

SENATE AMENDMENTS

2nd Printing

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H.B. No. 19

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation of a specialty trial court to hear certain
3 cases; authorizing fees.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subtitle A, Title 2, Government Code, is amended
6 by adding Chapter 25A to read as follows:

7 CHAPTER 25A. BUSINESS COURT

8 Sec. 25A.001. DEFINITIONS. In this chapter:

9 (1) "Controlling person" means a person who directly
10 or indirectly controls a governing person, officer, or
11 organization.

12 (2) "Derivative proceeding" means a civil action
13 brought in the right of a domestic or foreign corporation, a
14 domestic or foreign limited liability company, or a domestic or
15 foreign limited partnership, to the extent provided by the Business
16 Organizations Code.

17 (3) "Governing documents" means the instruments,
18 documents, or agreements adopted under an organization's governing
19 law to govern the organization's formation and internal affairs.

20 The term includes:

21 (A) a certificate of formation, articles of
22 incorporation, and articles of organization;

23 (B) bylaws;

24 (C) a partnership agreement;

- (D) a company agreement or operating agreement;
- (E) a shareholder agreement;
- (F) a voting agreement or voting trust agreement;

and

(G) an agreement among owners restricting the transfer of ownership interests.

(4) "Governing law" means the law governing the formation and internal affairs of an organization.

(5) "Governing person" means a person who is entitled, alone or as part of a group, to manage and direct an organization's affairs under the organization's governing documents and governing law. The term includes:

(A) a member of the board of directors of a corporation or other organization;

(B) a general partner of a general or limited partnership;

(C) a manager of a limited liability company that is managed by its managers;

(D) a member of a limited liability company that is managed by its members;

(E) a trust manager of a real estate investment trust; and

(F) a trustee of a business trust.

(6) "Governmental entity" means:

(A) this state; or

(B) a political subdivision of this state, including a municipality, a county, or any kind of district.

1 (7) "Internal affairs" means:

2 (A) the rights, powers, and duties of an
3 organization's governing persons, officers, owners, and members;
4 and

5 (B) matters relating to the organization's
6 membership or ownership interests.

7 (8) "Managerial official" means a governing person or
8 officer.

9 (9) "Officer" means a person elected, appointed, or
10 designated as an officer of an organization by the organization's
11 governing persons or governing documents.

12 (10) "Organization" means a foreign or domestic entity
13 or association, regardless of whether the organization is for
14 profit or nonprofit. The term includes:

15 (A) a corporation;

16 (B) a limited partnership;

17 (C) a general partnership;

18 (D) a limited liability partnership;

19 (E) a limited liability company;

20 (F) a business trust;

21 (G) a real estate investment trust;

22 (H) a joint venture;

23 (I) a joint stock company;

24 (J) a cooperative;

25 (K) a bank;

26 (L) a credit union;

27 (M) a savings and loan association;

1 (N) an insurance company; and

2 (O) a series of a limited liability company or of
3 another entity.

4 (11) "Owner" means an owner of an organization. The
5 term includes:

6 (A) a shareholder or stockholder of a corporation
7 or other organization;

8 (B) a general or limited partner of a partnership
9 or an assignee of a partnership interest in a partnership;

10 (C) a member of, or an assignee of a membership
11 interest in, a limited liability company; and

12 (D) a member of a nonprofit organization.

13 (12) "Ownership interest" means an owner's interest in
14 an organization, including an owner's economic, voting, and
15 management rights.

16 (13) "Qualified transaction" means a transaction,
17 other than a transaction involving a loan or an advance of money or
18 credit by a bank, credit union, or savings and loan institution,
19 under which a party:

20 (A) pays or receives, or is obligated to pay or is
21 entitled to receive, consideration with an aggregate value of at
22 least \$10 million; or

23 (B) lends, advances, borrows, receives, is
24 obligated to lend or advance, or is entitled to borrow or receive
25 money or credit with an aggregate value of at least \$10 million.

26 Sec. 25A.002. CREATION. The business court is a statutory
27 court created under Section 1, Article V, Texas Constitution.

1 Sec. 25A.003. BUSINESS COURT JUDICIAL DISTRICT; DIVISIONS.

2 (a) The judicial district of the business court is composed of all
3 counties in this state.

4 (b) The business court is composed of divisions as provided
5 by this section.

6 (c) The First Business Court Division is composed of the
7 counties composing the First Administrative Judicial Region under
8 Section 74.042(b).

9 (d) The Second Business Court Division is composed of the
10 counties composing the Second Administrative Judicial Region under
11 Section 74.042(c), subject to funding through legislative
12 appropriations. The division is abolished September 1, 2026, unless
13 reauthorized by the legislature and funded through additional
14 legislative appropriations.

15 (e) The Third Business Court Division is composed of the
16 counties composing the Third Administrative Judicial Region under
17 Section 74.042(d).

18 (f) The Fourth Business Court Division is composed of the
19 counties composing the Fourth Administrative Judicial Region under
20 Section 74.042(e).

21 (g) The Fifth Business Court Division is composed of the
22 counties composing the Fifth Administrative Judicial Region under
23 Section 74.042(f), subject to funding through legislative
24 appropriations. The division is abolished on September 1, 2026,
25 unless reauthorized by the legislature and funded through
26 additional legislative appropriations.

27 (h) The Sixth Business Court Division is composed of the

1 counties composing the Sixth Administrative Judicial Region under
2 Section 74.042(g), subject to funding through legislative
3 appropriations. The division is abolished on September 1, 2026,
4 unless reauthorized by the legislature and funded through
5 additional legislative appropriations.

6 (i) The Seventh Business Court Division is composed of the
7 counties composing the Seventh Administrative Judicial Region
8 under Section 74.042(h), subject to funding through legislative
9 appropriations. The division is abolished on September 1, 2026,
10 unless reauthorized by the legislature and funded through
11 additional legislative appropriations.

12 (j) The Eighth Business Court Division is composed of the
13 counties composing the Eighth Administrative Judicial Region under
14 Section 74.042(i).

15 (k) The Ninth Business Court Division is composed of the
16 counties composing the Ninth Administrative Judicial Region under
17 Section 74.042(j), subject to funding through legislative
18 appropriations. The division is abolished on September 1, 2026,
19 unless reauthorized by the legislature and funded through
20 additional legislative appropriations.

21 (l) The Tenth Business Court Division is composed of the
22 counties composing the Tenth Administrative Judicial Region under
23 Section 74.042(k), subject to funding through legislative
24 appropriations. The division is abolished on September 1, 2026,
25 unless reauthorized by the legislature and funded through
26 additional legislative appropriations.

27 (m) The Eleventh Business Court Division is composed of the

1 counties composing the Eleventh Administrative Judicial Region
2 under Section 74.042(1).

3 (n) This subsection and Subsections (d), (g), (h), (i), (k),
4 and (l) expire September 1, 2026.

5 Sec. 25A.004. JURISDICTION AND POWERS. (a) Subject to
6 Subsections (b), (c), (d), and (e), the business court has the
7 powers provided to district courts by Chapter 24, including the
8 power to:

9 (1) issue writs of injunction, mandamus,
10 sequestration, attachment, garnishment, and supersedeas; and

11 (2) grant any relief that may be granted by a district
12 court.

13 (b) The business court has civil jurisdiction concurrent
14 with district courts in the following actions in which the amount in
15 controversy exceeds \$5 million, excluding interest, statutory
16 damages, exemplary damages, penalties, attorney's fees, and court
17 costs:

18 (1) a derivative proceeding;

19 (2) an action regarding the governance, governing
20 documents, or internal affairs of an organization;

21 (3) an action in which a claim under a state or federal
22 securities or trade regulation law is asserted against:

23 (A) an organization;

24 (B) a controlling person or managerial official
25 of an organization for an act or omission by the organization or by
26 the person in the person's capacity as a controlling person or
27 managerial official;

1 (C) an underwriter of securities issued by the
2 organization; or

3 (D) the auditor of an organization;

4 (4) an action by an organization, or an owner of an
5 organization, if the action:

6 (A) is brought against an owner, controlling
7 person, or managerial official of the organization; and

8 (B) alleges an act or omission by the person in
9 the person's capacity as an owner, controlling person, or
10 managerial official of the organization;

11 (5) an action alleging that an owner, controlling
12 person, or managerial official breached a duty owed to an
13 organization or an owner of an organization by reason of the
14 person's status as an owner, controlling person, or managerial
15 official, including the breach of a duty of loyalty or good faith;

16 (6) an action seeking to hold an owner or governing
17 person of an organization liable for an obligation of the
18 organization, other than on account of a written contract signed by
19 the person to be held liable in a capacity other than as an owner or
20 governing person; and

21 (7) an action arising out of the Business
22 Organizations Code.

