

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 28, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: SB27 by Hughes (Relating to the creation of a specialty trial court to hear certain cases; authorizing fees.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB27, As Introduced : an impact of \$0 through the biennium ending August 31, 2025.

The business court for the Business Court Judicial District is created only if the legislature appropriates money specifically for that purpose.

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 88th 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	\$0
2025	\$0
2026	\$0
2027	\$0
2028	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from General Revenue Fund 1
2024	(\$5,384,665)	\$5,384,665
2025	(\$5,299,279)	\$5,299,279
2026	(\$5,301,949)	\$5,301,949
2027	(\$5,467,869)	\$5,467,869
2028	(\$5,368,099)	\$5,368,099

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 would be served by seven 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 in which the amount in controversy exceeds a certain amount relating to a qualified transaction (as defined) or relating to certain contract transactions or certain statutory violations; 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; and actions arising out of the Business Organizations Code.

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 intermediate court of appeals with jurisdiction under Tex. Gov't Code Sec. 22.220.

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 county seat of their county of residence in facilities provided by the state. 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 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.

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 also require that a court of appeals would retain the jurisdiction the court had on December 31, 2024, if the business court for the Business Court Judicial District is not created.

Methodology

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 (30 positions) were made for the operation of the business court: seven judges, two law clerks, eight attorneys, seven assistants, two court clerks, one purchaser, one human resources specialist, one accountant, and one network specialist.

Salary, benefit, and payroll contribution costs would total \$4,567,126 in fiscal year 2024; \$4,709,662 in fiscal year 2025; and \$4,709,662 in fiscal years 2026-2028.

Operating expenses would total \$817,540 in fiscal year 2024; \$589,619 in 2025; \$592,289 in 2026; \$758,209 in 2027 and \$658,439 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. Visiting judge costs were determined using the daily rate of \$608 x 18 days.

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.

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

LBB Staff: JMc, KDw, MW