

BILL ANALYSIS

Senate Research Center

H.B. 40
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Jurisprudence
5/19/2025
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2023, the 88th Texas Legislature passed H.B. 19, which created the Business Court and marked Texas as the 31st state to establish a specialized court to address complex business litigation. The Business Court's judicial district is composed of all counties in Texas, divided into 11 divisions corresponding to the state's administrative judicial districts. H.B. 19 provided for five divisions of the court to open on September 1, 2024, covering the state's most populous counties, with activation of the remaining six divisions to be taken up by the 89th Texas Legislature. Governor Abbott appointed two judges to each of the initial five divisions in June 2024 and the Business Court began receiving cases on September 1, 2024. In its first six months, the Business Court has handled over 80 cases, covering a wide range of civil business matters. However, this early experience has also revealed areas in need of refinement, including clarifications on jurisdiction, the required amount in controversy for the court's authority, procedural rules, and other operational matters.

H.B. 40 seeks to ensure Texas continues to benefit from its Business Court by making revisions to the court's jurisdiction, providing for the appointment of judges to the remaining six divisions of the court and additional judges to the First and Eleventh Court Divisions, and specifying that applicable provisions of state law that currently only reference district courts also reference the Business Court.

H.B. 40 amends current law relating to the business court.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 46 (Section 25A.0041, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 11.101(e), Civil Practice and Remedies Code, as follows:

(e) Provides that a prefiling order entered under Subsection (a) (relating to authorizing a court to enter an order prohibiting a person from filing a new litigation in a court to which the order applies without permission of the appropriate local administrative judge) by a district court, a statutory court, or the business court applies to each court in this state. Makes a nonsubstantive change.

SECTION 2. Amends Section 15.003(c), Civil Practice and Remedies Code, as follows:

(c) Requires that an interlocutory appeal permitted by Subsection (b) (relating to authorizing an interlocutory appeal to be taken of a trial court's determination that a plaintiff engaged in certain actions) be taken to the court of appeals district in which the trial court is located under the procedures established for interlocutory appeals, except that an interlocutory appeal from the business court is required to be taken to the Fifteenth Court of Appeals.

SECTION 3. Amends Section 19.003(a), Civil Practice and Remedies Code, as follows:

(a) Provides that, to supply a record that has been lost, destroyed, or removed, a person interested in a judgment, order, or decree of the business court is authorized to file an application with certain court clerks, including the clerk of the business court. Makes nonsubstantive changes.

SECTION 4. Amends Section 20.001(a), Civil Practice and Remedies Code, as follows:

(a) Authorizes a deposition on written questions of a witness who is alleged to reside or to be in this state to be taken by certain persons, including a judge or clerk of the business court. Makes nonsubstantive changes.

SECTION 5. Amends Section 30.014(a), Civil Practice and Remedies Code, as follows:

(a) Requires each party or the party's attorney, in a civil action, including a probate court or guardianship proceeding, filed in a district court, a county court, a statutory county court, a statutory probate court, or the business court, to include certain information in its initial pleading. Makes nonsubstantive changes.

SECTION 6. Amends Section 30.0159(a), Civil Practice and Remedies Code, as follows:

(a) Requires each party or the party's attorney, in a civil action filed in a district court, a county court, a statutory county court, a statutory probate court, or the business court, to provide the clerk of the court with written notice of the party's name and current residence or business address. Makes nonsubstantive changes.

SECTION 7. Amends Section 30.016(a), Civil Practice and Remedies Code, to redefine "tertiary recusal motion."

SECTION 8. Amends Sections 30.017(a) and (c), Civil Practice and Remedies Code, as follows:

(a) Provides that a claim against a district court, statutory probate court, statutory county court, or business court judge that is added to a case pending in the court to which the judge was elected or appointed is required to be made under oath, prohibited from being based solely on the rulings in the pending case but required to plead specific facts supporting each element of the claim in addition to the rulings in the pending case, and automatically severed from the case.

(c) Requires the presiding judge of the administrative region, the presiding judge of the statutory probate courts, or the administrative presiding judge of the business court to assign the severed claim to a different judge. Makes nonsubstantive changes.

SECTION 9. Amends Section 51.014(a), Civil Practice and Remedies Code, to make conforming changes.