23 (c) The business court has civil jurisdiction concurrent
24 with district courts in the following actions in which the amount in
25 controversy exceeds \$10 million, excluding interest, statutory
26 damages, exemplary damages, penalties, attorney's fees, and court
27 costs:

1 (1) an action arising out of a qualified transaction;

2 (2) an action that arises out of a contract or
3 commercial transaction in which the parties to the contract or
4 transaction agreed in the contract or a subsequent agreement that
5 the business court has jurisdiction of the action, except an action
6 that arises out of an insurance contract; and

7 (3) subject to Subsection (f), an action that arises
8 out of a violation of the Finance Code or Business & Commerce Code
9 by an organization or an officer or governing person acting on
10 behalf of an organization other than a bank, credit union, or
11 savings and loan association.

12 (d) The business court has civil jurisdiction concurrent
13 with district courts in an action seeking injunctive relief or a
14 declaratory judgment under Chapter 37, Civil Practice and Remedies
15 Code, involving a dispute based on a claim within the court's
16 jurisdiction under Subsection (b) or (c).

17 (e) Except as provided by Subsection (g), the business court
18 has supplemental jurisdiction over any other claim related to a
19 case or controversy within the court's jurisdiction that forms part
20 of the same case or controversy. A claim within the business
21 court's supplemental jurisdiction may proceed in the business court
22 only on the agreement of all parties to the claim and a judge of the
23 division of the court before which the action is pending. If the
24 parties involved in a claim within the business court's
25 supplemental jurisdiction do not agree on the claim proceeding in
26 the business court, the claim may proceed in a court of original
27 jurisdiction concurrently with any related claims proceeding in the

1 business court.

2 (f) Unless the claim falls within the business court's
3 supplemental jurisdiction, the business court does not have
4 jurisdiction of:

5 (1) a civil action:

6 (A) brought by or against a governmental entity;

7 or

8 (B) to foreclose on a lien on real or personal
9 property;

10 (2) a claim arising out of:

11 (A) Subchapter E, Chapter 15, and Chapter 17,
12 Business & Commerce Code;

13 (B) the Estates Code;

14 (C) the Family Code;

15 (D) the Insurance Code; or

16 (E) Chapter 53 and Title 9, Property Code;

17 (3) a claim arising out of the production or sale of a
18 farm product, as that term is defined by Section 9.102, Business &
19 Commerce Code;

20 (4) a claim related to the duties and obligations
21 under an insurance policy; or

22 (5) a claim related to a consumer transaction, as that
23 term is defined by Section 601.001, Business & Commerce Code, to
24 which a consumer in this state is a party, arising out of a
25 violation of federal or state law.

26 (g) The business court does not have jurisdiction of the
27 following claims regardless of whether the claim is otherwise

1 within the court's supplemental jurisdiction under Subsection (e):

2 (1) a claim arising under Chapter 74, Civil Practice
3 and Remedies Code;

4 (2) a claim in which a party seeks recovery of monetary
5 damages for bodily injury or death; or

6 (3) a claim of legal malpractice.

7 Sec. 25A.005. JUDICIAL AUTHORITY. A business court judge
8 has all powers, duties, immunities, and privileges of a district
9 judge.

10 Sec. 25A.006. INITIAL FILING; REMOVAL AND REMAND. (a) An
11 action within the jurisdiction of the business court may be filed in
12 the business court. The party filing the action must plead facts to
13 establish venue in a county in a division of the business court, and
14 the business court shall assign the action to that division. Venue
15 may be established as provided by law or, if a written contract
16 specifies a county as venue for the action, as provided by the
17 contract.

18 (b) If the business court does not have jurisdiction of the
19 action, the court shall, at the option of the party filing the
20 action:

21 (1) transfer the action to a district court or county
22 court at law in a county of proper venue; or

23 (2) dismiss the action without prejudice to the
24 party's rights.

25 (c) If, after an action is assigned to a division of the
26 business court, the court determines that the division's geographic
27 territory does not include a county of proper venue for the action,

1 the court shall:

2 (1) if an operating division of the court includes a
3 county of proper venue, transfer the action to that division; or

4 (2) if there is not an operating division of the court
5 that includes a county of proper venue, at the option of the party
6 filing the action, transfer the action to a district court or county
7 court at law in a county of proper venue.

8 (d) A party to an action filed in a district court or county
9 court at law that is within the jurisdiction of the business court
10 may remove the action to the business court. If the business court
11 does not have jurisdiction of the action, the business court shall
12 remand the action to the court in which the action was originally
13 filed.

14 (e) A party may not remove to a business court an action
15 filed in a district court or county court at law in a county of
16 proper venue that is not within an operating division of the
17 business court.

18 (f) A party may file an agreed notice of removal at any time
19 during the pendency of the action. If all parties to the action
20 have not agreed to remove the action, the notice of removal must be
21 filed:

22 (1) not later than the 30th day after the date the
23 party requesting removal of the action discovered, or reasonably
24 should have discovered, facts establishing the business court's
25 jurisdiction over the action; or

26 (2) if an application for temporary injunction is
27 pending on the date the party requesting removal of the action

1 discovered, or reasonably should have discovered, facts
2 establishing the business court's jurisdiction over the action, not
3 later than the 30th day after the date the application is granted,
4 denied, or denied as a matter of law.

5 (g) The notice of removal must be filed with the business
6 court and the court in which the action was originally filed. On
7 receipt of the notice, the clerk of the court in which the action
8 was originally filed shall immediately transfer the action to the
9 business court in accordance with rules adopted by the supreme
10 court, and the business court clerk shall assign the action to the
11 appropriate division of the business court.

12 (h) The filing of an action or a notice of removal in the
13 business court is subject to Section 10.001, Civil Practice and
14 Remedies Code.

15 (i) Removal of a case to the business court is not subject to
16 the statutes or rules governing the due order of pleading.

17 (j) Removal of a case does not waive a defect in venue or
18 constitute an appearance to determine personal jurisdiction.

19 (k) The judge of a court in which an action is filed may
20 request the presiding judge for the court's administrative region
21 to transfer the action to the business court if the action is within
22 the business court's jurisdiction. The judge shall notify all
23 parties of the transfer request and request a hearing on the
24 transfer request. After a hearing on the request, the presiding
25 judge may transfer the action to the business court if the presiding
26 judge finds the transfer will facilitate the fair and efficient
27 administration of justice. The business court clerk shall assign

1 an action transferred under this subsection to the appropriate
2 division of the business court.

3 (1) The business court judge on establishment of
4 jurisdiction and venue over an action shall by order declare the
5 county in which any jury trial for the action will be held as
6 determined under Section 25A.015.

7 Sec. 25A.007. APPEALS. (a) Notwithstanding any other law
8 and except as provided by Subsection (b) and in instances when the
9 supreme court has concurrent or exclusive jurisdiction, the
10 Fifteenth Court of Appeals has exclusive jurisdiction over an
11 appeal from an order or judgment of the business court or an
12 original proceeding related to an action or order of the business
13 court.

14 (b) If the Fifteenth Court of Appeals is not created, an
15 appeal from an order or judgment of the business court or an
16 original proceeding related to an action or order of the business
17 court shall be filed in the court of appeals with appellate
18 jurisdiction of civil cases for the county declared in an order
19 under Section 25A.006(1).

20 (c) The procedure governing an appeal or original
21 proceeding from the business court is the same as the procedure for
22 an appeal or original proceeding from a district court.

23 Sec. 25A.008. QUALIFICATIONS OF JUDGE. (a) A business
24 court judge must:

- 25 (1) be at least 35 years of age;
26 (2) be a United States citizen;
27 (3) have been a resident of a county within the

1 division of the business court to which the judge is appointed for
2 at least five years before appointment; and

3 (4) be a licensed attorney in this state who has 10 or
4 more years of experience in:

5 (A) practicing complex civil business
6 litigation;

7 (B) practicing business transaction law;

8 (C) serving as a judge of a court in this state
9 with civil jurisdiction; or

10 (D) any combination of experience described by
11 Paragraphs (A)-(C).

