

Plan to Break Up 9th Circuit Court Faces Opposition

Judges, politicians and law professors line up against the move that some conservatives seek.

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A broad array of judges, law professors, bar associations and political leaders came out Wednesday against splitting the U.S. 9th Circuit Court of Appeals in San Francisco, as the Senate Judiciary Committee in Washington took up the thorny issue.

The overwhelming majority of the circuit's judges, led by Chief Judge Mary M. Schroeder of Phoenix, signed a letter reiterating their opposition to the breakup. Schroeder, Carlos Bea of San Francisco, Consuelo Callahan of Sacramento and four other 9th Circuit judges — Alex Kozinski, a Reagan appointee from California, Sidney Thomas, a Clinton appointee from Montana, Johnnie Rawlinson, a Clinton appointee from Nevada, and Richard Clifton, a George W. Bush appointee from Hawaii — attended the hearing to express their opposition.

More than 60 federal trial judges, including liberal Lawrence Karlton of Sacramento and conservative Sam Conti of San Francisco, also said they oppose a split.

The San Francisco-based 9th Circuit considers federal appeals from Alaska, Arizona, California, Idaho, Hawaii, Montana, Nevada, Oregon, Washington, Guam and the Marianas Islands.

Critics have repeatedly tried to split the circuit. The latest proposal would create a 12th circuit encompassing Alaska, Arizona, Idaho, Montana, Nevada, Oregon and Washington. California, Hawaii and the Pacific islands would stay in the 9th Circuit.

Conservative officeholders and organizations have long attacked the 9th Circuit as overly liberal because of decisions striking down death sentences, upholding environmental regulations and striking down a requirement that schoolchildren say the Pledge of Allegiance.

Some proponents of the split, including 9th Circuit Judge Diarmuid O'Scannlain of Portland, contend that the circuit is simply too large, with caseloads too big, to function smoothly.

The vast majority of the circuit's judges maintain that the circuit is working well and that pulling it apart would create new problems and cost too much.

Sen. Dianne Feinstein (D-Calif.) and former Gov. Pete Wilson oppose the split. In remarks to the committee, Feinstein said she thought politics were motivating the breakup effort.

"When ideological concerns are set aside, it becomes evident that the proposal before this committee to split the 9th Circuit is a lose/lose proposition," Feinstein said. "The costs of court administration would rise, while the administration of justice would suffer."

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