SECTION 10. Amends Section 51.016, Civil Practice and Remedies Code, to make conforming changes.

SECTION 11. Amends Section 61.021, Civil Practice and Remedies Code, as follows:

Sec. 61.021. WHO MAY ISSUE. Authorizes the judge or clerk of a district court, a county court, or the business court or a justice of the peace to issue a writ of original attachment returnable to the court of issuance, rather than to his court. Makes nonsubstantive changes.

SECTION 12. Amends Section 63.002, Civil Practice and Remedies Code, as follows:

Sec. 63.002. WHO MAY ISSUE. Authorizes the clerk of a district court, a county court, or the business court or a justice of the peace to issue a writ of garnishment returnable to the clerk's court, rather than to his court. Makes nonsubstantive changes.

SECTION 13. Amends Section 64.091(b), Civil Practice and Remedies Code, to authorize a district court or the business court, in certain actions, to appoint a receiver for the mineral interest or leasehold interest under a mineral lease owned by a nonresident or absent defendant.

SECTION 14. Amends Sections 64.092(a) and (c), Civil Practice and Remedies Code, as follows:

(a) Authorizes a district court or the business court division of the county in which all or part of the land is located, on the application of a person who has a vested, contingent, or possible interest in land or an estate subject to a contingent future interest, to appoint a receiver for the land or estate, pending the occurrence of the contingency and the vesting of future interest in certain circumstances.

(c) Makes a conforming change to this subsection.

SECTION 15. Amends Section 64.093(a), Civil Practice and Remedies Code, to make a conforming change.

SECTION 16. Amends Section 65.022, Civil Practice and Remedies Code, by adding Subsection (e), as follows:

(e) Authorizes a business court judge to grant a writ returnable to another business court judge if that judge cannot be reached by the ordinary and available means of travel and communication in sufficient time to implement the purpose sought for the writ. Requires an applicant or attorney for an applicant, in seeking a writ under this subsection, to attach to the application an affidavit that fully states the facts of the inaccessibility and the efforts made to reach and communicate with the other business court judge. Requires the business court judge to whom the application is made to refuse to hear the application unless the judge determines the applicant made fair and reasonable efforts to reach and communicate with the other business court judge. Authorizes the injunction to be dissolved on a showing the applicant did not first make reasonable efforts to procure a hearing on the application before the other business court judge.

SECTION 17. Amends Section 65.023(a), Civil Practice and Remedies Code, as follows:

(a) Requires that a writ on injunction against a party who is a resident of this state, except as provided by Subsection (b) (relating to requiring that a writ of injunction granted to stay proceedings in a suit or execution on a judgment be tried in the court in which the suit is pending or the judgment was rendered), be tried in a district or county court in the county in which the party is domiciled, or in the business court division of the county in which the party is domiciled. Authorizes the writ of injunction, if the writ is granted against more than one party, to be tried in the proper court of a county in which an enjoined party, rather than either party, is domiciled. Makes nonsubstantive changes.

SECTION 18. Amends Section 65.045(c), Civil Practice and Remedies Code, as follows:

(c) Prohibits the business court, district courts, and statutory county courts, rather than district courts and statutory county courts in a county, from adopting local rules in conflict with Subchapter E (Applicants Bond for Temporary Restraining Order or Temporary Injunction). Makes nonsubstantive changes.

SECTION 19. Amends Section 151.001, Civil Practice and Remedies Code, to make conforming changes.

SECTION 20. Amends Section 151.003, Civil Practice and Remedies Code, as follows:

Sec. 151.003. QUALIFICATIONS OF JUDGE. Requires a special judge to be a retired or former district court, statutory county court, statutory probate court, business court, or appellate court judge who meets certain requirements, including having served as a judge for at least four years in a district court, a statutory county court, a statutory probate

court, the business court, an appellate court, or a combination of the preceding courts.
Makes nonsubstantive changes.

SECTION 21. Amends Section 151.011, Civil Practice and Remedies Code, as follows:

Sec. 151.011. SPECIAL JUDGE'S VERDICT. Requires that the special judge's verdict comply with the requirements for a verdict by the referring court, including any applicable requirements for the issuance of a written opinion.