12 (b) A business court judge may not have had the judge's
13 license to practice law revoked, suspended, or subject to a
14 probated suspension.

15 Sec. 25A.009. APPOINTMENT OF JUDGES; TERM; PRESIDING JUDGE;
16 EXCHANGE OF BENCHES. (a) The governor, with the advice and consent
17 of the senate, shall appoint:

18 (1) two judges to each of the First, Third, Fourth, and
19 Eleventh Divisions of the business court; and

20 (2) one judge to each of the Second, Fifth, Sixth,
21 Seventh, Eighth, Ninth, and Tenth Divisions of the business court.

22 (b) A business court judge shall serve for a term of two
23 years, beginning on September 1 of every even-numbered year.

24 (c) A business court judge may be reappointed.

25 (d) Not later than the seventh day after the first day of a
26 term, the business court judges by majority vote shall select a
27 judge of the court to serve as administrative presiding judge for

1 the duration of the term. If a vacancy occurs in the position of
2 administrative presiding judge, the remaining business court
3 judges shall select a judge of the court to serve as administrative
4 presiding judge for the remainder of the unexpired term as soon as
5 practicable.

6 (e) A business court judge shall take the constitutional
7 oath of office required of appointed officers of this state and file
8 the oath with the secretary of state.

9 (f) To promote the orderly and efficient administration of
10 justice, the business court judges may exchange benches and sit and
11 act for each other in any matter pending before the court.

12 Sec. 25A.010. VACANCY. If a vacancy occurs in an office of
13 a business court judge, the governor, with the advice and consent of
14 the senate, shall appoint, in the same manner as the original
15 appointment, another person to serve for the remainder of the
16 unexpired term.

17 Sec. 25A.011. JUDGE'S SALARY. The salary of a business
18 court judge is the amount provided by Section 659.012 and shall be
19 paid in equal monthly installments.

20 Sec. 25A.012. REMOVAL; DISQUALIFICATION AND RECUSAL. (a)
21 A business court judge may be removed from office in the same manner
22 and for the same reasons as a district judge.

23 (b) A business court judge is disqualified and subject to
24 mandatory recusal for the same reasons a district judge is subject
25 to disqualification or recusal in a pending case. Disqualification
26 or recusal of a business court judge shall be governed by the same
27 procedure as disqualification or recusal of a district judge.

1 Sec. 25A.013. PRIVATE PRACTICE OF LAW. A business court
2 judge shall diligently discharge the duties of the office on a
3 full-time basis and may not engage in the private practice of law.

4 Sec. 25A.014. VISITING JUDGE. (a) A retired or former
5 judge or justice who has the qualifications prescribed by Section
6 25A.008 may be assigned as a visiting judge of a division of the
7 business court by the chief justice of the supreme court. A
8 visiting judge of a division of the business court is subject to
9 objection, disqualification, or recusal in the same manner as a
10 retired or former judge or justice is subject to objection,
11 disqualification, or recusal if appointed as a visiting district
12 judge.

13 (b) Before accepting an assignment as a visiting judge of a
14 division of the business court, a retired or former judge or justice
15 shall take the constitutional oath of office required of appointed
16 officers of this state and file the oath with the secretary of
17 state.

18 Sec. 25A.015. JURY PRACTICE AND PROCEDURE; VENUE FOR JURY
19 TRIAL. (a) A party in an action pending in the business court has
20 the right to a trial by jury when required by the constitution.

21 (b) Subject to Subsection (d), a jury trial in a case filed
22 initially in the business court shall be held in any county in which
23 the case could have been filed under Section 15.002, Civil Practice
24 and Remedies Code, as chosen by the plaintiff.

25 (c) Subject to Subsections (b) and (d), a jury trial in a
26 case removed to the business court shall be held in the county in
27 which the action was originally filed.

1 (d) A jury trial for a case in which a written contract
2 specifies a county as venue for suits shall be held in that county.

3 (e) The parties and the business court judge may agree to
4 hold the jury trial in any other county. A party may not be required
5 to agree to hold the jury trial in a different county.

6 (f) The drawing of jury panels, selection of jurors, and
7 other jury-related practice and procedure in the business court
8 shall be the same as for the district court in the county in which
9 the trial is held.

10 (g) Practice, procedure, rules of evidence, issuance of
11 process and writs, and all other matters pertaining to the conduct
12 of trials, hearings, and other business in the business court are
13 governed by the laws and rules prescribed for district courts,
14 unless otherwise provided by this chapter.

15 Sec. 25A.016. WRITTEN OPINIONS. The supreme court shall
16 adopt rules for the issuance of written opinions by the business
17 court.

18 Sec. 25A.017. COURT LOCATION; STAFFING. (a) In this
19 section, "remote proceeding" means a proceeding before the business
20 court in which one or more of the participants, including a judge,
21 party, attorney, witness, court reporter, juror, or other
22 individual attends the proceeding remotely through the use of
23 technology.

24 (b) The administrative presiding judge of the business
25 court shall manage administrative and personnel matters on behalf
26 of the court. The administrative presiding judge of the business
27 court shall appoint a clerk, whose office shall be located in Travis

1 County in facilities provided by this state. The clerk shall:

2 (1) accept all filings in the business court; and

3 (2) fulfill the legal and administrative functions of
4 a district clerk.

5 (c) Each business court judge shall maintain chambers in the
6 county the judge selects within the geographic boundaries of the
7 division to which the judge is appointed in facilities provided by
8 this state. For purposes of this section, the Office of Court
9 Administration of the Texas Judicial System may contract for the
10 use of facilities with a county.

11 (d) Subject to Section 25A.015, a business court judge may
12 hold court at any courtroom within the geographic boundaries of the
13 division to which the judge is appointed as the court determines
14 necessary or convenient for a particular civil action. To the
15 extent practicable, a county using existing courtrooms and
16 facilities shall accommodate the business court in the conduct of
17 the court's hearings and other proceedings.

18 (e) The business court may conduct a proceeding as a remote
19 proceeding to facilitate the resolution of a matter before the
20 court. The business court may not require:

21 (1) a party or attorney to remotely attend a court
22 proceeding in which oral testimony is heard, absent good cause or
23 the agreement of the parties; or

24 (2) an attorney, party, or juror to attend a jury trial
25 remotely, absent agreement of the parties.

26 (f) The business court shall conduct a remote proceeding
27 from a courtroom or the facilities provided to a business court

1 judge by this state.

2 (g) The business court shall provide reasonable notice to
3 the public that a proceeding will be conducted remotely and an
4 opportunity for the public to observe the remote proceeding.

5 (h) In a county in which a division of the business court
6 sits, the sheriff shall in person or by deputy attend the business
7 court as required by the court. The sheriff or deputy is entitled
8 to reimbursement from this state for the cost of attending the
9 business court.

10 (i) The business court may appoint personnel necessary for
11 the operation of the court, including:

12 (1) personnel to assist the clerk of the court;

13 (2) staff attorneys for the court;

14 (3) staff attorneys for each judge of the business
15 court;

16 (4) court coordinators; and

17 (5) administrative assistants.

18 (j) The court officials shall perform the duties and
19 responsibilities of their offices and are entitled to the
20 compensation, fees, and allowances prescribed by law for the
21 offices.

22 Sec. 25A.0171. REPORT. Not later than December 1 of each
23 year, the Office of Court Administration of the Texas Judicial
24 System shall submit to the legislature a report on the number and
25 types of cases heard by the business court in the preceding year.

26 Sec. 25A.018. FEES. The supreme court shall set fees for
27 filings and actions in the business court in amounts sufficient to

1 cover the costs of administering this chapter, taking into account
2 fee waivers necessary for the interest of justice.

3 Sec. 25A.019. SEAL. The seal of the business court is the
4 same as that provided by law for a district court except that the
5 seal must contain the name "The Business Court of Texas."

6 Sec. 25A.020. RULES. (a) The supreme court shall adopt
7 rules of civil procedure as the court determines necessary,
8 including rules providing for:

9 (1) the timely and efficient removal and remand of
10 cases to and from the business court; and

11 (2) the assignment of cases to judges of the business
12 court.

13 (b) The business court may adopt rules of practice and
14 procedure consistent with the Texas Rules of Civil Procedure and
15 the Texas Rules of Evidence.

