

Union Calendar No. 204

109TH CONGRESS
2^D SESSION

H. R. 4093

[Report No. 109-373]

To provide for the appointment of additional Federal circuit and district judges, to improve the administration of justice, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 2005

Mr. SENSENBRENNER (for himself and Mr. SIMPSON) introduced the following bill; which was referred to the Committee on the Judiciary

FEBRUARY 8, 2006

Additional sponsors: Mr. FEENEY, Mr. OTTER, Mr. KELLER, Mr. COBLE, Mr. BACHUS, Ms. GINNY BROWN-WAITE of Florida, Mr. HASTINGS of Washington, Mr. MCCOTTER, and Mr. MCHENRY

FEBRUARY 8, 2006

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on October 20, 2005]

A BILL

To provide for the appointment of additional Federal circuit and district judges, to improve the administration of justice, 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 “Federal Judgeship and*
 5 *Administrative Efficiency Act of 2005”.*

6 **SEC. 2. TABLE OF CONTENTS.**

7 *The table of contents for this Act is as follows:*

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—CIRCUIT AND DISTRICT JUDGESHIPS

Sec. 101. Short title.

Sec. 102. Circuit judges for the circuit courts of appeals.

Sec. 103. District judges for the district courts.

Sec. 104. Establishment of article III court in the Virgin Islands.

Sec. 105. Effective date.

TITLE II—BANKRUPTCY JUDGESHIPS

Sec. 201. Short title.

Sec. 202. Authorization for additional bankruptcy judgeships.

Sec. 203. Temporary bankruptcy judgeships.

Sec. 204. Conversion of existing temporary bankruptcy judgeships.

Sec. 205. General provisions.

Sec. 206. Effective date.

TITLE III—NINTH CIRCUIT REORGANIZATION

Sec. 301. Short title.

Sec. 302. Definitions.

Sec. 303. Number and composition of circuits.

Sec. 304. Number of circuit judges.

Sec. 305. Places of circuit court.

Sec. 306. Assignment of circuit judges.

Sec. 307. Election of assignment by senior judges.

Sec. 308. Seniority of judges.

Sec. 309. Application to cases.

Sec. 310. Temporary assignment of circuit judges among circuits.

Sec. 311. Temporary assignment of district judges among circuits.

Sec. 312. Administration.

Sec. 313. Effective date.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS

Sec. 401. Authorization of appropriations.

1 **TITLE I—CIRCUIT AND DISTRICT**
2 **JUDGESHIPS**

3 **SEC. 101. SHORT TITLE.**

4 *This title may be cited as the “Federal Judgeship Act*
5 *of 2005”.*

6 **SEC. 102. CIRCUIT JUDGES FOR THE CIRCUIT COURTS OF**
7 **APPEALS.**

8 *(a) IN GENERAL.—The President shall appoint, by*
9 *and with the advice and consent of the Senate—*

10 *(1) 1 additional circuit judge for the first circuit*
11 *court of appeals;*

12 *(2) 2 additional circuit judges for the second cir-*
13 *cuit court of appeals;*

14 *(3) 1 additional circuit judge for the sixth cir-*
15 *cuit court of appeals; and*

16 *(4) 5 additional circuit judges for the ninth cir-*
17 *cuit court of appeals, whose official duty station shall*
18 *be in California.*

19 *(b) TEMPORARY JUDGESHIPS.—*

20 *(1) IN GENERAL.—The President shall appoint,*
21 *by and with the advice and consent of the Senate—*

22 *(A) 1 additional circuit judge for the eighth*
23 *circuit court of appeals; and*

1 (B) 2 additional circuit judges for the ninth
2 circuit court of appeals, whose official duty sta-
3 tion shall be in California.

4 (2) VACANCIES.—

5 (A) EIGHTH CIRCUIT.—The first vacancy in
6 the office of circuit judge in the eighth circuit
7 court of appeals, occurring 10 years or more
8 after the confirmation date of the judge named to
9 fill the circuit judgeship created in that circuit
10 by paragraph (1)(A) shall not be filled.

11 (B) NINTH CIRCUIT.—The first 2 vacancies
12 in the office of circuit judge in the ninth circuit
13 court of appeals, occurring 10 years or more
14 after judges are first confirmed to fill both tem-
15 porary circuit judgeships created by paragraph
16 (1)(B) shall not be filled.

17 (c) TABLE OF JUDGESHIPS.—In order that the table
18 contained in section 44 of title 28, United States Code, will,
19 with respect to each judicial circuit, reflect the changes in
20 the total number of permanent circuit judgeships authorized
21 under subsection (a) of this section, such table is amended
22 to read as follows:

“Circuits	Number of Judges
<i>District of Columbia</i>	12
<i>First</i>	7
<i>Second</i>	15
<i>Third</i>	14
<i>Fourth</i>	15

<i>Fifth</i>	17
<i>Sixth</i>	17
<i>Seventh</i>	11
<i>Eighth</i>	11
<i>Ninth</i>	33
<i>Tenth</i>	12
<i>Eleventh</i>	12
<i>Federal</i>	12.”.

