



Supreme Court of Appeals State of West Virginia

News

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Business Court Committee holds public information forum

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CHARLESTON, W.Va. – A North Carolina judge, who is a national expert in business courts, today recommended that if West Virginia does establish such a court, the panel should be transparent, inclusive, and help small businesses, which he said are the engine of any state's economy.

Judge Ben F. Tennille, Chief Special Superior Court Judge for Complex Business Cases in North Carolina, spoke at a public forum in the House of Delegates Chamber. The judge was invited by the Business Court Committee. The Supreme Court of West Virginia established the committee in its administrative conference in June in response to House Bill 4352, which the Legislature passed in March.

Judge Tennille created one of the nation's first modern, statewide business courts after he took his position in January 1996. He helped found the American College of Business Court Judges and has been instrumental in helping other states develop business courts.

Judge Tennille said North Carolina's Business Court was first suggested by a state commission charged with improving the economy. The commission recommended it as a way to attract investment and create jobs, and it was later created by North Carolina Supreme Court rule.

The North Carolina Business Court is a specialized court division composed of Superior Court Judges, who are appointed by the governor and designated to work on the business court by the Chief Justice.



Judge Ben F. Tennille, Chief Special Superior Judge for Complex Business Cases in North Carolina, spoke at a public forum in the House of Delegates Chamber today, Nov. 12, 2010. Photo by Michael Switzer for the Supreme Court of Appeals of West Virginia.

The business court has mandatory jurisdiction over certain types of cases: those involving a material issue related to the law of corporations, securities, antitrust law, state trademark, unfair competition, intellectual property as well as certain cases involving technology.

Other cases can be moved to business court through a Notice of Designation, including certain tax cases and disputes concerning the rates, terms, and conditions associated with the use of poles, ducts, and conduits of communication service providers.

There are no dollar limitations and no waiver of jury trial is required. Consumer litigation is not allowed.

Both the Greensboro Business Court and the Raleigh Business Court are located in law schools. The third court is in a trial court building in Charlotte.

The business court utilizes electronic filing and case management systems.

“I spend the vast majority of my time with small business,” Judge Tennille said. “They create jobs and our economy relies on small businesses. These are the people who need our services more than anybody else.

“That’s the highest service the business court in North Carolina has provided, to give the small business a place for their case to be heard quickly and get their case resolved,” he said.

“We have had the high-profile cases, but they are few and far between,” Judge Tennille said.

Business courts are necessary because businesses and attorneys are becoming more specialized, access to electronic discovery information has expanded, and that has created a demand for judicial expertise, Judge Tennille said. Providing that expertise and a faster litigation process makes it more cost-effective for a company to do business in a state.

Business courts also are a good way for a court system to experiment with new technologies, like electronic filing, the judge said. “We realized we could not do our job without technology. I can run my business court off my iPad, and I sometimes do.”

Each state must design its own business court to suit its own needs, Judge Tennille advised. Those making the decisions should consider

- Whether the business court should focus on issuing written opinions in every case that could provide legal guidance to litigants or focus more on moving a large number of cases through the court system.**
- Whether the business court should emphasize alternative dispute resolution, which he recommended.**
- Whether to start with a statewide business court or a pilot program.**
- Whether to set a dollar limit on cases that would be heard by the business court, which he cautioned against.**
- Whether to allow jury trials or only bench trials. He recommended jury trials.**
- Whether to have electronic filing, which he recommended.**

Members of the West Virginia Business Court Committee are Circuit Judge Darrell Pratt of the Twenty-Fourth Judicial Circuit (Wayne County), Chairman; Circuit Judge Donald Cookman of the Twenty-Second Judicial Circuit (Hampshire, Hardy and Pendleton Counties); Circuit Judge Rudolph J. Murensky, II of the Eight Judicial Circuit (McDowell County); Circuit Judge James J. Rowe of the Eleventh Judicial Circuit (Greenbrier and Pocahontas Counties); Circuit Judge Susan B. Tucker of the Seventeenth Judicial Circuit (Monongalia County); Circuit Judge Christopher Wilkes of the Twenty-Third Judicial Circuit (Berkeley, Jefferson, and Morgan Counties).

Supreme Court Administrative Director Steve Canterbury said that while today’s meeting was an informational forum, the committee likely will have future meetings at which public comment will be sought.

Note: Supreme Court press releases now are available on Twitter at wvcourts. Press releases will continue to be posted on the Court website, however the listserv will be discontinued on January 1, 2011.