SECTION 22. Amends Section 151.012, Civil Practice and Remedies Code, as follows:

Sec. 151.012. NEW TRIAL. Authorizes the court, if the special judge does not submit the verdict and any applicable written opinion within the time period provided by Section 151.011, to grant a new trial if a party files a motion requesting the new trial, notice is given to all parties stating the time and place that a hearing will be held on the motion, and the hearing is held.

SECTION 23. Amends Section 151.013, Civil Practice and Remedies Code, as follows:

Sec. 151.013. RIGHT TO APPEAL. Provides that an appeal is from the order of the referring judge's court as provided by applicable law, including the Texas Rules of Civil Procedure and the Texas Rules of Appellate Procedure.

SECTION 24. Amends Section 154.001(1), Civil Practice and Remedies Code, to redefine "court."

SECTION 25. Amends Section 171.002, Civil Practice and Remedies Code, by adding Subsection (d) to provide that Chapter 171 (General Arbitration) does not confer on the business court any new or additional jurisdiction.

SECTION 26. Amends Sections 171.086(a) and (b), Civil Practice and Remedies Code, as follows:

(a) Provides that, before arbitration proceedings begin, in support of arbitration a party is authorized to file an application for a court order, including an order to invoke the jurisdiction of the court over an ancillary proceeding in rem, including by attachment, garnishment, or sequestration, in the manner and subject to the conditions under which the proceeding is authorized to be instituted and conducted ancillary to a civil action in a district court or the business court, as applicable.

(b) Authorizes a party, during the period an arbitration is pending before the arbitrators or at or after the conclusion of the arbitration, to file an application for certain court orders, including an order to require the issuance and service under court order, rather than under the arbitrators' order, of a subpoena, notice, or other court process in an ancillary proceeding in rem, including by attachment, garnishment, or sequestration, in the manner of and subject to the conditions under which the proceeding is authorized to be conducted ancillary to a civil action in a district court or the business court, as applicable.

SECTION 27. Amends Section 171.093, Civil Practice and Remedies Code, to make a conforming change.

SECTION 28. Amends Section 171.094(b), Civil Practice and Remedies Code, to make a conforming change.

SECTION 29. Amends Section 171.095(a), Civil Practice and Remedies Code, to make a conforming change.

SECTION 30. Amends Section 171.096, Civil Practice and Remedies Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (e), as follows:

(a) Requires a party, except as otherwise provided by Section 171.096 (Place of Filing), to file the initial application:

(1) in the county in which an adverse party resides or has a place of business or in the business court; or

(2) if an adverse party does not have a residence or place of business in this state, in any county or in the business court.

(b) Requires a party, if the agreement to arbitrate provides that the hearing before the arbitrators is to be held in a county in this state, to file the initial application with the clerk of the court of that county or with the clerk of the business court.

(c) Makes a conforming change to this subsection.

(e) Requires that an initial application filed in the business court plead facts to establish venue in a county in a division of the business court as provided by Subsection (a)(1) or (2), (b), or (c) (relating to requiring a party, if a hearing before the arbitrators has been held, to file the initial application with the clerk of the court of the county in which the hearing was held), as applicable.

SECTION 31. Amends Sections 171.097(a) and (b), Civil Practice and Remedies Code, as follows:

(a) Requires a court that has jurisdiction but that is not a court described by Section 171.096, rather than a court that has jurisdiction but that is located in a county other than as described by Section 171.096, on application of a party adverse to the party who filed the initial application, to transfer the application to a court, rather than to a court of a county, described by that section.

(b) Requires the court to transfer the application by an order comparable to an order sustaining a plea of privilege to be sued in a civil action in a district court or a division of the business court of a county other than the county in which an action is filed.

SECTION 32. Amends Section 171.098(b), Civil Practice and Remedies Code, to require that the appeal be taken to the applicable court of appeals in the manner and to the same extent as an appeal from an order or judgment in a civil action.

SECTION 33. Amends Section 172.001, Civil Practice and Remedies Code, by adding Subsection (e) to provide that Chapter 172 (Arbitration and Conciliation of International Commercial Disputes) does not confer on the business court any new or additional jurisdiction.

SECTION 34. Amends Sections 172.054(a), (b), and (d), Civil Practice and Remedies Code, as follows:

(a) Requires the district court or division of the business court of the county in which the place of arbitration is located, on request of a party, to appoint each arbitrator in certain circumstances.

