

**HOUSE OF REPRESENTATIVES
COMPILATION OF PUBLIC COMMENTS**

Submitted to the Committee on Judiciary & Civil Jurisprudence
For HB 19

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Hearing Date: March 22, 2023 8:00 AM

Tom Ryan, Chairman and CEO

SCI

Houston, TX

As Chairman and CEO of Service Corporation International, I am writing you in support of HB 19, creating a specialized business trial court in Texas.

I am aware that our district courts in Texas are overwhelmed. The problem in the Texas law is under Sections 23.101, 102, and 103 where the Legislature has identified a broad range of cases that are given priority over business litigation.

To help our large judicial system operate more efficiently, Texas has created over 200 specialty trial courts handling probate, family law, juvenile, and veterans' issues, among others. Our high courts also recognize the greater efficiency offered by specialization: the Supreme Court hears civil cases and the Court of Criminal Appeals hears criminal cases.

Unfortunately, the one specialty court Texas does not have is a business court. Texas is lagging behind 29 other states who have the ability to resolve cases much more efficiently. Long delays in civil litigation cost Texas businesses millions of dollars in additional legal fees and delayed recoveries of their obligations.

Texas is well positioned to create a world-class court to resolve business disputes. I urge you to support HB 19, which will make this great state an even more attractive destination for job-creators and families.

Thank you,

Tom Ryan

John Ale
Texas Business Law Foundation
Houston, TX

I am a 40+-year Texas lawyer who strongly favors passing this bill. In addition to nearly 30 years at law firms, I served an aggregate of 11 years as general counsel of three different Texas-headquartered companies listed on the New York Stock Exchange. I'm also a former chair of the 4000+ member business law section of the Texas Bar.

In my career I've helped put together all sorts of business deals and contracts, and I've also seen them dissected in litigation and arbitration in different parts of the country. Like any citizen, we all want to see decisions made timely and fairly by judges who are informed in the subject matter. In Texas we often allocate cases to civil, criminal, or family-law courts because we've seen the wisdom, the efficiency, and the quality that comes from having judges specialized in particular areas. All this bill is doing is adding one more category to that.

I've been in urban and rural courtrooms in different parts of our State where large commercial, corporate governance, and securities cases are being heard. I've seen good, hard-working, smart judges have to grapple with issues that they simply are not familiar with. These cases often require intense judicial consideration of discovery and dismissal motions, with much resting on reams of paper the judge must analyze rather than oral testimony. I've seen these judges have to squeeze hearings on complicated and unfamiliar issues between tort and consumer cases. These large cases clog their dockets and impede their ability to address the cases directly involving real people in their personal lives as well as delaying the commercial decisions for months and months. All parties to all these kinds of cases suffer in the speed and quality of the justice they are entitled to receive.

By contrast, I've also been involved in litigation before specialized business courts in other states, where judges rapidly dispose of complex cases, in part because they know nonsense when they see it. That keeps the wheels of business turning, which also benefits the real people who work at these companies and all of us who ultimately own these companies through our retirement and pension funds and personal investments.

This bill is not about the quality of judges. It is about specialization of judges. It's the right thing to do, just like it's the right thing where possible to have civil cases go to civil courts, criminal cases to criminal courts, etc. It's also not surprising that some lawyers who try cases as their bread and butter oppose this bill--they are comfortable and profitable in the current system. But our court system is here to serve our citizens and our economy, not lawyers and judges. I urge you to support this bill.

Conrad Hester
Self- Attorney
Fort Worth, TX

I am writing to encourage the Texas Legislature to enact HB 19 this year. I am an oil and gas litigator with a practice primarily in rural counties. The judges that I appear in front of typically have multiple counties, and handle civil, criminal, and family matters. A single piece of complex commercial litigation can add a burden to their already heavy dockets. Establishing a single state-wide business court jurisdiction in Texas to address complex business cases will add predictability and efficiency and provide relief for district judges in rural counties.

Thank you for your good work for the benefit of Texas, its citizens and its economy.

-Conrad Hester, Attorney

Amy Perry, Senior Associate General Counsel
Finance of America Companies, Inc.
Plano, TX

I am writing to encourage the Judiciary and Civil Jurisprudence Committee to approve HB 19 creating a statewide Texas business court and work for its enactment by the Texas Legislature in 2023.

I manage litigation in-house for a public company. Prior to this position, I worked at an international law firm based in Texas practicing commercial litigation. I routinely litigated cases in Delaware Chancery Court and having a designated court and judges to hear business disputes meant that our cases proceeded efficiently and with both sides trusting the judge's ability to rule.

The proposed Texas business court will improve the efficiency, consistency and predictability of business litigation by allowing judges having the experience required by HB 19, working in a statewide jurisdiction, to focus on complex business litigation exclusively.

