

107TH CONGRESS
1ST SESSION

S. 1089

To amend section 7253 of title 38, United States Code, to expand temporarily the United States Court of Appeals for Veterans Claims in order to further facilitate staggered terms for judges on that court, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2001

Mr. ROCKEFELLER introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To amend section 7253 of title 38, United States Code, to expand temporarily the United States Court of Appeals for Veterans Claims in order to further facilitate staggered terms for judges on that court, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. TEMPORARY EXPANSION OF UNITED STATES**
2 **COURT OF APPEALS FOR VETERANS CLAIMS**
3 **TO FACILITATE STAGGERED TERMS OF**
4 **JUDGES.**

5 (a) IN GENERAL.—(1) Section 7253 of title 38,
6 United States Code, is amended by adding at the end the
7 following new subsection:

8 “(h) TEMPORARY EXPANSION OF COURT.—(1) Not-
9 withstanding subsection (a) and subject to the provisions
10 of this subsection, the authorized number of judges of the
11 Court from the date of the enactment of this subsection
12 until August 15, 2005, is nine judges.

13 “(2) Of the two additional judges authorized by this
14 subsection—

15 “(A) not more than one judge may be ap-
16 pointed pursuant to a nomination made in 2001 or
17 2002;

18 “(B) not more than one judge may be ap-
19 pointed pursuant to a nomination made in 2003;
20 and

21 “(C) if a judge is not appointed pursuant to a
22 nomination made in 2001 or 2002, a nomination
23 made in 2003, or both, the number of judges not ap-
24 pointed pursuant to either such nomination, or both,
25 may be appointed pursuant to a nomination made in

1 2004, but only if such nomination is made before
2 September 30, 2004.

3 “(3) The term of office and eligibility for retirement
4 of a judge appointed under this subsection, other than a
5 judge described in paragraph (4), shall be governed by the
6 provisions of section 1012 of the Court of Appeals for Vet-
7 erans Claims Amendments of 1999 (title X of Public Law
8 106–117; 113 Stat. 1590; 38 U.S.C. 7296 note) if the
9 judge is one of the first two judges appointed to the Court
10 after November 30, 1999.

11 “(4) A judge of the Court as of the date of the enact-
12 ment of this subsection who was appointed before 1991
13 may accept appointment as a judge of the Court under
14 this subsection notwithstanding that the term of office of
15 the judge on the Court has not yet expired under this sec-
16 tion.”.

17 (2) No appointment may be made under section 7253
18 of title 38, United States Code, as amended by paragraph
19 (1), if the appointment would provide for a number of
20 judges (other than judges serving in recall status under
21 section 7257 of title 38, United States Code) who could
22 serve a complete term on the Court as of August 15, 2005,
23 in excess of seven judges.

24 (b) STYLISTIC AMENDMENTS.—That section is fur-
25 ther amended—

1 (1) in subsection (b), by inserting “APPOINT-
2 MENT.—” before “The judges”;

3 (2) in subsection (c), by inserting “TERM OF
4 OFFICE.—” before “The terms”;

5 (3) in subsection (f), by striking “(f)(1)” and
6 inserting “(f) REMOVAL.—(1)”; and

7 (4) in subsection (g), by inserting “RULES.—”
8 before “The Court”.

9 **SEC. 2. REPEAL OF REQUIREMENT FOR WRITTEN NOTICE**
10 **REGARDING ACCEPTANCE OF REAPPOINT-**
11 **MENT AS CONDITION TO RETIREMENT FROM**
12 **UNITED STATES COURT OF APPEALS FOR**
13 **VETERANS CLAIMS.**

14 Section 7296(b)(2) of title 38, United States Code,
15 is amended by striking the second sentence.

16 **SEC. 3. TERMINATION OF NOTICE OF DISAGREEMENT AS**
17 **JURISDICTIONAL REQUIREMENT FOR**
18 **UNITED STATES COURT OF APPEALS FOR**
19 **VETERANS CLAIMS.**

20 (a) TERMINATION.—Section 402 of the Veterans’ Ju-
21 dicial Review Act (division A of Public Law 100–687; 102
22 Stat. 4122; 38 U.S.C. 7251 note) is repealed.

23 (b) ATTORNEY FEES.—Section 403 of the Veterans’
24 Judicial Review Act (102 Stat. 4122; 38 U.S.C. 5904
25 note) is repealed.

1 (c) CONSTRUCTION.—The repeal in subsection (a)
2 may not be construed to confer upon the United States
3 Court of Appeals for Veterans Claims jurisdiction over any
4 appeal or other matter not within the jurisdiction of the
5 Court as provided in section 7266(a) of title 38, United
6 States Code.

7 (d) APPLICABILITY.—The repeals made by sub-
8 sections (a) and (b) shall apply to—

9 (1) any appeal filed with the United States
10 Court of Appeals for Veterans Claims on or after the
11 date of the enactment of this Act; and

12 (2) any appeal pending before the Court on
13 that date, other than an appeal in which the Court
14 has made a final disposition under section 7267 of
15 title 38, United States Code, even though such ap-
16 peal is not yet final under section 7291(a) of title
17 38, United States Code.

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