

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**May 16, 2023**

**TO:** Honorable Dade Phelan, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB19** by Murr (Relating to the creation of a specialty trial court to hear certain cases; authorizing fees.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds for HB19, As Passed 2nd House : an impact of \$0 through the biennium ending August 31, 2025.**

As specified in the bill, fees for filings and actions in the business court would be set by the Supreme Court in amounts sufficient to cover the costs of administering the new chapter's provisions. However, it is unclear if business court fees charged within a range seen in other comparable courts' fees would support the entire operation of the business court given that the caseload of the new business court is unknown. Consequently, the fiscal impact of this bill may be greater than the amount reflected by this fiscal note.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill. The business court for the Business Court Judicial District would not be created unless the legislature makes a specific appropriation for that purpose which identifies the business court or an Act of the Eighty-eighth Legislature, Regular Session, 2023, relating to the creation of a specialty trial court to hear certain cases or of the business court.

**General Revenue-Related Funds, Five- Year Impact:**

<i>Fiscal Year</i>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2024	\$0
2025	\$0
2026	\$0
2027	\$0
2028	\$0

**All Funds, Five-Year Impact:**

<i>Fiscal Year</i>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>	<b>Probable Revenue Gain/(Loss) from General Revenue Fund 1</b>	<b>Change in Number of State Employees from FY 2023</b>
2024	(\$8,904,036)	\$8,904,036	53.0
2025	(\$7,681,043)	\$7,681,043	53.0
2026	(\$7,699,746)	\$7,699,746	53.0
2027	(\$11,387,689)	\$11,387,689	59.0
2028	(\$11,122,913)	\$11,122,913	59.0

## **Fiscal Analysis**

The bill would amend the Government Code related to the creation of a business court to hear certain cases. The bill would create the business court as a statutory court under Section 1, Article V, of the Texas Constitution.

The business court judicial district would be composed of all the counties in the state and be composed of divisions geographically consistent with the administrative judicial regions and numbered to correspond with the administrative judicial regions. The business court would be served by sixteen judges appointed by the governor with the advice and consent of the senate. The bill would give the court concurrent civil jurisdiction with district courts in a derivative action on behalf of an organization (as defined); an action regarding the governance or internal affairs of an organization; an action related to certain securities or trade regulation law; certain actions alleging an act or omission by certain persons controlling an organization; certain actions alleging breach of duty; certain actions holding certain persons liable for organization obligations; actions seeking declaratory judgment or injunctive relief under Chapter 37, Civil Practice and Remedies Code; actions arising out of certain violations; and clarifies that the court does not have jurisdiction of a claim in which a party seeks recovery of monetary damages for bodily injury or death.

The bill would require the appointment of judges to the First, Third, Fourth, Eighth, and Eleventh business court divisions as soon as practicable after the effective date of the bill. The bill would also require the appointment of judges to the Second, Fifth, Sixth, Seventh, Ninth, and Tenth business court divisions on or before September 1, 2026, but not before July 1, 2026.

The bill would limit business court jurisdiction over civil action claims and actions and provide that if the court does not have jurisdiction of a claim, the business court must transfer the action to a district court with jurisdiction or dismiss the claim without prejudice to the parties.

The bill would establish initial filing, removal, remand, disqualification, and transfer procedures; set filing fee rates; outline visiting judge assignments to the business court; direct the Supreme Court to promulgate certain rules of civil procedure for the business court; outline business court powers and duties; and detail business court composition, judge qualifications, and vacancy procedures. Fees charged by the business court would be set in amounts sufficient to cover the costs of administering the new chapter's provisions.

The bill would condition appeals routing on the creation of the Fifteenth Court of Appeals. If created, the bill gives the Fifteenth Court of Appeals jurisdiction over cases appealed from the business court. If the Fifteenth Court of Appeals is not created, appeals must be filed in the court of appeals with jurisdiction under Sec. 22A006(j).

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. The bill would require business court judges to maintain chambers in the judicial district in which they were appointed. The bill would allow the business court or any business court judge to hold court in a judicial region of the state as the court determines is necessary or convenient for a particular civil action. The bill would require business court to provide remote proceeding to facilitate certain matters.

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 Supreme Court to set fees for filings and actions in the business courts in amounts sufficient to cover the costs of administering the provisions of the bill, taking into account fee waivers necessary for the interest of justice.