16 SECTION 2. Sections 659.012(a) and (e), Government Code,
17 are amended to read as follows:

18 (a) Notwithstanding Section 659.011 and subject to
19 Subsections (b) and (b-1):

20 (1) a judge of a district court or a division of the
21 business court is entitled to an annual base salary from the state
22 as set by the General Appropriations Act in an amount equal to at
23 least \$140,000, except that the combined base salary of a district
24 judge or judge of a division of the business court from all state
25 and county sources, including compensation for any extrajudicial
26 services performed on behalf of the county, may not exceed the
27 amount that is \$5,000 less than the maximum combined base salary

1 from all state and county sources for a justice of a court of
2 appeals other than a chief justice as determined under this
3 subsection;

4 (2) a justice of a court of appeals other than the
5 chief justice is entitled to an annual base salary from the state in
6 the amount equal to 110 percent of the state base salary of a
7 district judge as set by the General Appropriations Act, except
8 that the combined base salary of a justice of the court of appeals
9 other than the chief justice from all state and county sources,
10 including compensation for any extrajudicial services performed on
11 behalf of the county, may not exceed the amount that is \$5,000 less
12 than the base salary for a justice of the supreme court as
13 determined under this subsection;

14 (3) a justice of the supreme court other than the chief
15 justice or a judge of the court of criminal appeals other than the
16 presiding judge is entitled to an annual base salary from the state
17 in the amount equal to 120 percent of the state base salary of a
18 district judge as set by the General Appropriations Act; and

19 (4) the chief justice or presiding judge of an
20 appellate court is entitled to an annual base salary from the state
21 in the amount equal to \$2,500 more than the state base salary
22 provided for the other justices or judges of the court, except that
23 the combined base salary of the chief justice of a court of appeals
24 from all state and county sources may not exceed the amount equal to
25 \$2,500 less than the base salary for a justice of the supreme court
26 as determined under this subsection.

27 (e) For the purpose of salary payments by the state, the

1 comptroller shall determine from sworn statements filed by the
2 justices of the courts of appeals, ~~[and]~~ district judges, and
3 business court judges that the required salary limitations provided
4 by Subsection (a) are maintained. If the state base salary for a
5 judge or justice prescribed by Subsection (a) combined with
6 additional compensation from a county would exceed the limitations
7 provided by Subsection (a), the comptroller shall reduce the salary
8 payment made by the state by the amount of the excess.

9 SECTION 3. Section 837.001(a), Government Code, is amended
10 to read as follows:

11 (a) Membership [~~Except as provided by Subsection (b),~~
12 ~~membership~~] in the retirement system is limited to persons who have
13 never been eligible for membership in the Judicial Retirement
14 System of Texas or the Judicial Retirement System of Texas Plan One
15 and who at any time on or after the effective date of this Act are
16 judges, justices, or commissioners of:

- 17 (1) the supreme court;
- 18 (2) the court of criminal appeals;
- 19 (3) a court of appeals;
- 20 (4) the business court;
- 21 (5) a district court; or
- 22 (6) [~~(5)~~] a commission to a court specified in this
23 subsection.

24 SECTION 4. (a) The Texas Supreme Court has exclusive and
25 original jurisdiction over a challenge to the constitutionality of
26 this Act or any part of this Act and may issue injunctive or
27 declaratory relief in connection with the challenge.

1 (b) If the appointment of judges by the governor to the
2 divisions of the business court under Section 25A.009, Government
3 Code, as added by this Act, is held by the Texas Supreme Court as
4 unconstitutional, the business court shall be staffed by retired or
5 former judges or justices who are appointed to the court as provided
6 by Section 25A.014, Government Code, as added by this Act.

7 SECTION 5. Except as otherwise provided by this Act, the
8 business court is created September 1, 2024.

9 SECTION 6. (a) As soon as practicable after the effective
10 date of this Act, the governor shall appoint judges to the First,
11 Third, Fourth, Eighth, and Eleventh Business Court Divisions as
12 required by Section 25A.009, Government Code, as added by this Act.

13 (b) On or before September 1, 2026, but not before July 1,
14 2026, the governor shall appoint judges to the Second, Fifth,
15 Sixth, Seventh, Ninth, and Tenth Business Court Divisions as
16 required by Section 25A.009, Government Code, as added by this Act.

17 SECTION 7. (a) Notwithstanding Chapter 25A, Government
18 Code, as added by this Act, the business court is not created unless
19 the legislature makes a specific appropriation of money for that
20 purpose. For purposes of this subsection, a specific appropriation
21 is an appropriation identifying the business court or an Act of the
22 88th Legislature, Regular Session, 2023, relating to the creation
23 of a specialty trial court to hear certain cases or of the business
24 court.

25 (b) Notwithstanding Section 25A.007(a), Government Code, as
26 added by this Act, a court of appeals retains the jurisdiction the
27 court had on August 31, 2024, if the business court is not created

1 as a result of Subsection (a) of this section.

2 SECTION 8. The changes in law made by this Act apply to
3 civil actions commenced on or after September 1, 2024.

4 SECTION 9. This Act takes effect September 1, 2023.

ADOPTED

MAY 12 2023

Lacey Law
Secretary of the Senate

By: *Bryan Hughes*

H.B. No. 19

Substitute the following for H.B. No. 19:

By: *Bryan Hughes*

C.S.H.B. No. 19

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of a specialty trial court to hear certain
3 cases; authorizing fees.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subtitle A, Title 2, Government Code, is amended
6 by adding Chapter 25A to read as follows:

7 CHAPTER 25A. BUSINESS COURT

8 Sec. 25A.001. DEFINITIONS. In this chapter:

9 (1) "Controlling person" means a person who directly
10 or indirectly controls a governing person, officer, or
11 organization.

12 (2) "Derivative proceeding" means a civil action
13 brought in the right of a domestic or foreign corporation, a
14 domestic or foreign limited liability company, or a domestic or
15 foreign limited partnership, to the extent provided by the Business
16 Organizations Code.

17 (3) "Governing documents" means the instruments,
18 documents, or agreements adopted under an organization's governing
19 law to govern the organization's formation and internal affairs.
20 The term includes:

21 (A) a certificate of formation, articles of
22 incorporation, and articles of organization;

23 (B) bylaws;

24 (C) a partnership agreement;

1 (D) a company agreement or operating agreement;
2 (E) a shareholder agreement;
3 (F) a voting agreement or voting trust agreement;

4 and

5 (G) an agreement among owners restricting the
6 transfer of ownership interests.

7 (4) "Governing law" means the law governing the
8 formation and internal affairs of an organization.

9 (5) "Governing person" means a person who is entitled,
10 alone or as part of a group, to manage and direct an organization's
11 affairs under the organization's governing documents and governing
12 law. The term includes:

13 (A) a member of the board of directors of a
14 corporation or other organization;

15 (B) a general partner of a general or limited
16 partnership;

17 (C) a manager of a limited liability company that
18 is managed by its managers;

19 (D) a member of a limited liability company that
20 is managed by its members;

21 (E) a trust manager of a real estate investment
22 trust; and

23 (F) a trustee of a business trust.

24 (6) "Governmental entity" means:

25 (A) this state; or

26 (B) a political subdivision of this state,
27 including a municipality, a county, or any kind of district.

1 (7) "Internal affairs" means:

2 (A) the rights, powers, and duties of an
3 organization's governing persons, officers, owners, and members;
4 and

5 (B) matters relating to the organization's
6 membership or ownership interests.

7 (8) "Managerial official" means a governing person or
8 officer.

9 (9) "Officer" means a person elected, appointed, or
10 designated as an officer of an organization by the organization's
11 governing persons or governing documents.

12 (10) "Organization" means a foreign or domestic entity
13 or association, regardless of whether the organization is for
14 profit or nonprofit. The term includes:

15 (A) a corporation;

16 (B) a limited partnership;

17 (C) a general partnership;

18 (D) a limited liability partnership;

19 (E) a limited liability company;

20 (F) a business trust;

21 (G) a real estate investment trust;

22 (H) a joint venture;

23 (I) a joint stock company;

24 (J) a cooperative;

25 (K) a bank;

26 (L) a credit union;

27 (M) a savings and loan association;

1 (N) an insurance company; and
2 (O) a series of a limited liability company or of
3 another entity.

4 (11) "Owner" means an owner of an organization. The
5 term includes:

6 (A) a shareholder or stockholder of a corporation
7 or other organization;

8 (B) a general or limited partner of a partnership
9 or an assignee of a partnership interest in a partnership;

10 (C) a member of, or an assignee of a membership
11 interest in, a limited liability company; and

12 (D) a member of a nonprofit organization.

