

BILL ANALYSIS

C.S.H.B. 1875
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised in the business community about a need for a specialized business court for cases involving complex business law. Employers and employees are at the mercy of the courts, which are often asked to review complex business litigation that requires a certain level of expertise for the efficient administration of justice.

The lack of business courts in Texas puts the state at a competitive disadvantage relative to other states. Most states have created specialized business courts to handle complex business litigation. Business courts are an effective economic development tool to foster a business-friendly climate and to speed resolution of specialized business disputes. C.S.H.B. 1875 seeks to address this issue by creating trial and appellate business courts in Texas with statewide jurisdiction over specialized business disputes.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Supreme Court in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 1875 amends the Government Code to create the business court and the Court of Business Appeals. The bill establishes that the business court has civil jurisdiction concurrent with district courts in actions specified by the bill, has statewide jurisdiction of such an action and all matters arising out of or relating to such an action, and is authorized to grant any relief available in a district court. The bill establishes that the business court does not have jurisdiction of a civil action brought by or against a governmental entity, unless the governmental entity invokes or consents to the jurisdiction of the business court, and sets out provisions relating to the required severance of certain claims.

C.S.H.B. 1875 provides for the filing of an action in the business court, the refiling in an appropriate court of an action or part of an action over which the business court does not have subject matter jurisdiction, and the assignment of a cause of action filed in the business court to the docket of a judge. The bill provides for the removal to and remand from the business court of an applicable action filed in a district court or county court at law. The bill exempts the removal of a case to the business court from the statutes or rules governing the due order of pleading and establishes that such a removal does not waive a defect in venue or constitute an appearance to determine personal jurisdiction. The bill requires any claim in which the business court does not have jurisdiction because the action is brought by or against a governmental entity or because of

a required severance to be transferred to a district court in a county in which the claim could have been originally filed and authorizes the party bringing the claim to elect the county to which the claim is transferred if the claim could have been filed in more than one county. The bill requires the Texas Supreme Court to promulgate rules of civil procedure providing for the timely and efficient removal and remand of cases to and from the business court.

C.S.H.B. 1875 authorizes the business court to issue any writ necessary for the enforcement of the court's jurisdiction and to answer a question regarding a matter in the court's jurisdiction that is certified to the business court by another court.

C.S.H.B. 1875 sets out the qualifications required for a judge of the business court and provides for the composition of the seven-member court, the appointment of judges by the governor with the advice and consent of the senate, the terms of office and salaries of the judges, and the method of filling a vacancy. The bill grants a business court judge all powers, duties, immunities, and privileges of a district judge. The bill requires a judge to diligently discharge the duties of the office on a full-time basis and prohibits a judge from engaging in the private practice of law. The bill sets out provisions relating to a judge's removal from office, disqualification or recusal in a particular case, and the assignment of a visiting judge of the business court.

C.S.H.B. 1875 establishes that a party in an action pending in the business court has the right to a trial by jury when required by the constitution and requires such a trial to be held in a county in which venue would be found under statutory provisions relating to venue in civil actions generally. The bill sets out further provisions relating to the determination of venue, requires the same jury-related practice and procedure as for the district court in the county in which the trial is held, and establishes that certain other matters pertaining to the conduct of trials, hearings, and other business in the business court are governed by the laws and rules prescribed for district courts. The bill authorizes the court to adopt rules of practice, which must be approved by the supreme court.

C.S.H.B. 1875 provides for the location of the office of the business court clerk in Travis County in state-provided facilities and sets out the duties of the clerk. The bill requires a business court judge to maintain chambers in the county seat of the judge's county of residence in state-provided facilities and authorizes the court or any judge of the court to hold court at any location in Texas, as the court determines is necessary or convenient for a particular action. The bill requires the use of the most advanced technology feasible when necessary and appropriate to facilitate expeditious proceedings and provides for appearances before the court by means of Internet-based or other technological devices. The bill provides for the attendance of a sheriff or deputy as required by the court, the appointment of necessary personnel, and the duties, responsibilities, and remuneration of court officials. The bill sets out requirements for fees associated with filings and actions in the business court and provides for the seal of the court.

C.S.H.B. 1875 establishes that the Court of Business Appeals has exclusive jurisdiction over an appeal from an order or judgment of the business court and that such an appeal is available in the same manner and is governed by the same procedure as an appeal from an order or judgment of a district court. The bill provides for the governor to appoint seven justices to serve on the Court of Business Appeals, with the advice and consent of the senate, and to designate one as chief justice of the court. The bill provides for the qualifications of the justices, the authorization to serve multiple consecutive terms, the method of filling a vacancy, and the term of office, judicial authority, and compensation of a justice.

C.S.H.B. 1875 requires the justices of the Court of Business Appeals to sit in randomly selected panels of three in any convenient place to hear and determine appeals from the business court and requires the court to render judgments and issue opinions in the same manner as any other court of appeals. The bill authorizes a party to seek an en banc review of a decision of a panel of the Court of Business Appeals and authorizes a party to an order or judgment of the business

court or the Court of Business Appeals to file a petition for review in the supreme court in the same manner and circumstances as a party to an order or judgment of a district court or court of appeals. The bill provides for the seal of the Court of Business Appeals and requires the clerk of the business court to serve as the clerk of the Court of Business Appeals.

C.S.H.B. 1875 establishes that the supreme court has exclusive and original jurisdiction over a challenge to the constitutionality of the bill or any part of the bill and authorizes the supreme court to issue injunctive or declaratory relief in connection with the challenge. The bill requires the supreme court, if the appointment of judges or justices by the governor to the business court or the Court of Business Appeals, as applicable, is held by the supreme court as unconstitutional, to appoint sitting or retired judges or justices, as appropriate, to the applicable court. The bill's provisions apply to civil actions commenced on or after January 1, 2022.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1875 differs from the original in minor or nonsubstantive ways by conforming to certain bill drafting conventions.