These cases will no longer compete with, and when they are heard, delay, the wide variety of civil and criminal matters that crowd the dockets of state district courts, many of which are given statutory priority over business cases.

Texas prides itself on having created a world-class business environment. Litigation is part of doing business, and costs businesses millions of dollars annually. There is no reason that Texas should trail behind the 29 other states that have created specialized courts to more efficiently handle complex business litigation.

Mitzi Mayfield, attorney
self
Amarillo, TX

I and many others are against this bill. The appointment of judges violates our constitution. There is no need for this bill. Our state has plenty of big business without this bill. There is no money to pay for this bill. It provides preferences to businesses over individuals. I am totally against this bill.

Ware Wendell, Executive Director

Texas Watch

Austin, TX

I am the Executive Director of Texas Watch, a statewide, nonpartisan, nonprofit organization that has worked to protect consumers and our courts for nearly 25 years. We write today in opposition to HB 19 because it consolidates power in the executive at the expense of the electorate.

Section 24A.008 in the proposed legislation states that the governor shall appoint the justices to the newly-created "business court." The power to select judges currently resides completely in the people, exercised through open elections where the candidates are fully vetted. This ensures our judiciary is directly accountable to the electorate it serves. Voters have the right to hire and fire judges depending on the quality of their service. This keeps our courts close to the communities they serve.

Giving this power to the governor amounts to a power grab. We fear appointed statewide judges will threaten the independence of our judiciary in time, as these "business" judges will be beholden to the governor for their position. We can see no compelling public policy reason to take power from the Texas electorate, which has exercised its judgment wisely through the years.

We stand for the proposition of equal justice under the law and view the "business courts" set forth in HB 19 as unnecessary. Corporations do not require their own special court. Trial judges across our state currently adjudicate business disputes fairly, efficiently, and in accordance with the law. Our trial courts serve their communities well, dispensing justice across a wide range of cases, serving litigants of all kinds, independently and without fear or favor.

Judges should serve the people, not the governor. The governor should not possess the power to hand-pick judges that have statewide authority over corporate cases. Please respect our citizens and protect their freedom to elect judges in our state.

For these reasons, Texas Watch respectfully opposes HB 19. We appreciate your consideration of our concerns and urge you to vote no as this legislation will needlessly disempower your constituents.

Roger Borgelt

CALA of Central Texas

Austin, TX

I support this bill.

Irene Kosturakis, Area VP

BMC Software, Inc.

Houston, TX

Business specialty courts for Texas are a must. Complex commercial litigation in state district courts are always delayed, and justice delayed is justice denied. This is not the fault of state district court judges, who are most excellent, but rather of the system that is overloaded and requires that state district court judges deal with certain types of cases as a priority. This forces a state district court judge to find the right time to hear a complex litigation, and generally, there is no good time to take weeks out of the judge's docket to hear a complex business trial. When a judge does put one on trial, he or she is then delaying other types of lawsuits, tort cases, evictions, etc. Many times, putting a case on trial gets parties to settle. Cases that are delayed do not settle, but languish, putting witnesses out (sometime losing them), increasing costs, and causing wasted resources. I hope you support and pass HB19/SB27.

Cliff Ernst

Self

Austin, TX

I have been practicing corporate and business law as a member of the Texas Bar for 45 years. I believe that establishing a business court, as many other states have already done, is of critical importance to help Texas maintain its position as a business friendly state.

Ernest Simons

Self, Lawyer

Dallas, TX

In favor

Daryl Robertson

Hunton Andrews Kurth LLP

Dallas, TX

I strongly support HB 19 and the creation of specialized business courts in Texas. Most of the other large commercial states in the US have these kinds of courts. The business courts would help make the Texas court system for complex business disputes more predictable. The specialized nature of the business courts would enhance the speed of disposition of cases and make Texas a more attractive place to do business. This should be a nonpartisan decision. In short, business courts would be good for Texas.

Bradley Whitlock, Attorney

Self/Attorney

Dallas, TX

I am writing to support HB 19 and specialized business courts in Texas. This is a concept that has been vetted for a long time in the State, and we need these courts in order to remain competitive with other states from a commercial standpoint. Other states are rapidly moving toward specialized business courts and Texas runs the risk of falling behind in terms of being a favorable place in which to do business. I strongly encourage you to support HB 19. Thank you.

Matthew Prater

self

Fulshear, TX

As a public citizen and transactional attorney, I am proud to endorse the pending bill before the Texas Legislature that would create a specialty trial court focused on resolving business litigation efficiently and effectively. This legislation recognizes the importance of the business community to our state's economy and seeks to provide a dedicated process for resolving disputes that arise within it.

The proposed court would utilize arbiters with special knowledge in business matters, which would allow for a more informed and effective resolution of disputes. These arbiters would have the expertise to understand complex business practices, which would result in more effective and fair rulings. This would also lead to a more efficient process, reducing the time and costs associated with lengthy litigation.