13 (12) "Ownership interest" means an owner's interest in
14 an organization, including an owner's economic, voting, and
15 management rights.

16 (13) "Publicly traded company" means an entity whose
17 voting equity securities are listed on a national securities
18 exchange registered with the United States Securities and Exchange
19 Commission under Section 6, Securities Exchange Act of 1934 (15
20 U.S.C. Section 78f) and any entity that is majority owned or
21 controlled by such an entity.

22 (14) "Qualified transaction" means a transaction,
23 other than a transaction involving a loan or an advance of money or
24 credit by a bank, credit union, or savings and loan institution,
25 under which a party:

26 (A) pays or receives, or is obligated to pay or is
27 entitled to receive, consideration with an aggregate value of at

1 least \$10 million; or

2 (B) lends, advances, borrows, receives, is
3 obligated to lend or advance, or is entitled to borrow or receive
4 money or credit with an aggregate value of at least \$10 million.

5 Sec. 25A.002. CREATION. The business court is a statutory
6 court created under Section 1, Article V, Texas Constitution.

7 Sec. 25A.003. BUSINESS COURT JUDICIAL DISTRICT; DIVISIONS.

8 (a) The judicial district of the business court is composed of all
9 counties in this state.

10 (b) The business court is composed of divisions as provided
11 by this section.

12 (c) The First Business Court Division is composed of the
13 counties composing the First Administrative Judicial Region under
14 Section 74.042(b).

15 (d) The Second Business Court Division is composed of the
16 counties composing the Second Administrative Judicial Region under
17 Section 74.042(c), subject to funding through legislative
18 appropriations. The division is abolished September 1, 2026, unless
19 reauthorized by the legislature and funded through additional
20 legislative appropriations.

21 (e) The Third Business Court Division is composed of the
22 counties composing the Third Administrative Judicial Region under
23 Section 74.042(d).

24 (f) The Fourth Business Court Division is composed of the
25 counties composing the Fourth Administrative Judicial Region under
26 Section 74.042(e).

27 (g) The Fifth Business Court Division is composed of the

1 counties composing the Fifth Administrative Judicial Region under
2 Section 74.042(f), subject to funding through legislative
3 appropriations. The division is abolished on September 1, 2026,
4 unless reauthorized by the legislature and funded through
5 additional legislative appropriations.

6 (h) The Sixth Business Court Division is composed of the
7 counties composing the Sixth Administrative Judicial Region under
8 Section 74.042(g), subject to funding through legislative
9 appropriations. The division is abolished on September 1, 2026,
10 unless reauthorized by the legislature and funded through
11 additional legislative appropriations.

12 (i) The Seventh Business Court Division is composed of the
13 counties composing the Seventh Administrative Judicial Region
14 under Section 74.042(h), subject to funding through legislative
15 appropriations. The division is abolished on September 1, 2026,
16 unless reauthorized by the legislature and funded through
17 additional legislative appropriations.

18 (j) The Eighth Business Court Division is composed of the
19 counties composing the Eighth Administrative Judicial Region under
20 Section 74.042(i).

21 (k) The Ninth Business Court Division is composed of the
22 counties composing the Ninth Administrative Judicial Region under
23 Section 74.042(j), subject to funding through legislative
24 appropriations. The division is abolished on September 1, 2026,
25 unless reauthorized by the legislature and funded through
26 additional legislative appropriations.

27 (l) The Tenth Business Court Division is composed of the

1 counties composing the Tenth Administrative Judicial Region under
2 Section 74.042(k), subject to funding through legislative
3 appropriations. The division is abolished on September 1, 2026,
4 unless reauthorized by the legislature and funded through
5 additional legislative appropriations.

6 (m) The Eleventh Business Court Division is composed of the
7 counties composing the Eleventh Administrative Judicial Region
8 under Section 74.042(l).

9 (n) This subsection and Subsections (d), (g), (h), (i), (k),
10 and (l) expire September 1, 2026.

11 Sec. 25A.004. JURISDICTION AND POWERS. (a) Subject to
12 Subsections (b), (c), (d), (e), and (f), the business court has the
13 powers provided to district courts by Chapter 24, including the
14 power to:

15 (1) issue writs of injunction, mandamus,
16 sequestration, attachment, garnishment, and supersedeas; and

17 (2) grant any relief that may be granted by a district
18 court.

19 (b) Subject to Subsection (c), the business court has civil
20 jurisdiction concurrent with district courts in the following
21 actions in which the amount in controversy exceeds \$5 million,
22 excluding interest, statutory damages, exemplary damages,
23 penalties, attorney's fees, and court costs:

24 (1) a derivative proceeding;

25 (2) an action regarding the governance, governing
26 documents, or internal affairs of an organization;

27 (3) an action in which a claim under a state or federal

1 securities or trade regulation law is asserted against:
2 (A) an organization;
3 (B) a controlling person or managerial official
4 of an organization for an act or omission by the organization or by
5 the person in the person's capacity as a controlling person or
6 managerial official;
7 (C) an underwriter of securities issued by the
8 organization; or
9 (D) the auditor of an organization;
10 (4) an action by an organization, or an owner of an
11 organization, if the action:
12 (A) is brought against an owner, controlling
13 person, or managerial official of the organization; and
14 (B) alleges an act or omission by the person in
15 the person's capacity as an owner, controlling person, or
16 managerial official of the organization;
17 (5) an action alleging that an owner, controlling
18 person, or managerial official breached a duty owed to an
19 organization or an owner of an organization by reason of the
20 person's status as an owner, controlling person, or managerial
21 official, including the breach of a duty of loyalty or good faith;
22 (6) an action seeking to hold an owner or governing
23 person of an organization liable for an obligation of the
24 organization, other than on account of a written contract signed by
25 the person to be held liable in a capacity other than as an owner or
26 governing person; and
27 (7) an action arising out of the Business

1 Organizations Code.

2 (c) The business court has civil jurisdiction concurrent
3 with district courts in an action described by Subsection (b)
4 regardless of the amount in controversy if a party to the action is
5 a publicly traded company.

6 (d) The business court has civil jurisdiction concurrent
7 with district courts in the following actions in which the amount in
8 controversy exceeds \$10 million, excluding interest, statutory
9 damages, exemplary damages, penalties, attorney's fees, and court
10 costs:

11 (1) an action arising out of a qualified transaction;

12 (2) an action that arises out of a contract or
13 commercial transaction in which the parties to the contract or
14 transaction agreed in the contract or a subsequent agreement that
15 the business court has jurisdiction of the action, except an action
16 that arises out of an insurance contract; and

17 (3) subject to Subsection (g), an action that arises
18 out of a violation of the Finance Code or Business & Commerce Code
19 by an organization or an officer or governing person acting on
20 behalf of an organization other than a bank, credit union, or
21 savings and loan association.

22 (e) The business court has civil jurisdiction concurrent
23 with district courts in an action seeking injunctive relief or a
24 declaratory judgment under Chapter 37, Civil Practice and Remedies
25 Code, involving a dispute based on a claim within the court's
26 jurisdiction under Subsection (b), (c), or (d).

27 (f) Except as provided by Subsection (h), the business court

1 has supplemental jurisdiction over any other claim related to a
2 case or controversy within the court's jurisdiction that forms part
3 of the same case or controversy. A claim within the business
4 court's supplemental jurisdiction may proceed in the business court
5 only on the agreement of all parties to the claim and a judge of the
6 division of the court before which the action is pending. If the
7 parties involved in a claim within the business court's
8 supplemental jurisdiction do not agree on the claim proceeding in
9 the business court, the claim may proceed in a court of original
10 jurisdiction concurrently with any related claims proceeding in the
11 business court.

12 (g) Unless the claim falls within the business court's
13 supplemental jurisdiction, the business court does not have
14 jurisdiction of:

15 (1) a civil action:

16 (A) brought by or against a governmental entity;

17 or

18 (B) to foreclose on a lien on real or personal
19 property;

20 (2) a claim arising out of:

21 (A) Subchapter E, Chapter 15, and Chapter 17,
22 Business & Commerce Code;

23 (B) the Estates Code;

24 (C) the Family Code;

25 (D) the Insurance Code; or

26 (E) Chapter 53 and Title 9, Property Code;

27 (3) a claim arising out of the production or sale of a

1 farm product, as that term is defined by Section 9.102, Business &
2 Commerce Code;

3 (4) a claim related to a consumer transaction, as that
4 term is defined by Section 601.001, Business & Commerce Code, to
5 which a consumer in this state is a party, arising out of a
6 violation of federal or state law; or

7 (5) a claim related to the duties and obligations
8 under an insurance policy.