(b) Makes a conforming change to this subsection.

(d) Provides that a decision of the court, rather than district court, under Section 172.054 (Appointment by Court) is final and not subject to appeal.

SECTION 35. Amends Section 172.055, Civil Practice and Remedies Code, to make a conforming change.

SECTION 36. Amends Section 172.060(a), Civil Practice and Remedies Code, to make a conforming change.

SECTION 37. Amends Section 172.061(b), Civil Practice and Remedies Code, to make a conforming change.

SECTION 38. Amends Section 172.082(f), Civil Practice and Remedies Code, to make a conforming change.

SECTION 39. Amends Section 172.172, Civil Practice and Remedies Code, to make conforming changes.

SECTION 40. Amends Sections 172.173(a) and (b), Civil Practice and Remedies Code, to make conforming changes.

SECTION 41. Amends Section 172.175(a), Civil Practice and Remedies Code, as follows:

(a) Requires the party to an arbitration agreement to select the court in the manner described by Section 171.096. Makes a conforming change.

SECTION 42. Amends Section 21.010(a), Government Code, to make a conforming change.

SECTION 43. Amends Section 25A.001(14), Government Code, to redefine "qualified transaction."

SECTION 44. Amends Sections 25A.003(d), (g), (h), (i), (k), (l), and (m), Government Code, as follows:

(d) Provides that the Second Business Court Division is composed of the counties composing the Second Administrative Judicial Region under Section 74.042(c) (relating to providing that the Second Administrative Judicial Region is composed of certain counties), excluding Montgomery County, subject to funding through legislative appropriations. Deletes existing text providing that the division is abolished September 1, 2026, unless reauthorized by the legislature and funded through additional legislative appropriations.

(g) Deletes existing text providing that the Fifth Business Court Division is abolished on September 1, 2026, unless reauthorized by the legislature and funded through additional legislative appropriations.

(h) Deletes existing text providing that the Sixth Business Court Division is abolished on September 1, 2026, unless reauthorized by the legislature and funded through additional legislative appropriations.

(i) Deletes existing text providing that the Seventh Business Court Division is abolished on September 1, 2026, unless reauthorized by the legislature and funded through additional legislative appropriations.

(k) Deletes existing text providing that the Ninth Business Court Division is abolished on September 1, 2026, unless reauthorized by the legislature and funded through additional legislative appropriations.

(l) Deletes existing text providing that the Tenth Business Court Division is abolished on September 1, 2026, unless reauthorized by the legislature and funded through additional legislative appropriations.

(m) Provides that the Eleventh Business Court Division is composed of the counties composing the Eleventh Administrative Judicial Region under Section 74.042(l) (relating to providing that the Eleventh Administrative Judicial Region is composed of certain counties) and Montgomery County.

SECTION 45. Amends Section 25A.004, Government Code, by amending Subsections (a), (b), (d), (f), (g), and (h) and adding Subsections (d-1) and (i), as follows:

(a) Provides that, subject to certain provisions of Section 25A.004 (Business Courts), including Subsection (d-1), the business court has the powers provided to district courts by Chapter 24 (District Courts), including the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, and supersedeas and grant any relief that is authorized to be granted by a district court.

(b) Provides that, subject to Subsection (c) (relating to providing that the business court has civil jurisdiction concurrent with district courts in certain actions regardless of the amount in controversy if a party to the action is a publicly traded company), the business court has civil jurisdiction concurrent with district courts in certain actions, including actions in which a district court has exclusive jurisdiction, in which the amount in controversy exceeds \$5 million, excluding interest, statutory damages, exemplary damages, penalties, attorney's fees, and court costs.

(d) Provides that the business court has civil jurisdiction concurrent with district courts in the following actions in which the amount in controversy exceeds \$5 million, rather than \$10 million, excluding interest, statutory damages, exemplary damages, penalties, attorney's fees, and court costs:

(1) makes no changes to this subdivision;

(2) an action arising out of a business, commercial, or investment contract or transaction, rather than a contract or commercial transaction, in which the parties to the contract or transaction agreed in the contract or a subsequent agreement that the business court has jurisdiction of the action, except an action that arises out of an insurance contract;

(3) makes a nonsubstantive change to this subdivision;

(4) an action arising out of or relating to the ownership, use, licensing, lease, installation, or performance of certain intellectual property; and

(5) an action arising out of Chapter 134A (Trade Secrets), Civil Practice and Remedies Code.

