011.