

108TH CONGRESS
1ST SESSION

S. 562

To amend chapter 3 of title 28, United States Code, to divide the Ninth Judicial Circuit of the United States into 2 circuits, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 6, 2003

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

A BILL

To amend chapter 3 of title 28, United States Code, 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 “Ninth Circuit Court
5 of Appeals Reorganization Act of 2003”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **FORMER NINTH CIRCUIT.**—The term
9 “former ninth circuit” means the ninth judicial cir-

1 cuit of the United States as in existence on the day
2 before the effective date of this Act.

3 (2) NEW NINTH CIRCUIT.—The term “new
4 ninth circuit” means the ninth judicial circuit of the
5 United States established by the amendment made
6 by section 3(2)(A).

7 (3) TWELFTH CIRCUIT.—The term “twelfth cir-
8 cuit” means the twelfth judicial circuit of the United
9 States established by the amendment made by sec-
10 tion 3(2)(C).

11 **SEC. 3. NUMBER AND COMPOSITION OF CIRCUITS.**

12 Section 41 of title 28, United States Code, is amend-
13 ed—

14 (1) in the matter before the table, by striking
15 “thirteen” and inserting “fourteen”; and

16 (2) in the table—

17 (A) by striking the item relating to the
18 ninth circuit and inserting the following:

“Ninth California, Nevada.”;

19 and

20 (B) by inserting between the last 2 items
21 the following:

“Twelfth Alaska, Arizona, Guam, Hawaii, Idaho, Mon-
tana, Northern Mariana Islands, Oregon,
Washington.”.

1 **SEC. 4. NUMBER OF CIRCUIT JUDGES.**

2 The table in section 44(a) of title 28, United States
3 Code, is amended—

4 (1) by striking the item relating to the ninth
5 circuit and inserting the following:

“Ninth 25”;

6 and

7 (2) by inserting between the last 2 items the
8 following:

“Twelfth 13.”

9 **SEC. 5. PLACES OF CIRCUIT COURT.**

10 The table in section 48(a) of title 28, United States
11 Code, is amended—

12 (1) by striking the item relating to the ninth
13 circuit and inserting the following:

“Ninth San Francisco, Los Angeles.”;

14 and

15 (2) by inserting between the last 2 items at the
16 end the following:

“Twelfth Portland, Seattle.”.

17 **SEC. 6. ELECTION OF ASSIGNMENT BY CIRCUIT JUDGES.**

18 (a) IN GENERAL.—Except as provided in subsection
19 (b) and notwithstanding section 44(c) of title 28, United
20 States Code, each circuit judge who is in regular active
21 service, and each judge who is a senior judge, of the

1 former ninth circuit on the day before the effective date
2 of this Act may elect to be assigned to the new ninth cir-
3 cuit or to the twelfth circuit and shall notify the Director
4 of the Administrative Office of the United States Courts
5 of such election.

6 **SEC. 7. SENIORITY OF JUDGES.**

7 The seniority of each judge who elects to be assigned
8 under section 6 shall run from the date of commission of
9 such judge as a judge of the former ninth circuit.

10 **SEC. 8. APPLICATION TO CASES.**

11 (a) IN GENERAL.—The provisions of the following
12 paragraphs of this subsection apply to any case in which,
13 on the day before the effective date of this Act, an appeal
14 or other proceeding has been filed with the former ninth
15 circuit:

16 (1) If the matter has been submitted for deci-
17 sion, further proceedings in respect of the matter
18 shall be had in the same manner and with the same
19 effect as if this Act had not been enacted.

20 (2) If the matter has not been submitted for de-
21 cision, the appeal or proceeding, together with the
22 original papers, printed records, and record entries
23 duly certified, shall, by appropriate orders, be trans-
24 ferred to the court to which the matter would have
25 been submitted had this Act been in full force and

1 effect at the time such appeal was taken or other
2 proceeding commenced, and further proceedings in
3 respect of the case shall be had in the same manner
4 and with the same effect as if the appeal or other
5 proceeding had been filed in such court.

6 (3) A petition for rehearing or a petition for re-
7 hearing en banc in a matter decided before the effec-
8 tive date of this Act, or submitted before the effec-
9 tive date of this Act and decided on or after the ef-
10 fective date as provided in paragraph (1), shall be
11 treated in the same manner and with the same effect
12 as though this Act had not been enacted. If a peti-
13 tion for rehearing en banc is granted, the matter
14 shall be reheard by a court comprised as though this
15 Act had not been enacted.

16 **SEC. 9. ADMINISTRATION.**

17 (a) **ACTIONS.**—The former ninth circuit as con-
18 stituted on the day before the effective date of this Act
19 may take such administrative actions as may be required
20 to carry out this Act and the amendments made by this
21 Act.

22 (b) **TERMINATION.**—The former ninth circuit shall
23 cease to exist for administrative purposes on July 1, 2005.

1 (c) MEETINGS.—During the 10 years following the
2 date of enactment of this Act, the new ninth circuit and
3 the twelfth circuit may meet in either circuit’s jurisdiction.

4 **SEC. 10. EFFECTIVE DATE.**

5 This Act and the amendments made by this Act shall
6 become effective on October 1, 2003.

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