Makes nonsubstantive changes to this subsection.

(d-1) Provides that the business court has civil jurisdiction concurrent with district courts in an action to enforce an arbitration agreement, appoint an arbitrator, or review an arbitral award, or in other judicial actions authorized by an arbitration agreement, Chapter 171 or 172, Civil Practice and Remedies Code, or the Federal Arbitration Act (9 U.S.C. Sections 1 through 16), if a claim included in the controversy in arbitration is described by Subsection (b) or (d).

(f) Provides that, except as provided by Subsection (h), in an action in which the business court has jurisdiction under Subsection (b), (c), (d), or (e) (relating to providing that the business court has civil jurisdiction concurrent with district courts in an action seeking injunctive relief or a declaratory judgment involving a dispute based on a claim within the court's jurisdiction), the court has supplemental jurisdiction over any other claim so related to the action, rather than related to a case or controversy within the court's jurisdiction, that the claim forms part of the same case or controversy. Provides that the court's supplemental jurisdiction includes a claim that requires the joinder or intervention of an additional party. Authorizes a claim, if the claim within the business court's supplemental jurisdiction does not proceed, rather than if the parties involved in a claim do not agree on the claim proceeding, in the business court, to proceed in a court of original jurisdiction concurrently with any related claims proceeding in the business court.

Deletes existing text providing that a claim within the business court's supplemental jurisdiction is authorized to proceed in the business court only on the agreement of all parties to the claim and a judge of the division of the court before which the action is pending.

(g) Provides that, unless the claim falls within the business court's supplemental jurisdiction, the business court does not have jurisdiction of certain claims, including a claim in a civil action brought by or against a governmental entity or seeking to foreclose on a lien on real or personal property an individual owns at the time the action is filed.

Deletes existing text providing that, unless the claim falls within the business court's supplemental jurisdiction, the business court does not have jurisdiction of a claim related to a consumer transaction, as that term is defined by Section 601.001 (Definitions), Business & Commerce Code, to which a consumer in this state is a party, arising out of a violation of federal or state law. Makes nonsubstantive changes.

(h) Provides that the business court does not have jurisdiction of certain claims regardless of whether the claim is otherwise within the court's supplemental jurisdiction under Subsection (f), including a claim a claim related to a consumer transaction, as that term is defined by Section 601.001, Business & Commerce Code, to which a consumer in this state is a party, arising out of a violation of federal or state law. Makes nonsubstantive changes.

(i) Provides that the amount in controversy for jurisdictional purposes under Subsection (b) or (d) is the total amount of all joined parties' claims.

SECTION 46. Amends Chapter 25A, Government Code, by adding Section 25A.0041, as follows:

Sec. 25A.0041. RULES RELATED TO JURISDICTIONAL DETERMINATION. (a) Requires the Supreme Court of Texas (supreme court) by rule to establish procedures for the prompt, efficient, and final determination of business court jurisdiction on the filing of an action in the business court. Requires the supreme court, in adopting rules under this section, to consider certain factors.

(b) Authorizes the supreme court, in adopting rules under this section, to provide for jurisdictional determinations based on pleadings or summary proceedings; establish appropriate standards of proof; establish limited periods during which issues or rights must be asserted, considered agreed to, or waived; establish procedures for the review of jurisdictional determinations by the business court by another judge or panel of judges, including a regional presiding judge or the administrative presiding judge of the business court; allow, require, or prohibit interlocutory appeals; provide for accelerated appeals; or provide for any other procedures necessary for the prompt, efficient, and final determination of business court jurisdiction.

SECTION 47. Amends Sections 25A.006(a) and (f), Government Code, as follows:

(a) Authorizes venue for an action filed with the business court to be established as provided by:

(1) creates this subdivision from existing text and makes no further changes;

(2) a party's governing documents in an action described by certain provisions of Section 25A.004; or

(3) creates this subdivision from existing text and makes nonsubstantive changes.

(f) Requires that the notice of removal, if all parties to the action have not agreed to remove the action, be filed by certain dates, including not later than the 30th day after the

later of the date the party requesting removal of the action was served with process in accordance with rules adopted by the supreme court. Makes nonsubstantive changes.

