

## HB 19 – Creates Business Court for Larger Cases

On May 25, 2023, the Texas Senate passed HB 19 and sent the bill to Gov. Abbott for signature. HB 19 creates “The Business Court of Texas,” a system dedicated to hear certain business disputes:

Included in Jurisdiction	Excluded from Jurisdiction
<ul style="list-style-type: none"> <li>▪ The list of jurisdictional grants is generally separated into three parts: (1) business governance disputes, (2) commercial disputes, and (3) equitable relief.</li> <li>▪ For business governance disputes, the business court has civil jurisdiction over actions in which the amount in controversy exceeds <b>\$5 million</b>.</li> <li>▪ For commercial disputes, the business court has civil jurisdiction over actions in which the amount in controversy exceeds <b>\$10 million</b>.</li> <li>▪ The business court also has civil jurisdiction over actions seeking injunctive or declaratory relief, so long as they involve a dispute based on a claim within the court’s jurisdiction under the previous sections.</li> <li>▪ The court has “supplemental jurisdiction” over any related claims that are not within its jurisdiction but are part of the dispute; but only if all parties and the judge agree.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Unless the claim falls within the business court’s supplemental jurisdiction (requiring all party agreement), the business court does not have jurisdiction of:               <ul style="list-style-type: none"> <li>○ actions brought by or against a governmental entity;</li> <li>○ actions to foreclose a lien;</li> <li>○ claims under the DTPA;</li> <li>○ claims under the Estates Code;</li> <li>○ claims under the Family Code;</li> <li>○ claims under the Insurance Code;</li> <li>○ claims under Title 9 of the Property Code;</li> <li>○ claims under Texas’ covenants not to compete statute;</li> <li>○ claims related to mechanics and materialman’s liens;</li> <li>○ claims arising from the production or sale of farm products;</li> <li>○ claims related to consumer transactions; or</li> <li>○ claims related to duties and obligations under an insurance policy.</li> </ul> </li> <li>▪ Regardless of whether or not a claim is within the court’s supplemental jurisdiction, the court does <i>not</i> have jurisdiction of:               <ul style="list-style-type: none"> <li>○ medical or legal malpractice claims; or</li> <li>○ claims in which a party seeks recovery of monetary damages for bodily injury or death.</li> </ul> </li> </ul>

Suits involving publicly traded companies may be brought in Business Court regardless of the amount in controversy, so long as the claims in the lawsuit are otherwise included in the Court’s jurisdiction.

The Business Court will be presided over by judges located throughout the state who must have significant prior legal experience in commercial law. These judges will be appointed for two-year terms by the Governor, with the advice and consent of the Senate. While the bill goes into effect on September 1, 2023, cases will not be filed in the Business Court until September 1, 2024. The first Business Courts will be in Austin, Dallas, Fort Worth, Houston, and San Antonio. The creation of the six remaining divisions will be deferred until the 2025 Legislative Session.

The Business Court will have “concurrent” jurisdiction, meaning that a party may still file a case in the existing civil court system. A party to a suit filed in District Court can remove it to Business Court if the Business Court would have otherwise had original jurisdiction. The bill permits promulgation of new rules consistent with existing rules of procedure. The Business Court may issue the same forms of relief used in existing District Courts, and parties can still have a trial by jury. However, Business Court judges will issue written opinions, which are currently not required in state trial courts. More opinions would create a larger body of precedent, which would help businesses with litigation strategy because, with more case law, outcomes become more predictable. Business Court decisions will be appealed to a newly created court of appeals located in Austin.

Texas is the latest in a number of states to create a system for larger, complex business disputes. The Business Courts are designed to help Texas businesses (and may draw new businesses to Texas) by having judges with experience in legal issues affecting businesses and by promoting faster decisions and reducing the amount of time it takes to get to trial, as the Business Court docket will have a smaller number of cases.

However, detractors state that the bill essentially creates two systems of justice, and the two-year appointment schedule may create political pressure for judges. Also, as opponents have stated, certain parts of the bill may be inconsistent with requirements set forth in the Texas Constitution; thus, the Business Court will likely face a constitutional challenge.

#### ABOUT WICK PHILLIPS

Wick Phillips is a full-service business law firm serving clients across Texas and the United States. Founded in 2004, the firm has grown to more than 85 attorneys, specializing in all areas of business law—complex commercial litigation and appeals, corporate transactions, labor and employment, real estate, intellectual property, bankruptcy, insurance coverage, tax, and securities—with offices in Austin, Dallas and Fort Worth.

Contact the attorneys at Wick Phillips to learn more details, including receiving updates on any legal challenges and evaluating how this new judicial system may impact your business.

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