

109TH CONGRESS
1ST SESSION

S. 1845

To amend title 28, United States Code, to provide for the appointment of additional Federal circuit judges, to divide the Ninth Judicial Circuit of the United States into 2 circuits, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 6, 2005

Mr. ENSIGN (for himself, Ms. MURKOWSKI, Mr. BURNS, Mr. CRAIG, Mr. CRAPO, Mr. INHOFE, Mr. KYL, Mr. SMITH, and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 28, United States Code, to provide for the appointment of additional Federal circuit judges, to divide the Ninth Judicial Circuit of the United States into 2 circuits, 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,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “The Circuit Court of
5 Appeals Restructuring and Modernization Act of 2005”.

6 SEC. 2. DEFINITIONS.

7 In this Act:

13 SEC. 3. NUMBER AND COMPOSITION OF CIRCUITS.

14 Section 41 of title 28, United States Code, is amend-
15 ed—

16 (1) in the matter preceding the table, by strik-
17 ing “thirteen” and inserting “fourteen”; and

18 (2) in the table—

19 (A) by striking the item relating to the
20 ninth circuit and inserting the following:

"Ninth California, Guam, Hawaii, Northern
Marijuana Islands".

21 and

22 (B) by inserting after the item relating to
23 the eleventh circuit the following:

"Twelfth Alaska, Arizona, Idaho, Montana, Nevada Oregon Washington."

1 **SEC. 4. JUDGESHIPS.**

2 (a) NEW JUDGESHIPS.—The President shall appoint,
3 by and with the advice and consent of the Senate, 5 addi-
4 tional circuit judges for the new ninth circuit court of ap-
5 peals, whose official duty station shall be in California.

6 (b) TEMPORARY JUDGESHIPS.—

7 (1) APPOINTMENT OF JUDGES.—The President
8 shall appoint, by and with the advice and consent of
9 the Senate, 2 additional circuit judges for the former
10 ninth circuit court of appeals, whose official duty
11 stations shall be in California.

12 (2) EFFECT OF VACANCIES.—The first 2 vacan-
13 cies occurring on the new ninth circuit court of ap-
14 peals 10 years or more after judges are first con-
15 firmed to fill both temporary circuit judgeships cre-
16 ated by this subsection shall not be filled.

17 (c) EFFECTIVE DATE.—This section shall take effect
18 on the date of the enactment of this Act.

19 **SEC. 5. NUMBER OF CIRCUIT JUDGES.**

20 The table contained in section 44(a) of title 28,
21 United States Code, is amended—

22 (1) by striking the item relating to the ninth
23 circuit and inserting the following:

“Ninth 20”;

24 and

“Twelfth 14”.

3 SEC. 6. PLACES OF CIRCUIT COURT.

4 The table contained in section 48(a) of title 28,
5 United States Code, is amended—

6 (1) by striking the item relating to the ninth
7 circuit and inserting the following:

"Ninth Honolulu, Pasadena, San Fran-
cisco.";

8 and

“Twelfth Las Vegas, Missoula, Phoenix, Portland, Seattle.”.

11 SEC. 7. LOCATION OF TWELFTH CIRCUIT HEADQUARTERS.

12 The offices of the Circuit Executive of the Twelfth
13 Circuit and the Clerk of the Court of the Twelfth Circuit
14 shall be located in Phoenix, Arizona.

15 SEC. 8. ASSIGNMENT OF CIRCUIT JUDGES.

16 Each circuit judge of the former ninth circuit who
17 is in regular active service and whose official duty station
18 on the day before the effective date of this Act—

19 (1) is in California, Guam, Hawaii, or the
20 Northern Mariana Islands shall be a circuit judge of
21 the new ninth circuit as of such effective date; and

4 SEC. 9. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.

5 Each judge who is a senior circuit judge of the former
6 ninth circuit on the day before the effective date of this
7 Act may elect to be assigned to the new ninth circuit or
8 the twelfth circuit as of such effective date and shall notify
9 the Director of the Administrative Office of the United
10 States Courts of such election.

11 SEC. 10. SENIORITY OF JUDGES.

12 The seniority of each judge—

13 (1) who is assigned under section 8, or
14 (2) who elects to be assigned under section 9,
15 shall run from the date of commission of such judge as
16 a judge of the former ninth circuit.

17 SEC. 11. APPLICATION TO CASES.

18 The following apply to any case in which, on the day
19 before the effective date of this Act, an appeal or other
20 proceeding has been filed with the former ninth circuit;

19 SEC. 12. TEMPORARY ASSIGNMENT OF CIRCUIT JUDGES

20 AMONG CIRCUITS.

21 Section 291 of title 28, United States Code, is
22 amended by adding at the end the following:

23 “(c) The chief judge of the Ninth Circuit may, in the
24 public interest and upon request by the chief judge of the
25 Twelfth Circuit, designate and assign temporarily any cir-

1 cuit judge of the Ninth Circuit to act as circuit judge in
2 the Twelfth Circuit.

3 “(d) The chief judge of the Twelfth Circuit may, in
4 the public interest and upon request by the chief judge
5 of the Ninth Circuit, designate and assign temporarily any
6 circuit judge of the Twelfth Circuit to act as circuit judge
7 in the Ninth Circuit.”.

8 **SEC. 13. TEMPORARY ASSIGNMENT OF DISTRICT JUDGES**

9 **AMONG CIRCUITS.**

10 Section 292 of title 28, United States Code, is
11 amended by adding at the end the following:

12 “(f) The chief judge of the United States Court of
13 Appeals for the Ninth Circuit may in the public interest—

14 “(1) upon request by the chief judge of the
15 Twelfth Circuit, designate and assign 1 or more dis-
16 trict judges within the Ninth Circuit to sit upon the
17 Court of Appeals of the Twelfth Circuit, or a divi-
18 sion thereof, whenever the business of that court so
19 requires; and

20 “(2) designate and assign temporarily any dis-
21 trict judge within the Ninth Circuit to hold a district
22 court in any district within the Twelfth Circuit.

23 “(g) The chief judge of the United States Court of
24 Appeals for the Twelfth Circuit may in the public inter-
25 est—

1 “(1) upon request by the chief judge of the
2 Ninth Circuit, designate and assign 1 or more dis-
3 trict judges within the Twelfth Circuit to sit upon
4 the Court of Appeals of the Ninth Circuit, or a divi-
5 sion thereof, whenever the business of that court so
6 requires; and

7 “(2) designate and assign temporarily any dis-
8 trict judge within the Twelfth Circuit to hold a dis-
9 trict court in any district within the Ninth Circuit.

10 “(h) Any designations or assignments under sub-
11 section (f) or (g) shall be in conformity with the rules or
12 orders of the court of appeals of, or the district within,
13 as applicable, the circuit to which the judge is designated
14 or assigned.”.

15 **SEC. 14. ADMINISTRATION.**

16 The court of appeals for the ninth circuit as con-
17 stituted on the day before the effective date of this Act
18 may take such administrative action as may be required
19 to carry out this Act and the amendments made by this
20 Act. Such court shall cease to exist for administrative pur-
21 poses 2 years after the date of enactment of this Act.

22 **SEC. 15. AUTHORIZATION OF APPROPRIATIONS.**

23 There are authorized to be appropriated such sums
24 as may be necessary to carry out this Act, including funds
25 for additional court facilities.

1 **SEC. 16. EFFECTIVE DATE.**

2 Except as provided in section 4(c), this Act and the
3 amendments made by this Act shall take effect 12 months
4 after the date of enactment of this Act.

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