



Oklahoma Supreme Court Strikes Down Business Courts (and Implications for Texas)

By [Andrew Gould](#) and [Katherine Ring](#)

In a significant ruling for business litigation in Oklahoma, the Supreme Court of Oklahoma recently held in *White and Waddell v. Stitt*¹ that State Senate Bill 632 (SB 632) — a law creating new Business Court divisions — violates Article VII, Section 9 of the Oklahoma Constitution.²

At first glance, SB 632 resembles Texas House Bill 19 (HB 19), the 2023 law establishing the Texas Business Court. But differences in the Texas Constitution likely provide stronger legal protection for Texas' new system, which businesses are increasingly utilizing.

This alert summarizes the Oklahoma decision and offers guidance for in-house counsel, including:

- Key provisions of SB 632
- Why the Oklahoma Supreme Court declared it unconstitutional
- What comes next for Business Courts in Oklahoma — and Texas

Structure of the New Oklahoma Business Courts

SB 632 was passed by the Oklahoma Legislature in May 2025 and signed into law by Governor Kevin Stitt on June 13, 2025.³ Like Texas HB 19, the measure aimed to make Oklahoma more business friendly by streamlining the resolution of complex commercial disputes.

Specifically, SB 632 created specialized business court divisions in two of the state's most populous areas — Tulsa and Oklahoma City⁴ — to handle business-related cases, removing them from the regular district court docket. These courts would have heard cases involving more than \$500,000 in controversy under specified statutes (such as the UCC and General Corporation Act), as well as contract and tort claims tied to certain business activities, agreements, transactions, and relationships. Judges for these courts were to be appointed by the Governor and confirmed by the Senate for eight-year terms⁵ (with the possibility of reappointment), based on their business law experience — rather than elected by voters.

Proponents argued that these specialized courts would deliver faster, more expert handling of commercial disputes. But opponents countered that the law violated the Oklahoma Constitution because judges would be appointed instead of elected by the people.

Why SB 632 Was Invalidated⁶

In a 5–3 decision on October 8, 2025, the Oklahoma Supreme Court struck down SB 632 on two primary grounds.

First, the Court held that the law's appointment provision violated Article VII, Section 9 of the Oklahoma Constitution, which requires that "District Judges and Associate District Judges shall be **elected by the voters** of the several respective districts or counties at a non-partisan election." Governor Stitt argued this provision did not apply because the business courts were a distinct forum separate from district courts. The Court disagreed, noting that SB 632 expressly created "business court division[s] **within the district court**."⁷

Second, the Court concluded that Article VII, Section 1 — which authorizes the Legislature to create "Boards, Agencies and Commissions ... that exercise adjudicative authority"⁸ — does not permit the creation of a new court system "outside of intermediate appellate and Municipal Courts."⁹

The Court emphasized that while the Legislature cannot create a separate Business Court system, it may establish business court divisions within the district court, staffed by elected judges.¹⁰ Because the statute's framework depended on the unconstitutional appointment provision, the law could not be salvaged through severability analysis.¹¹

Three Justices did not join the majority opinion. Chief Justice Rowe concurred in part, agreeing that SB 632's appointment provision was unconstitutional but stressing that the Legislature could easily fix the issue by requiring elected judges.¹² Two Justices — Vice Chief Justice Kuehn and Justice Jett — dissented on procedural grounds, objecting to the Court's decision to hear the case on an emergency basis without ordinary intermediate appellate review.¹³

The Future of Business Courts in Oklahoma and Texas

Oklahoma. Currently, Oklahoma has no separate business court system. High-value commercial and contractual disputes remain on the regular district court docket.

Legislators favoring a business court system have nonetheless pledged to pursue a constitutional amendment that would expressly authorize the Legislature to create such courts and define judicial selection. Alternatively, the Legislature could revise SB 632 to require the election of business court

judges, eliminating the constitutional defect identified in *White and Waddell*. Which path lawmakers will take remains uncertain. Still, given Governor Stitt's commitment to business-friendly reforms, a standalone business court system is likely to remain a legislative priority.

Texas. In Texas, businesses may wonder whether *White & Waddell* could inspire similar constitutional challenges to the Texas Business Court. While possible, differences in the Texas Constitution likely provide stronger protection for the system.

Like SB 632, HB 19 provides that Business Court judges are appointed by the Governor for renewable two-year terms rather than elected. And, like Oklahoma's Constitution, Article V, Section 7(b) of the Texas Constitution states that district judges "shall be elected by the qualified voters at a General Election."¹⁴ A challenger could argue that the analysis should mirror *White & Waddell*.

But unlike the Oklahoma Constitution, the Texas Constitution explicitly empowers the Legislature to **"establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof."**¹⁵ To that end, HB 19 explicitly designated the Business Court as "a statutory court created under Section 1, Article V" of the Texas Constitution.¹⁶ Proponents will argue this grants broad legislative authority over the court's structure, including judicial selection. Opponents may contend that, despite this language, the Business Court functions as a constitutional district court subject to election requirements.

Unlike the recent unsuccessful challenge to the new statewide Fifteenth Court of Appeals,¹⁷ the Supreme Court of Texas has not yet addressed this question. Businesses should monitor developments closely in the wake of *White & Waddell*.

Conclusion

In-house counsel for companies operating in Oklahoma should monitor legislative efforts to amend the State Constitution to authorize a standalone business court system or to require the election — rather than appointment — of business court judges within the existing district court structure. Until one of these changes occurs, business disputes in Oklahoma will remain in the district courts.

Meanwhile, absent a new constitutional challenge, the Texas Business Court will continue operating as it has since launching in September 2024. Even so, counsel for companies doing business in Texas should watch for suits challenging HB 19 on the basis that it provides for appointed, rather than elected, judges.

Hicks Johnson will continue to track legislative and judicial developments in both states and keep clients informed of any changes.



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Endnotes

- 1 <https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=550451>.
- 2 <https://law.justia.com/constitution/oklahoma/VII-9.html>.
- 3 https://www.oklegislature.gov/cf_pdf/2025-26%20ENR/SB/SB632%20ENR.PDF.
- 4 The statute created new “business court division[s] within the district court of any judicial district containing a county with a population in excess of five hundred thousand....” [S.B. 632](#). Presently, the only two judicial districts containing counties with populations above that number are Oklahoma County and Tulsa County. White & Waddell, [2025 OK 68](#).
- 5 The first business court judge appointed to Business Court Division II was to serve a term of four years beginning on September 1, 2025; all other judges were to be appointed to eight-year terms. https://www.oklegislature.gov/cf_pdf/2025-26%20ENR/SB/SB632%20ENR.PDF
- 6 Before deciding the constitutional question, the Oklahoma Supreme Court rejected various procedural obstacles to its review — namely, standing and original jurisdiction. [Id.](#)
- 7 [Id.](#) (emphasis added).
- 8 <https://law.justia.com/constitution/oklahoma/VII-1.html>.
- 9 White & Waddell, [2025 OK 68](#).
- 10 [Id.](#)
- 11 [Id.](#)
- 12 [Id.](#)
- 13 [Id.](#)
- 14 [Tex. Const. Art. V, Sec. 7](#).
- 15 See [Art. V, Sec. 1](#).
- 16 Tex. Gov’t Code § 25A.002.
- 17 [In re Dallas County](#), No. 24-0426 (Tex. Aug. 23, 2024).