SECTION 48. Amends Section 25A.007(a), Government Code, to delete existing text creating an exception under Subsection (b) (relating to requiring that an appeal from an order or judgment of the business court or an original proceeding related to an action or order of the business court be filed in the court of appeals with appellate jurisdiction of civil cases for the county declared in an order).

SECTION 49. Amends Section 25A.009, Government Code, by amending Subsections (a) and (d) and adding Subsections (a-1) and (d-1), as follows:

(a) Requires the governor, with the advice and consent of the senate, to appoint judges to certain divisions of the business court, including one additional judge to each of the First and Eleventh Divisions of the business court, if the legislature makes a specific appropriation of money for that purpose. Makes nonsubstantive changes.

(a-1) Authorizes a judge appointed to the business court to begin state employment and receive compensation for service as a judge for not more than 30 days before the beginning of the judge's term to allow time for training, organization of staff and chambers, and study of business court precedent, procedure, and pending cases.

(d) Requires the business court judges, not later than September 15 of each even-numbered year, rather than the seventh day after the first day of a term, by majority vote to select a judge of the court to serve as administrative presiding judge and a judge serving a different division of the court to serve as administrative presiding judge pro tempore for a term of two years, rather than for the duration of the term. Provides that, if a vacancy occurs in the position of administrative presiding judge, administrative presiding judge pro tempore is required to serve as administrative presiding judge and the business court judges, rather than the remaining business court judges, by majority vote are required to select a judge of the court to serve as successor administrative presiding judge pro tempore for the remainder of the unexpired term as soon as practicable.

(d-1) Requires the administrative presiding judge pro tempore to act as administrative presiding judge in any matter in which the administrative presiding judge has delegated the judge's official duties to the administrative presiding judge pro tempore or is unable to perform the judge's official duties.

SECTION 50. Amends Chapter 25A, Government Code, by adding Section 25A.00111, as follows:

Sec. 25A.00111. JUDGE'S EXPENSES; OFFICIAL DUTIES. (a) Provides that a business court judge engaged in the discharge of official duties in a location other than the county in which the judge maintains chambers is entitled to travel expenses as provided by Chapter 660 (Travel Expenses).

(b) Provides that a business court judge is entitled to receive from this state the actual and necessary postage, telephone, and telecommunications expenses incurred in the discharge of the judge's official duties.

(c) Provides that the official duties of a business court judge include presenting educational information regarding the business court to legal and business groups and attending educational meetings in this state and other states of the United States relating to business law, business litigation, and the function of the business court.

SECTION 51. Amends Section 25A.012, Government Code, by adding Subsections (c) and (d), as follows:

(c) Requires a business court judge, if the judge determines on the judge's own motion the judge should not hear a case pending in the judge's court because the judge is disqualified or subject to recusal, to enter a recusal order, request the administrative presiding judge of the business court to assign another judge of the business court to hear the case, and take no further action in the case except for good cause as stated in the order in which the action is taken.

(d) Provides that the administrative presiding judge is not required to assign a case described by Subsection (c) to a different division of the business court.

SECTION 52. Amends Chapter 25A, Government Code, by adding Section 25A.0135, as follows:

Sec. 25A.0135. EXEMPTION FROM CERTAIN JUDICIAL TRAINING REQUIREMENTS. Provides that a judge of the business court is exempt from the judicial training requirements under Chapter 22 (Appellate Courts) that are not germane to the jurisdiction of the business court, including the training requirements of Sections 22.012 (Training Related to Diversions) and 22.110 (Judicial Instruction Related to Family Violence, Sexual Assault, Trafficking of Persons, and Child Abuse and Neglect).

SECTION 53. Amends Section 25A.014, Government Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Authorizes an active, retired, or former judge or justice who has the qualifications prescribed by Section 25A.008 (Qualifications of Judge) to be assigned as a visiting judge of a division of the business court by the chief justice of the supreme court. Provides that a visiting judge of a division of the business court is subject to objection, disqualification, or recusal under Chapter 74 (Court Administration Act) in the same manner as a judge or justice, rather than a retired or former judge or justice, is subject to objection, disqualification, or recusal if appointed as a visiting district judge. Makes a nonsubstantive change.

