

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 5, 2021

TO: Honorable Jeff Leach, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB1875 by Landgraf (Relating to the creation of the business court and the court of business appeals to hear certain cases; authorizing fees.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1875, As Introduced : a negative impact of (\$12,381,466) through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2022	(\$6,276,930)
2023	(\$6,104,536)
2024	(\$6,116,152)
2025	(\$6,248,468)
2026	(\$6,129,400)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	<i>Probable Savings/(Cost) from General Revenue Fund 1</i>	<i>Change in Number of State Employees from FY 2021</i>
2022	(\$6,276,930)	36.0
2023	(\$6,104,536)	36.0
2024	(\$6,116,152)	36.0
2025	(\$6,248,468)	36.0
2026	(\$6,129,400)	36.0

Fiscal Analysis

The bill would amend the Government Code to create a business court and a court of business appeals to hear certain cases.

The bill would create a business court, composed of seven judges appointed by the governor with the advice and consent of the senate, that has civil jurisdiction concurrent with district courts in a derivative action on behalf of an organization (as defined) and an action in which the amount in controversy exceeds a certain amount relating to a contract transaction for business, commercial, investment, agricultural, or similar purposes. The bill would give the business court statewide jurisdiction of certain actions. The bill would limit business court

jurisdiction over civil action claims brought by or against a governmental entity (as defined) unless the entity invokes or consents to the jurisdiction and the business court would sever certain claims unless all parties and the judge agree that the claim may proceed in the business court. The bill would entitle a party in a business court action to the right to a trial by jury when required by the constitution, and outlines venue for business court proceedings.

The bill would set a business court judge's annual salary as the sum of the salary paid to a district judge by the state under Government Code Section 659.012 and the maximum amount of county contributions and supplements allowed by law to be paid to a district judge under Section 659.012. The bill would provide the business court with a clerk, whose office must be located in Travis County facilities provided by the state, and details clerk duties. The bill would require business court judges to maintain chambers in the county seat of their county of residence in facilities provided by the state, and the bill would allow the business court or any business court judge to hold court at any location in the state as the court determines is necessary or convenient for a particular civil action. The bill would require the business court to use certain technology and allows counsel and parties to appear before the court by means of Internet-based or other technological devices rather than in person. The bill would entitle the sheriff or deputy who must appear in person to attend the business court to reimbursement by the state for costs of attending court. The bill would authorize the business court to appoint personnel necessary for court operations and entitles court officials to compensation, fees, and allowances prescribed by law for the offices. The bill would require the business court to provide rates for fees associated with filings and actions, which must be set at a sufficient amount to cover costs of administering the provisions of the new chapter, taking into account fee waivers in the interest of justice.

The bill would also establish the court of business appeals, composed of seven judges appointed by the governor with the advice and consent of the senate, to hear appeals from the business court. The bill would authorize the court of business appeals to render judgments and hand down opinions in the same manner as any other court of appeals under Government Code Chapter 22. The bill would entitle a justice of the court of business appeals to receive compensation equal to that of the chief justice of a court of appeals, including the maximum amount of location contributions.

The bill would take effect September 1, 2021.

Methodology

Costs reflected in the table above are based on the analysis provided by the Office of Court Administration and salaries for a district judge and the chief justice of a court of appeals in Article IV of the General Appropriations Act.

The following staffing assumptions were made for the operation of the two business court: 14 judges, two law clerks, nine attorneys, four assistants, three court clerks, one archivist, one human resources specialist, one accountant, and one network specialist.

For the purposes of this analysis, anticipated personnel costs for the business court judges were based on the current salary for a district judge with 8 or more years of service, \$168,000, plus the maximum county supplement. Personnel costs for the business court of appeals judges were based on the current salary for a chief justice of a court of appeals with 8 or more years of service, \$187,300, plus the maximum county supplement. Salary costs for these positions would total \$2,676,100 for each fiscal year from 2022-2026.

Staff salaries were based on salaries from the 2nd Court of Appeals, 4th Court of Appeals and the Supreme Court as sourced from the State Auditor's Office (SAO) website. The lowest salary for each position between the courts were used for the salary assumptions. Salary costs for these positions would total \$1,374,415 for each fiscal year from 2022-2026

In addition, the table above includes one-time expenses in fiscal year 2022 for the purchase of furniture, cell phones, and information technology equipment. Operating and payroll related benefit costs would total \$2,226,415 in fiscal year 2022; \$2,054,021 in fiscal year 2023; \$2,065,610 in fiscal year 2024; \$2,197,953 in fiscal year 2025; and \$2,078,885 in fiscal year 2026.

Sheriff costs were determined using a daily rate of \$278 x 18days. To determine the daily rate for a sheriff an

average salary was calculated using the sheriff salaries published in the 2020 Salary Survey by the Texas Association of Counties. Visiting judge costs were determined using the daily rate of \$608 x 18 days. Facility and furniture costs were provided by Texas Facilities Commission. All other operating expenses were determined using historical expenses of Child Protection Courts.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Admin

LBB Staff: JMc, SLE, MW, BH