By creating a specialty court for business litigation, Texas would be sending a strong message to the business community that our state is committed to providing a fair and efficient legal system. This, in turn, would enhance Texas' reputation as a business-friendly state, attracting more investment and economic activity.

In conclusion, I urge the Texas Legislature to pass this important legislation, which will benefit businesses and the state as a whole. The creation of a specialty trial court focused on resolving business litigation efficiently and effectively is a vital step in ensuring that Texas remains a leader in the business world.

Bartholomew Nebergall

Polsinelli

Dallas, TX

Specialty business courts would be a significant positive for businesses in Texas. It would allow more entities to form in Texas and to select Texas law as the governing law under purchase agreements and other commercial contracts, instead of defaulting to Delaware law. Businesses need to feel confident that Texas judges can understand the complex business mechanics that take decades to master.

Byron Egan

Myself

Dallas, TX

I strongly support HB 19 for business courts for Texas. I am a practicing corporate lawyer with Jackson Walker LLP in Dallas and have been trying to get businesses to organize in Texas under Texas entity law and find the money sources, financial advisers, accountants and other consultants discourage choosing Texas and Texas law because of our lack of business courts. We lose businesses to Delaware because of their Chancery Court system. As a former chair of the Corporation Law Committee of the Business Law Section, the Business Law Section and the Texas Business Law Foundation, I have been working with you for over 30 years to develop a system of business laws for Texas that will encourage entities to choose to organize in Texas under Texas law and need business courts to help resolve disputes to complete this task. Please pass HB 19.

Francis Bradley

Greenberg Traurig, LLP

Houston, TX

I strongly support HB19/SB 27 regarding the creation of business specialty courts in Texas. Adding business specialty courts in Texas will greatly speed up the determination of business issues impacting Texas businesses and allow for the development of judicial expertise on certain business issues which will benefit consistency and efficiency in addressing issues within Texas.

Colin Cox

Self / Lawyer

Dallas, TX

Specialized business courts will allow for more cost and time efficient adjudication. I strongly support generalist judges/courts, but I do believe that in certain instances, especially with relation to complicated/technical codes, a specialized trial court of first instance can be more beneficial to litigants, to the courts, and to the interpretation of law as a whole. Other states have implemented specialty trial courts with great success, and I believe this bill can bring those efficiencies and successes to Texas.

William Stone, Partner

Scheef & Stone, LLP

Dallas, TX

Please vote in favor of HB 19. This is long overdue. Since the adoption of the Texas Business Organizations Code, Texas has been competing reasonably well with states like Delaware and Wyoming for business formations and all the good things that come with that, but the lack of a specialty court to hear complex business cases is a significant roadblock. As a business attorney for more than four decades, I see this issue pop up frequently, and unfortunately, because of the lack of a business court in Texas I typically recommend Delaware rather than Texas, for business formation and for governing law and venue provisions in sophisticated transactions, even though the client's business will be based in Texas and has no ties to Delaware.

Cody Cravens

Haynes and Boone

Dallas, TX

I support this bill.

Rachel Hooper
Myself; Lawyer
Houston, TX

I am opposed to HB 19 because (1) these courts are unconstitutional; (2) these courts are unnecessary; and (3) I support the election of state court judges as authorized by the Texas Constitution and the electorate holding these judges accountable through honest and fair elections.

HB 19:
*creates this new judicial district for business disputes with statewide jurisdiction in violation of the Texas Constitution, which provides that the state shall be divided into judicial districts;
*gives the business court overlapping and concurrent jurisdiction with constitutional district courts, but fails to comply with the requirements of a district court as outlined in the Texas Constitution; and
*gives a judge of the business court the same powers, duties, immunities, and privileges of a constitutional district court without satisfying all constitutional requirements.

We do have a problem in Harris County - the ODonnell Consent Decree. Please focus on solving actual problems.

Joseph Esposito
Self - attorney
Dallas, TX

I affirm the creation of this specialty trial court and think it would be beneficial for Texas.

William Lafuze
Self
Houston, TX

I support passage of hb 19 because it benefits our system of Justice.

Scott Night
Self
DALLAS, TX

I am a past chair of the Business Law Section of the State Bar of Texas and the Texas Business Law Foundation. I strongly support the creation of business courts, which would provide a more efficient approach to how business cases are handled in Texas. Such courts would be a selling point for businesses to be formed and/or have their principal place of business or executive offices in the State of Texas.

Tawanna Cesare
Cantey Hanger
Fort Worth, TX

This is a bill that is long overdue. We have specialty courts for a number of other areas of law, and businesses are what drives the economy, so there should be courts that can effectively and timely handle business disputes and matters.