9 (h) The business court does not have jurisdiction of the
10 following claims regardless of whether the claim is otherwise
11 within the court's supplemental jurisdiction under Subsection (f):

12 (1) a claim arising under Chapter 74, Civil Practice
13 and Remedies Code;

14 (2) a claim in which a party seeks recovery of monetary
15 damages for bodily injury or death; or

16 (3) a claim of legal malpractice.

17 Sec. 25A.005. JUDICIAL AUTHORITY. A business court judge
18 has all powers, duties, immunities, and privileges of a district
19 judge.

20 Sec. 25A.006. INITIAL FILING; REMOVAL AND REMAND. (a) An
21 action within the jurisdiction of the business court may be filed in
22 the business court. The party filing the action must plead facts to
23 establish venue in a county in a division of the business court, and
24 the business court shall assign the action to that division. Venue
25 may be established as provided by law or, if a written contract
26 specifies a county as venue for the action, as provided by the
27 contract.

1 (b) If the business court does not have jurisdiction of the
2 action, the court shall, at the option of the party filing the
3 action:

4 (1) transfer the action to a district court or county
5 court at law in a county of proper venue; or

6 (2) dismiss the action without prejudice to the
7 party's rights.

8 (c) If, after an action is assigned to a division of the
9 business court, the court determines that the division's geographic
10 territory does not include a county of proper venue for the action,
11 the court shall:

12 (1) if an operating division of the court includes a
13 county of proper venue, transfer the action to that division; or

14 (2) if there is not an operating division of the court
15 that includes a county of proper venue, at the option of the party
16 filing the action, transfer the action to a district court or county
17 court at law in a county of proper venue.

18 (d) A party to an action filed in a district court or county
19 court at law that is within the jurisdiction of the business court
20 may remove the action to the business court. If the business court
21 does not have jurisdiction of the action, the business court shall
22 remand the action to the court in which the action was originally
23 filed.

24 (e) A party to an action filed in a district court or county
25 court at law in a county of proper venue that is not within an
26 operating division of the business court or the judge of the court
27 in which the action is filed may not remove the action to the

1 business court.

2 (f) A party may file an agreed notice of removal at any time
3 during the pendency of the action. If all parties to the action
4 have not agreed to remove the action, the notice of removal must be
5 filed:

6 (1) not later than the 30th day after the date the
7 party requesting removal of the action discovered, or reasonably
8 should have discovered, facts establishing the business court's
9 jurisdiction over the action; or

10 (2) if an application for temporary injunction is
11 pending on the date the party requesting removal of the action
12 discovered, or reasonably should have discovered, facts
13 establishing the business court's jurisdiction over the action, not
14 later than the 30th day after the date the application is granted,
15 denied, or denied as a matter of law.

16 (g) The notice of removal must be filed with the business
17 court and the court in which the action was originally filed. On
18 receipt of the notice, the clerk of the court in which the action
19 was originally filed shall immediately transfer the action to the
20 business court in accordance with rules adopted by the supreme
21 court, and the business court clerk shall assign the action to the
22 appropriate division of the business court.

23 (h) The filing of an action or a notice of removal in the
24 business court is subject to Section 10.001, Civil Practice and
25 Remedies Code.

26 (i) Removal of a case to the business court is not subject to
27 the statutes or rules governing the due order of pleading.

1 (j) Removal of a case does not waive a defect in venue or
2 constitute an appearance to determine personal jurisdiction.

3 (k) The judge of a court in which an action is filed may
4 request the presiding judge for the court's administrative region
5 to transfer the action to the business court if the action is within
6 the business court's jurisdiction. The judge shall notify all
7 parties of the transfer request and request a hearing on the
8 transfer request. After a hearing on the request, the presiding
9 judge may transfer the action to the business court if the presiding
10 judge finds the transfer will facilitate the fair and efficient
11 administration of justice. The business court clerk shall assign
12 an action transferred under this subsection to the appropriate
13 division of the business court.

14 (l) The business court judge on establishment of
15 jurisdiction and venue over an action shall by order declare the
16 county in which any jury trial for the action will be held as
17 determined under Section 25A.015.

18 Sec. 25A.007. APPEALS. (a) Notwithstanding any other law
19 and except as provided by Subsection (b) and in instances when the
20 supreme court has concurrent or exclusive jurisdiction, the
21 Fifteenth Court of Appeals has exclusive jurisdiction over an
22 appeal from an order or judgment of the business court or an
23 original proceeding related to an action or order of the business
24 court.

25 (b) If the Fifteenth Court of Appeals is not created, an
26 appeal from an order or judgment of the business court or an
27 original proceeding related to an action or order of the business

1 court shall be filed in the court of appeals with appellate
2 jurisdiction of civil cases for the county declared in an order
3 under Section 25A.006(1).

4 (c) The procedure governing an appeal or original
5 proceeding from the business court is the same as the procedure for
6 an appeal or original proceeding from a district court.

7 Sec. 25A.008. QUALIFICATIONS OF JUDGE. (a) A business
8 court judge must:

9 (1) be at least 35 years of age;

10 (2) be a United States citizen;

11 (3) have been a resident of a county within the
12 division of the business court to which the judge is appointed for
13 at least five years before appointment; and

14 (4) be a licensed attorney in this state who has 10 or
15 more years of experience in:

16 (A) practicing complex civil business
17 litigation;

18 (B) practicing business transaction law;

19 (C) serving as a judge of a court in this state
20 with civil jurisdiction; or

21 (D) any combination of experience described by
22 Paragraphs (A)-(C).

23 (b) A business court judge may not have had the judge's
24 license to practice law revoked, suspended, or subject to a
25 probated suspension.

26 Sec. 25A.009. APPOINTMENT OF JUDGES; TERM; PRESIDING JUDGE;
27 EXCHANGE OF BENCHES. (a) The governor, with the advice and consent

1 of the senate, shall appoint:

2 (1) two judges to each of the First, Third, Fourth,
3 Eighth, and Eleventh Divisions of the business court; and

4 (2) one judge to each of the Second, Fifth, Sixth,
5 Seventh, Ninth, and Tenth Divisions of the business court.

6 (b) A business court judge shall serve for a term of two
7 years, beginning on September 1 of every even-numbered year.

8 (c) A business court judge may be reappointed.

9 (d) Not later than the seventh day after the first day of a
10 term, the business court judges by majority vote shall select a
11 judge of the court to serve as administrative presiding judge for
12 the duration of the term. If a vacancy occurs in the position of
13 administrative presiding judge, the remaining business court
14 judges shall select a judge of the court to serve as administrative
15 presiding judge for the remainder of the unexpired term as soon as
16 practicable.

17 (e) A business court judge shall take the constitutional
18 oath of office required of appointed officers of this state and file
19 the oath with the secretary of state.

20 (f) To promote the orderly and efficient administration of
21 justice, the business court judges may exchange benches and sit and
22 act for each other in any matter pending before the court.

23 Sec. 25A.010. VACANCY. If a vacancy occurs in an office of
24 a business court judge, the governor, with the advice and consent of
25 the senate, shall appoint, in the same manner as the original
26 appointment, another person to serve for the remainder of the
27 unexpired term.

1 Sec. 25A.011. JUDGE'S SALARY. The salary of a business
2 court judge is the amount provided by Section 659.012 and shall be
3 paid in equal monthly installments.

4 Sec. 25A.012. REMOVAL; DISQUALIFICATION AND RECUSAL. (a)
5 A business court judge may be removed from office in the same manner
6 and for the same reasons as a district judge.

7 (b) A business court judge is disqualified and subject to
8 mandatory recusal for the same reasons a district judge is subject
9 to disqualification or recusal in a pending case. Disqualification
10 or recusal of a business court judge shall be governed by the same
11 procedure as disqualification or recusal of a district judge.

12 Sec. 25A.013. PRIVATE PRACTICE OF LAW. A business court
13 judge shall diligently discharge the duties of the office on a
14 full-time basis and may not engage in the private practice of law.

