

AMENDMENT TO H.R. 2746
OFFERED BY MR. BIGGS OF ARIZONA

Add, at the end of the bill, the following:

1 SEC. 2. DEFINITIONS.

2 In this Act:

3 (1) FORMER NINTH CIRCUIT.—The term
4 “former ninth circuit” means the ninth judicial cir-
5 cuit of the United States as in existence on the day
6 before the effective date of this Act.

7 (2) NEW NINTH CIRCUIT.—The term “new
8 ninth circuit” means the ninth judicial circuit of the
9 United States established by the amendment made
10 by section 3.

11 (3) TWELFTH CIRCUIT.—The term “twelfth cir-
12 cuit” means the twelfth judicial circuit of the United
13 States established by the amendment made by sec-
14 tion 3.

15 SEC. 3. NUMBER AND COMPOSITION OF CIRCUITS.

16 Section 41 of title 28, United States Code, is amend-
17 ed—

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

20 (2) in the table—

1 (A) by striking the item relating to the
2 ninth circuit and inserting the following:

“Ninth California, Hawaii, Oregon, Wash-
ington, Guam, Northern Mariana
Islands.”;

3 and

4 (B) by inserting after the item relating to
5 the eleventh circuit the following:

“Twelfth Alaska, Arizona, Idaho, Montana, Ne-
vada.”.

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

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

9 (1) by striking the item relating to the ninth
10 circuit and inserting the following:

“Ninth 21”;

11 and

12 (2) by inserting after the item relating to the
13 eleventh circuit the following:

“Twelfth 8”.

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

15 The table contained in section 48(a) of title 28,
16 United States Code, is amended by inserting after the
17 item relating to the eleventh circuit the following:

“Twelfth Las Vegas, Phoenix, Anchorage, Mis-
soula.”.

1 **SEC. 6. ELECTION OF ASSIGNMENT OF CIRCUIT JUDGES.**

2 (a) IN GENERAL.—Each circuit judge of the former
3 ninth circuit who is in regular active service and whose
4 official duty station on the day before the effective date
5 of this Act—

6 (1) is in California, Oregon, Washington,
7 Guam, Hawaii, or the Northern Mariana Islands
8 shall be a circuit judge of the new ninth circuit as
9 of such effective date; and

10 (2) subject to subsection (b), is in Alaska, Ari-
11 zona, Idaho, Montana, or Nevada, shall be a circuit
12 judge of the twelfth circuit as of such effective date.

13 (b) ELECTION BY CERTAIN CIRCUIT JUDGES.—A cir-
14 cuit judge in regular active service as described in sub-
15 section (a)(2) may elect to be permanently assigned to the
16 new ninth circuit as of such effective date by notifying
17 the Director of the Administrative Office of the United
18 States Courts of such election.

19 (c) VACANCIES.—For each individual serving in the
20 position of circuit judge of the former ninth circuit whose
21 official duty station on the day before the effective date
22 of this Act is in Alaska, Arizona, Idaho, Montana, or Ne-
23 vada, after the date on which such individual ceases to
24 serve as a circuit judge, the President shall appoint, by
25 and with the advice and consent of the Senate, 1 addi-
26 tional circuit judge for the twelfth circuit, without regard

1 to whether such individual makes an election described in
2 subsection (b).

3 **SEC. 7. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.**

4 Each judge who is a senior circuit judge of the former
5 ninth circuit, whose official duty station on the day before
6 the effective date of this Act is in Alaska, Arizona, Idaho,
7 Montana, or Nevada, may elect to be assigned to the new
8 ninth circuit or the twelfth circuit as of such effective date
9 and shall notify the Director of the Administrative Office
10 of the United States Courts of such election.

11 **SEC. 8. AUTHORIZATION OF TEMPORARY JUDGESHIPS.**

12 (a) IN GENERAL.—For each circuit judge in regular
13 active service who elects to be assigned to the new ninth
14 circuit under section 6(b), the President shall appoint, by
15 and with the advice and consent of the Senate, 1 addi-
16 tional circuit judge for the twelfth circuit, resident in the
17 duty station of the circuit judge making the election as
18 of the day before the effective date of this Act.

19 (b) VACANCIES.—For each appointment made under
20 subsection (a) for the twelfth circuit, an equal number of
21 corresponding vacancies in the position of circuit judge for
22 the twelfth circuit shall not be filled.

23 **SEC. 9. SENIORITY OF JUDGES.**

24 (a) IN GENERAL.—The seniority of each judge—

1 (1) who elects to be assigned to the twelfth cir-
2 cuit under section 6(b);

3 (2) who elects to be assigned to the new ninth
4 circuit under section 6(b); or

5 (3) who elects to be assigned to the twelfth cir-
6 cuit under section 7,

7 shall run from the date of commission of such judge as
8 a judge of the former ninth circuit.

9 (b) TEMPORARY TWELFTH CIRCUIT JUDGES.—The
10 seniority of each judge appointed under section 8(a) shall
11 run from the date of commission of such judge as a judge
12 of the twelfth circuit.

13 **SEC. 10. APPLICATION TO CASES.**

14 The following apply to any case in which, on the day
15 before the effective date of this Act, an appeal or other
16 proceeding has been filed with the former ninth circuit:

17 (1) Except as provided in paragraph (3), if the
18 matter has been submitted for decision, further pro-
19 ceedings with respect to the matter shall be had in
20 the same manner and with the same effect as if this
21 Act had not been enacted.

22 (2) If the matter has not been submitted for de-
23 cision, the appeal or proceeding, together with the
24 original papers, printed records, and record entries
25 duly certified, shall, by appropriate orders, be trans-

1 ferred to the court to which the matter would have
2 been submitted had this Act been in full force and
3 effect on the date on which such appeal was taken
4 or other proceeding commenced, and further pro-
5 ceedings with respect to the case shall be had in the
6 same manner and with the same effect as if the ap-
7 peal or other proceeding had been filed in such
8 court.

9 (3) If a petition for rehearing en banc is pend-
10 ing on or after the effective date of this Act, the pe-
11 tition shall be considered by the court of appeals to
12 which the petition would have been submitted had
13 this Act been in full force and effect on the date on
14 which the appeal or other proceeding was filed with
15 the court of appeals.

16 **SEC. 11. ADMINISTRATION.**

17 (a) **IN GENERAL.**—The court of appeals for the ninth
18 circuit as constituted on the day before the effective date
19 of this Act may take such administrative action as may
20 be required to carry out this Act and the amendments
21 made by this Act.

22 (b) **ADMINISTRATIVE TERMINATION.**—The court de-
23 scribed in subsection (a) shall cease to exist for adminis-
24 trative purposes 2 years after the effective date of this
25 Act.

1 **SEC. 12. EFFECTIVE DATE.**

2 This Act and the amendments made by this Act shall
3 take effect 1 year after the date of enactment of this Act.

4 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

5 There are authorized to be appropriated such sums
6 as may be necessary to carry out this Act and the amend-
7 ments made by this Act, including such sums as may be
8 necessary to provide appropriate space and facilities for
9 any judicial positions created by this Act or an amendment
10 made by this Act.