(c) Authorizes the chief justice of the supreme court to assign an active judge of the business court to serve as a visiting judge of a district court, a constitutional county court, or a statutory county court located in the division served by the judge of the business court. Provides that the judge of the business court serving as a visiting judge is subject to objection, disqualification, or recusal under Chapter 74 in the same manner as an active judge or justice or an active district court judge is subject to objection, disqualification, or recusal if appointed as a visiting judge.

SECTION 54. Amends Sections 25A.017(c), (d), and (h), Government Code, as follows:

(c) Requires each business court judge to maintain chambers in the county with the largest population within the geographic boundaries of the division to which the judge is appointed, or in a county adjacent to that county and within the geographic boundaries of the division, as the judge selects, rather than in the county as the judge selects within the geographic boundaries of the division to which the judge is appointed, in facilities provided by this state. Authorizes the chief justice of the supreme court to approve the location of a business court judge's chambers in a county other than a county described by this subsection that is within the geographic boundaries of the division. Authorizes the Office of Court Administration of the Texas Judicial System (OCA), for purposes of Section 25A.017 (Court Location; Staffing), to contract for the use of facilities with a public or private party, rather than with a county.

(d) Requires a county, rather than requires a county using existing courtrooms and facilities to the extent practicable, to accommodate the business court in the conduct of the court's hearings and other proceedings in courtrooms and facilities equivalent to those provided to district courts. Provides that a county is entitled to reimbursement from this state in an amount equal to the market rate for those facilities in the county as calculated by the Texas Facilities Commission for this purpose. Requires a county to consider the

reasonably anticipated requirements of the business court in the planning for and implementation of additions and improvements to the county's courtrooms and facilities only if the business court is currently operational in that county.

(h) Authorizes the business court or OCA, in a county in which a division of the business court sits or a judge of the business court maintains chambers, to require the sheriff, sheriff's deputy, or other licensed peace officer employed by the state or local governmental entity, including the Department of Public Safety of the State of Texas (DPS), to attend the business court and provide security for the business court's judges. Provides that the officers providing such services are, rather than the sheriff or deputy is, entitled to reimbursement from this state for the cost of attending the business court and providing security for the business court's judges. Deletes existing text requiring the sheriff, in a county in which a division of the business court sits, to in person or by deputy attend the business court as required by the court.

SECTION 55. Amends Section 25A.0171(e), Government Code, as follows:

(e) Requires OCA, not later than December 1 of each year, to submit to the legislature a report on the case activity of the business court, rather than the number and types of cases heard by the business court, in the preceding year that includes:

- (1) a summary of the caseload of each business court judge in the preceding year;
- (2) a summary of the extent to which business court judges have been assigned to hear cases in other divisions to equalize caseloads;
- (3) a projection of the expected caseloads of the business court judges for the following two years; and
- (4) recommendations regarding action by the legislature, the governor, the chief justice of the supreme court, or the business court to ensure the business court meets existing and projected demand for the business court's services in the following two years.

SECTION 56. Amends Section 37.001(a), Government Code, to provide that Chapter 37 (Appointments of Attorneys Ad Litem, Guardians Ad Litem, Mediators, and Guardians) applies to a court in this state, other than the business court, created by the Texas Constitution, by statute, or as authorized by statute that is located in a county with a population of 25,000 or more.

SECTION 57. Amends Section 39.001, Government Code, as follows:

Sec. 39.001. **APPLICABILITY.** Provides that Chapter 39 (Judicial Education Requirements) applies to a person elected to or holding any of certain judicial offices, including a business court judge. Makes nonsubstantive changes.

SECTION 58. Amends Section 71.011, Government Code, as follows:

Sec. 71.011. **NUMBER AND CLASSES OF MEMBERS.** Provides that the Texas Judicial Council (council) is an agency of the state composed of 17, rather than 16, ex officio and six appointive members.

SECTION 59. Amends Section 71.012, Government Code, as follows:

Sec. 71.012. **EX OFFICIO MEMBERS.** Provides that certain persons are ex officio members of the council, including two judges of county courts, statutory county courts, or statutory probate courts designated by the chief justice of the supreme court and the administrative presiding judge of the business court. Makes nonsubstantive changes.