15 Sec. 25A.014. VISITING JUDGE. (a) A retired or former
16 judge or justice who has the qualifications prescribed by Section
17 25A.008 may be assigned as a visiting judge of a division of the
18 business court by the chief justice of the supreme court. A
19 visiting judge of a division of the business court is subject to
20 objection, disqualification, or recusal in the same manner as a
21 retired or former judge or justice is subject to objection,
22 disqualification, or recusal if appointed as a visiting district
23 judge.

24 (b) Before accepting an assignment as a visiting judge of a
25 division of the business court, a retired or former judge or justice
26 shall take the constitutional oath of office required of appointed
27 officers of this state and file the oath with the secretary of

1 state.

2 Sec. 25A.015. JURY PRACTICE AND PROCEDURE; VENUE FOR JURY
3 TRIAL. (a) A party in an action pending in the business court has
4 the right to a trial by jury when required by the constitution.

5 (b) Subject to Subsection (d), a jury trial in a case filed
6 initially in the business court shall be held in any county in which
7 the case could have been filed under Section 15.002, Civil Practice
8 and Remedies Code, as chosen by the plaintiff.

9 (c) Subject to Subsections (b) and (d), a jury trial in a
10 case removed to the business court shall be held in the county in
11 which the action was originally filed.

12 (d) A jury trial for a case in which a written contract
13 specifies a county as venue for suits shall be held in that county.

14 (e) The parties and the business court judge may agree to
15 hold the jury trial in any other county. A party may not be required
16 to agree to hold the jury trial in a different county.

17 (f) The drawing of jury panels, selection of jurors, and
18 other jury-related practice and procedure in the business court
19 shall be the same as for the district court in the county in which
20 the trial is held.

21 (g) Practice, procedure, rules of evidence, issuance of
22 process and writs, and all other matters pertaining to the conduct
23 of trials, hearings, and other business in the business court are
24 governed by the laws and rules prescribed for district courts,
25 unless otherwise provided by this chapter.

26 Sec. 25A.016. WRITTEN OPINIONS. The supreme court shall
27 adopt rules for the issuance of written opinions by the business

1 court.

2 Sec. 25A.017. COURT LOCATION; STAFFING. (a) In this
3 section, "remote proceeding" means a proceeding before the business
4 court in which one or more of the participants, including a judge,
5 party, attorney, witness, court reporter, or other individual
6 attends the proceeding remotely through the use of technology.

7 (b) The administrative presiding judge of the business
8 court shall manage administrative and personnel matters on behalf
9 of the court. The administrative presiding judge of the business
10 court shall appoint a clerk, whose office shall be located in Travis
11 County in facilities provided by this state. The clerk shall:

12 (1) accept all filings in the business court; and

13 (2) fulfill the legal and administrative functions of
14 a district clerk.

15 (c) Each business court judge shall maintain chambers in the
16 county the judge selects within the geographic boundaries of the
17 division to which the judge is appointed in facilities provided by
18 this state. For purposes of this section, the Office of Court
19 Administration of the Texas Judicial System may contract for the
20 use of facilities with a county.

21 (d) Subject to Section 25A.015, a business court judge may
22 hold court at any courtroom within the geographic boundaries of the
23 division to which the judge is appointed as the court determines
24 necessary or convenient for a particular civil action. To the
25 extent practicable, a county using existing courtrooms and
26 facilities shall accommodate the business court in the conduct of
27 the court's hearings and other proceedings.

1 (e) The business court may conduct a proceeding other than a
2 jury trial as a remote proceeding to facilitate the resolution of a
3 matter before the court. The business court may not require a party
4 or attorney to remotely attend a court proceeding in which oral
5 testimony is heard, absent the agreement of the parties.

6 (f) The business court shall conduct a remote proceeding
7 from a courtroom or the facilities provided to a business court
8 judge by this state.

9 (g) The business court shall provide reasonable notice to
10 the public that a proceeding will be conducted remotely and an
11 opportunity for the public to observe the remote proceeding.

12 (h) In a county in which a division of the business court
13 sits, the sheriff shall in person or by deputy attend the business
14 court as required by the court. The sheriff or deputy is entitled
15 to reimbursement from this state for the cost of attending the
16 business court.

17 (i) The business court may appoint personnel necessary for
18 the operation of the court, including:

- 19 (1) personnel to assist the clerk of the court;
20 (2) staff attorneys for the court;
21 (3) staff attorneys for each judge of the business
22 court;
23 (4) court coordinators; and
24 (5) administrative assistants.

25 (j) The court officials shall perform the duties and
26 responsibilities of their offices and are entitled to the
27 compensation, fees, and allowances prescribed by law for the

1 offices.

2 Sec. 25A.0171. REPORT. Not later than December 1 of each
3 year, the Office of Court Administration of the Texas Judicial
4 System shall submit to the legislature a report on the number and
5 types of cases heard by the business court in the preceding year.

6 Sec. 25A.018. FEES. The supreme court shall set fees for
7 filings and actions in the business court in amounts sufficient to
8 cover the costs of administering this chapter, taking into account
9 fee waivers necessary for the interest of justice.

10 Sec. 25A.019. SEAL. The seal of the business court is the
11 same as that provided by law for a district court except that the
12 seal must contain the name "The Business Court of Texas."

13 Sec. 25A.020. RULES. (a) The supreme court shall adopt
14 rules of civil procedure as the court determines necessary,
15 including rules providing for:

16 (1) the timely and efficient removal and remand of
17 cases to and from the business court; and

18 (2) the assignment of cases to judges of the business
19 court.

20 (b) The business court may adopt rules of practice and
21 procedure consistent with the Texas Rules of Civil Procedure and
22 the Texas Rules of Evidence.

23 SECTION 2. Sections 659.012(a) and (e), Government Code,
24 are amended to read as follows:

25 (a) Notwithstanding Section 659.011 and subject to
26 Subsections (b) and (b-1):

27 (1) a judge of a district court or a division of the

1 business court is entitled to an annual base salary from the state
2 as set by the General Appropriations Act in an amount equal to at
3 least \$140,000, except that the combined base salary of a district
4 judge or judge of a division of the business court from all state
5 and county sources, including compensation for any extrajudicial
6 services performed on behalf of the county, may not exceed the
7 amount that is \$5,000 less than the maximum combined base salary
8 from all state and county sources for a justice of a court of
9 appeals other than a chief justice as determined under this
10 subsection;

11 (2) a justice of a court of appeals other than the
12 chief justice is entitled to an annual base salary from the state in
13 the amount equal to 110 percent of the state base salary of a
14 district judge as set by the General Appropriations Act, except
15 that the combined base salary of a justice of the court of appeals
16 other than the chief justice from all state and county sources,
17 including compensation for any extrajudicial services performed on
18 behalf of the county, may not exceed the amount that is \$5,000 less
19 than the base salary for a justice of the supreme court as
20 determined under this subsection;

21 (3) a justice of the supreme court other than the chief
22 justice or a judge of the court of criminal appeals other than the
23 presiding judge is entitled to an annual base salary from the state
24 in the amount equal to 120 percent of the state base salary of a
25 district judge as set by the General Appropriations Act; and

26 (4) the chief justice or presiding judge of an
27 appellate court is entitled to an annual base salary from the state

1 in the amount equal to \$2,500 more than the state base salary
2 provided for the other justices or judges of the court, except that
3 the combined base salary of the chief justice of a court of appeals
4 from all state and county sources may not exceed the amount equal to
5 \$2,500 less than the base salary for a justice of the supreme court
6 as determined under this subsection.

7 (e) For the purpose of salary payments by the state, the
8 comptroller shall determine from sworn statements filed by the
9 justices of the courts of appeals, ~~and~~ district judges, and
10 business court judges that the required salary limitations provided
11 by Subsection (a) are maintained. If the state base salary for a
12 judge or justice prescribed by Subsection (a) combined with
13 additional compensation from a county would exceed the limitations
14 provided by Subsection (a), the comptroller shall reduce the salary
15 payment made by the state by the amount of the excess.

16 SECTION 3. Section 837.001(a), Government Code, is amended
17 to read as follows:

18 (a) Membership [~~Except as provided by Subsection (b),~~
19 ~~membership~~] in the retirement system is limited to persons who have
20 never been eligible for membership in the Judicial Retirement
21 System of Texas or the Judicial Retirement System of Texas Plan One
22 and who at any time on or after the effective date of this Act are
23 judges, justices, or commissioners of:

- 24 (1) the supreme court;
- 25 (2) the court of criminal appeals;
- 26 (3) a court of appeals;
- 27 (4) the business court;

1 (5) a district court; or
2 (6) [~~(5)~~] a commission to a court specified in this
3 subsection.

