

COURTS: 9th Circuit split-up headed for House markup today

A House Judiciary subcommittee tomorrow will mark up a recently introduced bill to split the 9th U.S. Circuit Court of Appeals, moving quickly to approve a bill that is likely to draw strong opposition from environmentalists and California officials.

The committee's approval of the legislation -- sponsored by Committee Chairman Jim Sensenbrenner (R-Wis.) -- would mark another effort by congressional Republicans to divide the country's largest circuit court.

Sensenbrenner's bill would split the 9th Circuit into two separate courts -- a 9th Circuit that contains California, Hawaii, Guam and Northern Mariana Islands and a new 12th Circuit that includes Alaska, Arizona, Idaho, Montana, Nevada, Oregon and Washington.

Republicans in both chambers have long said that the current 9th Circuit, which represents 56 million people, is too large to operate efficiently.

But the bill has already drawn opposition from environmentalists, who say the legislation is an effort to break up the influence of California judges over a court that oversees much of the nation's public lands and routinely handles environmental issues. A [letter](#) sent today to the committee signed by more than 50 national and Western environmental groups criticized the legislation as a way to give special interests an opportunity to "judge-shop" for a more favorable court.

"By 'dividing and conquering' the Ninth Circuit, polluters hope to change the pool of judges who will decide their cases," stated the letter. "The result would be less consistency in the law, resulting in more exploitation and mismanagement of natural resources in the Pacific Ocean and numerous special places in the western states."

Sensenbrenner introduced the legislation late last week and there has been no public hearing on the bill -- a move that has irked some environmentalists. **"If they really cared about efficiency in the House, there would be no reason to skip a hearing," said Earthjustice Attorney Glenn Sugameli. "The fact that the House is not holding a hearing on a bill that was introduced last Friday shows that they're trying to gerrymander the court."**

Similar versions of the legislation have been floated in the past and the House last year approved a measure approved by Rep. Mike Simpson (R-Idaho) that would have divided the 9th Circuit into three courts. The legislation was attached to the fiscal year 2005 omnibus spending bill but was later dropped because of strong objection by Sen. Dianne Feinstein (D-Calif.).

The Sensenbrenner bill is virtually guaranteed of making it out of committee and will likely again be approved by the full House, either as an amendment to a spending bill or a stand-alone measure.

It remains unclear, however, whether the legislation will gain any traction in the Senate. A Senate Judiciary subcommittee is scheduled to hold a hearing on the issue tomorrow and several bills to split the court have already been introduced in the chamber. But Senate Democrats have not shown any more willingness to support the measure, and it remains to be seen whether the GOP leadership will be willing to engage in yet another partisan fight over the federal judiciary during this session of Congress.

Schedule: The Courts, the Internet and Intellectual Property Subcommittee markup is scheduled for 3 p.m. tomorrow in 2141 Rayburn.

[Click here](#) to download a copy of the environmentalists' letter.

Reprinted with permission from E&E Publishing. www.eedaily.com 202.628.6500. Copyright 2005. All rights reserved.