Michael Laussade
Jackson Walker L.L.P.
Dallas, TX

Voicing support for this bill on behalf of both companies operating in the state of Texas and individuals and institutions that invest in those companies.

Patrick Reardon

Self

The Woodlands, TX

I practiced corporate, securities and M&A law in DFW for 38 yrs. The uncertainty of the current state court system is a big negative in the state's business climate. I was well-acquainted with the business courts of Delaware, and the business competence and speed of action of those courts is a real plus. Texas can do better. Pass HR. 19.

Cullen Godfrey

Self

COLLEGE STATION, TX

I strongly support the adoption of HB19.

Cullen M. "Mike" Godfrey

Lynette Downs

Self - Attorney

Houston, TX

I support the creation of specialty business courts.

Robin Phillips

Self, Corporate Attorney

Houston, TX

I support the creation of business courts in the State of Texas, which will be more efficient at hearing business disputes and be attractive to businesses looking to move to the State.

Carol Mattick, Esq

Carol Bavousett Mattick, PLLC, Corporate and Securities Law for Growing Companies

San Antonio, TX

As a long time Texas business transactions lawyer, I would like to see Texas develop its own jurisprudence around sophisticated business transactions. We often form Delaware entities for Texas businesses simply because there is more certainty under Delaware law about the duties of equity holders, governing persons and organizations toward each other under that law. As with any other area of law, it takes time and experience with business transactions to apply a reasonable solution to conflicts and disputes that arise in that context. I believe that a business courts system with judges who are expert in the relevant areas of law and the contexts in which disputes arise will begin to build Texas jurisprudence around sophisticated business transactions. That will be helpful to my small business clients even if they are never involved in litigation. We business transaction lawyers put together sophisticated structures and transactions to enable small businesses to grow and access outside investments of capital. I believe that the jurisprudence from business courts could be one block of the foundation of dynamic business growth in the Texas of tomorrow. Please support HB 19.

Brent Benoit
Self
Baytown, TX

I urge the passage of HB 19. The Texas judicial system would be greatly benefited by the adoption of a business court in Texas. Complex business disputes concerning specific matters like mergers and acquisitions, corporate governance, and securities issues are presently unevenly distributed through our judicial system. Some courts handle them often, some not so often, others rarely or not at all. As a result, the decisions in these cases and the approach to these cases are uneven and inconsistent across our judicial system.

This is bad for fairness and predictability in these disputes and, as a result, make business decisions and transactions more risky and uncertain than they need to be. This hurts Texas business and the business climate.

A business court will also promote efficiency in not just business cases but in other cases that may be delayed by these large cases. In some courts, trial dockets are clogged and allowing these large cases or specialized cases to proceed in a special court suited to their special needs will help to free up court dockets.

I urge that HB 19 be passed into law.

Edward Perrin, Mr.
Hallett & Perrin, PC
Dallas, TX

General jurisdiction County and District courts in Texas are not only overwhelmed, but generally lack the familiarity and experience needed to handle business cases, particularly complex ones. A business court system similar to Delaware's would address those issues, permit such cases and their discovery to be handled much more efficiently, quickly and effectively, and thereby further enhance Texas' ability to provide a platform that provides a predictable and fair business climate that allows both established companies and start-ups to operate, compete and grow, and attract new business to Texas.

Oliver Thoma
Self (attorney)
Houston, TX

Please adopt this bill. Our Texas courts and businesses need this to help improve efficiency and quality of resolving business disputes. The current system is rampant with delays and a cursory review of important matters that creates inefficient and unpredictable results which hamper economic growth.

L Schoenbrun
Foley & Lardner LLP
Dallas, TX

I strongly support the passage of HB 19 to create business courts in Texas. Texas lags behind most major states that are prominent in the business environment. Texas's failure to have business court puts it at major advantage in attracting businesses to the state.

William Hicks
Self - Attorney
AUSTIN, TX

The courts proposed by this bill will result in fewer delays and more qualified jurists, which will benefit Texas businesses and citizens.

Douglas Clayton

Self, business transactions lawyer

Fort Worth, TX

I am a business transactions lawyer. I often see companies elect to incorporate in Delaware rather than Texas in part due to a perception that Delaware law is more certain and resolution of disputes in Delaware is more swift. The establishment of business courts in Texas will help change that perception. More businesses electing to incorporate in Texas is good for Texas business, which is good for Texas. I support HB 19.

Elizabeth Miller

Self/law professor

Waco, TX

The business court system provided by HB 19 will enhance the fair and efficient administration of justice for all litigants in Texas. Creation of specialized business courts, as a majority of jurisdictions have already done, will lead to more efficient and predictable resolution of complex business disputes in Texas and will also facilitate more efficient resolution of other types of cases in overcrowded courts of general jurisdiction by relieving the dockets of those courts of time consuming and complex business disputes.