4 SECTION 4. (a) The Texas Supreme Court has exclusive and
5 original jurisdiction over a challenge to the constitutionality of
6 this Act or any part of this Act and may issue injunctive or
7 declaratory relief in connection with the challenge.

8 (b) If the appointment of judges by the governor to the
9 divisions of the business court under Section 25A.009, Government
10 Code, as added by this Act, is held by the Texas Supreme Court as
11 unconstitutional, the business court shall be staffed by retired or
12 former judges or justices who are appointed to the court as provided
13 by Section 25A.014, Government Code, as added by this Act.

14 SECTION 5. Except as otherwise provided by this Act, the
15 business court is created September 1, 2024.

16 SECTION 6. (a) As soon as practicable after the effective
17 date of this Act, the governor shall appoint judges to the First,
18 Third, Fourth, Eighth, and Eleventh Business Court Divisions as
19 required by Section 25A.009, Government Code, as added by this Act.

20 (b) On or before September 1, 2026, but not before July 1,
21 2026, the governor shall appoint judges to the Second, Fifth,
22 Sixth, Seventh, Ninth, and Tenth Business Court Divisions as
23 required by Section 25A.009, Government Code, as added by this Act.

24 SECTION 7. (a) Notwithstanding Chapter 25A, Government
25 Code, as added by this Act, the business court is not created unless
26 the legislature makes a specific appropriation of money for that
27 purpose. For purposes of this subsection, a specific appropriation

1 is an appropriation identifying the business court or an Act of the
2 88th Legislature, Regular Session, 2023, relating to the creation
3 of a specialty trial court to hear certain cases or of the business
4 court.

5 (b) Notwithstanding Section 25A.007(a), Government Code, as
6 added by this Act, a court of appeals retains the jurisdiction the
7 court had on August 31, 2024, if the business court is not created
8 as a result of Subsection (a) of this section.

9 SECTION 8. The changes in law made by this Act apply to
10 civil actions commenced on or after September 1, 2024.

11 SECTION 9. This Act takes effect September 1, 2023.

ADOPTED

✓✓

MAY 12 2023

Lately Saw
Secretary of the Senate

BY: _____

FLOOR AMENDMENT NO. 1

1 Amend C.S.H.B. No. 19 (senate committee report) as follows:

2 (1) In SECTION 1 of the bill, in added Section 25A.017(j),
3 Government Code (page 9, line 7), strike "The" and substitute
4 "Subject to Subsection (k), the".

5 (2) In SECTION 1 of the bill, in added Section 25A.017,
6 Government Code (page 9, between lines 10 and 11), insert the
7 following:

8 (k) All personnel, including the business court clerk,
9 appointed under this section are employees of the Office of Court
10 Administration of the Texas Judicial System and are state employees
11 for all purposes, including accrual of leave time, insurance
12 benefits, retirement benefits, and travel regulations.

13 (3) In SECTION 1 of the bill, strike added Section 25A.0171,
14 Government Code (page 9, lines 11 through 14), and substitute the
15 following appropriately numbered section in and renumber
16 subsequent sections of added Chapter 25A, Government Code,
17 accordingly:

18 Sec. 25A.____. ADMINISTRATIVE ATTACHMENT TO OFFICE OF COURT
19 ADMINISTRATION; REPORT. (a) The business court is
20 administratively attached to the Office of Court Administration of
21 the Texas Judicial System.

22 (b) The Office of Court Administration of the Texas Judicial
23 System shall provide administrative support to the business court
24 as necessary to enable the business court to carry out its duties
25 under this chapter.

26 (c) The Office of Court Administration of the Texas Judicial
27 System may employ personnel necessary to provide administrative
28 support to the business court under this chapter.

29 (d) Only the business court may exercise the duties of the

1 business court under this chapter. Except as otherwise provided by
2 this chapter, the Office of Court Administration of the Texas
3 Judicial System does not have any authority or responsibility
4 related to the duties of the business court under this chapter.

5 (e) Not later than December 1 of each year, the Office of
6 Court Administration of the Texas Judicial System shall submit to
7 the legislature a report on the number and types of cases heard by
8 the business court in the preceding year.

ADOPTED

✓✓
MAY 12 2023

FLOOR AMENDMENT NO.

L. L. Saw
Secretary of the Senate

BY:

Carl Alh

1 Amend C.S.H.B. No. 19 (senate committee report) in SECTION 1
2 of the bill, in added Section 25A.006(e), Government Code (page 5,
3 line 69), between "may not remove" and "the action", by inserting
4 "or transfer".

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>	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	Change in Number of State Employees from FY 2023
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

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	<i>Change in Number of State Employees from FY 2023</i>
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 Trusted Programs Within the Office of the Governor, 304 Comptroller of Public Accounts, 327

Employees Retirement System

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

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.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB19, As Engrossed : a negative impact of (\$17,110,842) 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 <i>General Revenue Related Funds</i>
2024	(\$8,617,929)
2025	(\$8,492,913)
2026	(\$8,496,651)
2027	(\$8,726,371)
2028	(\$8,586,093)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable (Cost) from <i>General Revenue Fund</i> 1	<i>Change in Number of State Employees from FY 2023</i>
2024	(\$8,617,929)	46.0
2025	(\$8,492,913)	46.0
2026	(\$8,496,651)	46.0
2027	(\$8,726,371)	46.0
2028	(\$8,586,093)	46.0

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 fifteen 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 (JRS-2). The cost to this system is the cumulative state salary of the 15 judges, estimated by the Office of Court Administration to be \$1,848,000, multiplied by 19.25 percent. The resulting cost is \$355,740 annually in General Revenue funds or \$711,480 for the biennium.

This analysis assumes that Judges of the Business Court would be members of Judicial Retirement System Plan 2 (JRS-2) The cost to this system is the cumulative state salary of the 15 judges, estimated by the Office of Court Administration to be \$2,520,000, multiplied by 19.25 percent. The resulting cost is \$485,100 annually in General Revenue funds or \$970,200 for the biennium.

Additional changes from the prior version to the engrossed version of the bill 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

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

Revision 1

April 24, 2023

TO: Honorable Jeff Leach, Chair, House Committee on Judiciary & Civil 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 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB19, Committee Report 1st House, Substituted : a negative impact of (\$15,508,322) 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 <i>General Revenue Related Funds</i>
2024	(\$7,816,669)
2025	(\$7,691,653)
2026	(\$7,695,391)
2027	(\$7,925,111)
2028	(\$7,784,833)

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable (Cost) from <i>General Revenue Fund</i> 1	<i>Change in Number of State Employees from FY 2023</i>
2024	(\$7,816,669)	42.0
2025	(\$7,691,653)	42.0
2026	(\$7,695,391)	42.0
2027	(\$7,925,111)	42.0
2028	(\$7,784,833)	42.0

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 (JRS-2). The cost to this system is the cumulative state salary of the 11 judges, estimated by the Office of Court Administration to be \$1,848,000, multiplied by 19.25 percent. The resulting cost is \$355,740 annually in General Revenue funds or \$711,480 for the biennium.

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, 327 Employees Retirement System

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

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 12, 2023

TO: Honorable Jeff Leach, Chair, House Committee on Judiciary & Civil 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 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB19, Committee Report 1st House, Substituted : a negative impact of (\$15,508,322) 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	(\$7,816,669)
2025	(\$7,691,653)
2026	(\$7,695,391)
2027	(\$7,925,111)
2028	(\$7,784,833)

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	(\$7,816,669)	42.0
2025	(\$7,691,653)	42.0
2026	(\$7,695,391)	42.0
2027	(\$7,925,111)	42.0
2028	(\$7,784,833)	42.0

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 (JRS-2). The cost to this system is the cumulative state salary of the 11 judges, estimated by the Office of Court Administration to be \$1,848,000, multiplied by 19.25 percent. The resulting cost is \$355,740 annually in General Revenue funds or \$711,480 for the biennium.

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, 327 Employees Retirement System

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

March 20, 2023

TO: Honorable Jeff Leach, Chair, House Committee on Judiciary & Civil 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.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB19, 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 <i>General Revenue Related Funds</i>
2024	\$0
2025	\$0
2026	\$0
2027	\$0
2028	\$0

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> 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, BH