SECTION 60. Amends Section 71.013, Government Code, by amending Subsection (b) and adding Subsection (g), as follows:

(b) Creates an exception under Subsection (g).

(g) Provides that the administrative presiding judge of the business court is an ex officio member of the council while the judge holds the office of administrative presiding judge of the business court.

SECTION 61. Amends Section 74.003(b), Government Code, as follows:

(b) Requires a former or retired justice or judge, to be eligible for assignment under this subsection, to meet certain requirements, including having served as an active justice or judge for at least 96 months in a district court, a statutory probate court, a statutory county court, an appellate court, or the business court, with at least 48 of those months in an appellate court. Makes a nonsubstantive change.

SECTION 62. Amends Section 74.041(5), Government Code, to redefine "former judge."

SECTION 63. Amends Section 74.045(a), Government Code, to require a presiding judge to meet certain requirements at the time of appointment, including being a serving or retired business court judge or a former judge with at least 12 years of service as a district judge or business court judge, and to make nonsubstantive changes.

SECTION 64. Amends Section 74.055(c), Government Code, to make conforming changes.

SECTION 65. Amends Section 74.141, Government Code, as follows:

Sec. 74.141. DEFENSE OF JUDGES. Requires the attorney general to defend certain judges, including a business court judge, in certain actions.

SECTION 66. Amends Section 74.162, Government Code, as follows:

Sec. 74.162. TRANSFER OF CASES BY PANEL. Authorizes the judicial panel on multidistrict litigation, subject to Section 74.1625 (Prohibited Transfer of Cases) and notwithstanding any other law, to transfer civil actions involving one or more common questions of fact pending in the same or different constitutional courts, county courts at law, probate courts, district courts, or the business court to any district court or to the business court if the business court has jurisdiction for consolidated or coordinated pretrial proceedings, including summary judgment or other dispositive motions, but not for trial on the merits. Makes a nonsubstantive change.

SECTION 67. Amends Section 411.171(4-b), Government Code, to redefine "state judge."

SECTION 68. Amends Section 659.012, Government Code, by adding Subsections (a-1) and (d-1), as follows:

(a-1) Provides that, in addition to the annual base salary from the state prescribed by Subsection (a) (relating to entitling certain judges to certain salaries), a judge of a division of the business court is entitled to an annual salary supplement from the state in an amount equal to the difference between the judge's annual base salary from the state and the maximum combined base salary from all state and county sources paid to a district judge under Subsection (a).

(d-1) Provides that, notwithstanding any other provision of Section 659.012 (Judicial Salaries) or other law, a judge of a division of the business court who serves as administrative presiding judge under Section 25A.009 is entitled to an annual base salary from the state in the amount provided under Subsection (a) or (b) (relating to entitling a judge or justice for whom the amount of a state base salary to an annual salary from the state in certain amounts) and an additional annual amount equal to the amount provided

under Subsection (d) (relating to entitling a district judge who serves as a local administrative district judge to an annual base salary from the state in the amount equal to \$5,000 more than the maximum salary) to a local administrative district judge for a number of district courts equal to the total number of business court judges.

SECTION 69. Repealers: Sections 25A.003(n) (relating to providing that certain provisions of Section 25A.003 (Business Court Judicial Districts; Divisions) expire September 1, 2026) and 25A.007(b) (relating to requiring that an appeal from an order or judgment of the business court be filed if the Fifteenth Court of Appeals is not created), Government Code.

Repealer: Section 25A.014(b) (relating to requiring a retired or former judge or justice to take the constitutional oath of office before accepting an assignment as a visiting judge of a division of the business court), Government Code.

SECTION 70. Repealer: Section 6(b) (relating to requiring the governor, on or before September 1, 2026, but not before July 1, 2026, to appoint judges to the Second, Fifth, Sixth, Seventh, Ninth, and Tenth Business Court Divisions), Chapter 360 (H.B. 19), Acts of the 88th Legislature, Regular Session, 2023.

SECTION 71. Requires the governor to appoint one additional judge to each of the First and Eleventh Business Court Divisions, as required by Section 25A.009, Government Code, as amended by this Act.

SECTION 72. Makes application of this Act prospective to September 1, 2024.

SECTION 73. Effective date: upon passage or September 1, 2025.