The bill would require the Judicial Retirement System of Texas Plan Two include, with certain limitation, the

business court. The bill would provide that the Texas Supreme Court has exclusive and original jurisdiction over a challenge to the constitutionality of the business court provisions. The bill would require that if the appointment of judges be held unconstitutional, the business court must be staffed by retired or former judges or justices as appointed under the bill.

The bill would require employees of the court be employed by the Office of Court Administration (OCA).

Under the provisions of the bill, the business court for the Business Court Judicial District would not be created unless the legislature makes a specific appropriation for that purpose which identifies the business court or an Act of the 88th Legislature, Regular Session, 2023, relating to the creation of a specialty trial court to hear certain cases or of the business court.

The bill would set the court creation date for September 1, 2024.

## **Methodology**

State judicial compensation is traditionally met through a mix of General Revenue and Judicial Fund No. 573 funding; however for the past several fiscal years Judicial Fund No. 573 revenues have not been sufficient to meet all judicial salary obligations. Due to this, General Revenue funding has been used to meet the remaining obligations. Therefore, this estimate assumes General Revenue funding would be needed to cover the full state obligations for these provisions. Costs reflected in the table above are based on the analysis provided by the Office of Court Administration and judicial salaries in Article IV of the General Appropriations Act.

Personnel costs for the business court judges are based on the current salary for a district judge with 8 or more years of service plus the maximum county supplement. Staff salaries were based on salaries from the 2nd Court of Appeals, 4th Court of Appeals and the Supreme Court using data available from the SAO website. The highest salary for each position between the courts was used for salary assumptions with the 5.0 percent salary increases included in fiscal years 2024 and 2025.

Under the provisions of the bill, the court district would be composed of all counties in the state with divisions geographically consistent with the administrative judicial regions and numbered to correspond with the administrative judicial regions. The following staffing assumptions (59 positions) were made for the operation of the business court: sixteen judges, two law clerks, one chief of staff attorney, sixteen attorneys, sixteen executive assistants, two court clerks, one purchaser, one human resources specialist, one accountant, one project manager, one data analyst, and one network specialist. Although staffing and operational costs for district and statutory courts are funded at the local level while judicial salaries are compensated by the state (with a county reimbursement of \$18,000 per judge) under current law, the bill would provide that the business court judicial district personnel appointed by the court would be state employees at the OCA. Accordingly, this analysis assumes all all staffing and operational costs for those 43.0 FTEs included in the table above would be funded by the state in the bill pattern for the OCA. This analysis assumes business judge salaries would be funded through the bill pattern of the Judiciary Section, Comptroller's Department.

Salary, benefit, and payroll contribution costs would total \$6,620,293 in fiscal year 2024; \$6,634,787 in fiscal years 2025-2026; and \$9,922,627 in fiscal years 2027-2028.

Operating expenses would total \$2,283,113 in fiscal year 2024; \$1,046,255 in 2025; \$1,064,958 in 2026; \$1,465,062 in 2027 and \$1,200,286 in 2028. Fiscal year 2024 includes one-time expenses for the purchase of furniture, cell phones, and information technology equipment. Facility and furniture costs were provided by Texas Facilities Commission. All other operating expenses were determined using historical expenses of Child Protection Courts.

Sheriff costs were determined using a daily rate of \$278 x 18 days. To determine the daily rate for a sheriff an average salary was calculated using the sheriff salaries published in the 2022 Salary Survey by the Texas Association of Counties.

Information provided by the Comptroller of Public Accounts, indicates that it is unclear if business court fees charged within a range seen in other comparable courts' fees would support the entire operation of the business court given that the caseload of the new business court is unknown. However, this analysis assumes the

Supreme Court would set fees for filings and actions in the business courts in amounts sufficient to cover the costs of administering the business court as required by the bill.

This analysis assumes that Judges of the Business Court would be members of Judicial Retirement System Plan 2 (JRS2). The cost to this system from fiscal years 2024-26 would be the cumulative state salary of the 10 judges, estimated by the OCA to be \$1,680,000, multiplied by 19.25 percent. This totals \$323,400 annually in General Revenue funds or \$646,800 for the 2024-25 biennium. Beginning in fiscal year 2027, the cost to this system would be the cumulative state salary of the 16 judges, estimated by the OCA to be \$2,688,000, multiplied by 19.25 percent, or \$517,400 annually in General Revenue funds.

### **Technology**

Costs for the purchase of laptops, monitors, printers and software, which would be replaced in the fourth year, would be at the Office of Court Administration, which provides technology services to the judicial branch.

### **Local Government Impact**

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

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 327 Employees Retirement System

**LBB Staff:** JMc, CMA, MW, JPa