

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 10, 2023

TO: Honorable Bryan Hughes, Chair, Senate Committee on Jurisprudence

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.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB19, Committee Report 2nd House, Substituted : a negative impact of (\$17,446,842) through the biennium ending August 31, 2025.

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>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2024	(\$8,785,929)
2025	(\$8,660,913)
2026	(\$8,664,651)
2027	(\$8,894,371)
2028	(\$8,754,093)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable (Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2023
2024	(\$8,785,929)	47.0
2025	(\$8,660,913)	47.0
2026	(\$8,664,651)	47.0
2027	(\$8,894,371)	47.0
2028	(\$8,754,093)	47.0

Fiscal Analysis

The bill would amend the Government Code related to the creation of a business court to hear certain cases.

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 eleven 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 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 that the Supreme Court must set fees for filings and actions in the business courts.

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.

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 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.

The following staffing assumptions (42 positions) were made for the operation of the business court: eleven judges, two law clerks, one chief of staff attorney, eleven attorneys, eleven executive assistants, two court clerks, one purchaser, one human resources specialist, one accountant, and one network specialist. Staffing and operational costs for district courts are funded at the local level while judicial salaries are compensated by the state. Absent of clarification in the bill, it is assumed that the business court judicial district staff would be state employees and the operational costs would be funded by the state because 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.

Salary, benefit, and payroll contribution costs would total \$6,892,572 in fiscal year 2024; \$7,168,844 in fiscal years 2025-2026; and \$7,250,684 in fiscal years 2027-2028.

Operating expenses would total \$924,097 in fiscal year 2024; \$522,809 in 2025; \$526,547 in 2026; \$674,427 in 2027 and \$534,149 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.

The analysis provided by the Comptroller of Public Accounts indicates the fiscal impact of the bill cannot be determined because 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 that fees charged by the business court would be set in amounts sufficient to cover the costs of administering the court.

This analysis assumes that Judges of the Business Court would be members of Judicial Retirement System - Plan 2 (JRS2). The cost to this system is the cumulative state salary of the 16 judges, estimated by the Office of Court Administration to be \$2,688,000, multiplied by 19.25 percent. The resulting cost is \$517,400 annually in General Revenue funds or \$1,034,880 for the biennium.

Additional changes made by the 2nd House substitute can not be determined at this time.

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: 300 Trusteed Programs Within the Office of the Governor, 304 Comptroller of Public Accounts, 327

Employees Retirement System

LBB Staff: JMc, KDw, MW, JPa, JPO