1 **SEC. 103. DISTRICT JUDGES FOR THE DISTRICT COURTS.**

2 (a) *IN GENERAL.*—*The President shall appoint, by*
3 *and with the advice and consent of the Senate—*

4 (1) *1 additional district judge for the northern*
5 *district of Alabama;*

6 (2) *4 additional district judges for the district of*
7 *Arizona;*

8 (3) *3 additional district judges for the northern*
9 *district of California;*

10 (4) *4 additional district judges for the eastern*
11 *district of California;*

12 (5) *4 additional district judges for the central*
13 *district of California;*

14 (6) *1 additional district judge for the southern*
15 *district of California;*

16 (7) *1 additional district judge for the district of*
17 *Colorado;*

18 (8) *4 additional district judges for the middle*
19 *district of Florida;*

20 (9) *3 additional district judges for the southern*
21 *district of Florida;*

1 (10) 1 additional district judge for the district of
2 *Idaho;*

3 (11) 1 additional district judge for the northern
4 *district of Illinois;*

5 (12) 1 additional district judge for the southern
6 *district of Indiana;*

7 (13) 1 additional district judge for the western
8 *district of Missouri;*

9 (14) 1 additional district judge for the district of
10 *Nebraska;*

11 (15) 1 additional district judge for the district of
12 *Nevada;*

13 (16) 1 additional district judge for the district of
14 *New Mexico;*

15 (17) 3 additional district judges for the eastern
16 *district of New York;*

17 (18) 1 additional district judge for the western
18 *district of New York;*

19 (19) 1 additional district judge for the district of
20 *Oregon;*

21 (20) 1 additional district judge for the district of
22 *South Carolina;*

23 (21) 3 additional district judges for the southern
24 *district of Texas;*

1 (22) *2 additional district judges for the eastern*
2 *district of Virginia; and*

3 (23) *1 additional district judge for the western*
4 *district of Washington.*

5 **(b) TEMPORARY JUDGESHIPS.—**

6 (1) *IN GENERAL.—The President shall appoint,*
7 *by and with the advice and consent of the Senate—*

8 (A) *1 additional district judge for the mid-*
9 *dle district of Alabama;*

10 (B) *1 additional district judge for the dis-*
11 *trict of Arizona;*

12 (C) *1 additional district judge for the*
13 *northern district of California;*

14 (D) *1 additional district judge for the dis-*
15 *trict of Colorado;*

16 (E) *1 additional district judge for the mid-*
17 *dle district of Florida;*

18 (F) *1 additional district judge for the*
19 *northern district of Iowa;*

20 (G) *1 additional district judge for the dis-*
21 *trict of Minnesota;*

22 (H) *1 additional district judge for the dis-*
23 *trict of New Jersey;*

24 (I) *1 additional district judge for the dis-*
25 *trict of New Mexico;*

1 *(J) 1 additional district judge for the south-*
2 *ern district of Ohio;*

3 *(K) 1 additional district judge for the dis-*
4 *trict of Oregon; and*

5 *(L) 1 additional district judge for the dis-*
6 *trict of Utah.*

7 (2) *VACANCIES NOT FILLED.*—*The first vacancy*
8 *in the office of district judge in each of the judicial*
9 *districts named in paragraph (1) occurring 10 years*
10 *or more after the confirmation date of the judge*
11 *named to fill the district judgeship created in that*
12 *district by paragraph (1) shall not be filled.*

13 (c) *EXISTING JUDGESHIPS.*—

14 (1) *PERMANENT JUDGESHIPS.*—*The existing*
15 *judgeships for the district of Hawaii, the district of*
16 *Kansas, and the eastern district of Missouri author-*
17 *ized by section 203(c) of the Judicial Improvements*
18 *Act of 1990 (Public Law 101–650; 28 U.S.C. 133*
19 *note) shall, as of the effective date of this Act, be au-*
20 *thorized under section 133 of title 28, United States*
21 *Code, and the incumbents in those offices shall hold*
22 *the office under section 133 of title 28, United States*
23 *Code, as amended by this Act.*

24 (2) *EXTENSION OF TEMPORARY JUDGESHIP.*—
25 *Section 203(c) of the Judicial Improvements Act of*

1 1990 (Public Law 101–650; 28 U.S.C. 133 note) is
 2 amended in the fifth sentence (relating to the northern
 3 district of Ohio) by striking “15 years” and inserting
 4 “20 years”.

5 (d) *TABLE OF JUDGESHIPS.*—In order that the table
 6 contained in section 133(a) of title 28, United States Code,
 7 will, with respect to each judicial district, reflect the
 8 changes in the total number of permanent district judge-
 9 ships authorized under subsections (a) and (c) of this sec-
 10 tion, such table is amended to read as follows:

“Districts	Judges
“Alabama:	
“Northern	8
“Middle	3
“Southern	3
“Alaska	3
“Arizona	16
“Arkansas:	
“Eastern	5
“Western	3
“California:	
“Northern	17
“Eastern	10
“Central	31
“Southern	14
“Colorado	8
“Connecticut	8
“Delaware	4
“District of Columbia	15
“Florida:	
“Northern	4
“Middle	19
“Southern	20
“Georgia:	
“Northern	11
“Middle	4
“Southern	3
“Hawaii	4
“Idaho	3
“Illinois:	
“Northern	23
“Central	4
“Southern	4

“Indiana:	
“Northern	5
“Southern	6
“Iowa:	
“Northern	2
“Southern	3
“Kansas	6
“Kentucky:	
“Eastern	5
“Western	4
“Eastern and Western	1
“Louisiana:	
“Eastern	12
“Middle	3
“Western	7
“Maine	3
“Maryland	10
“Massachusetts	13
“Michigan:	
“Eastern	15
“Western	4
“Minnesota	7
“Mississippi:	
“Northern	3
“Southern	6
“Missouri:	
“Eastern	7
“Western	6
“Eastern and Western	2
“Montana	3
“Nebraska	4
“Nevada	8
“New Hampshire	3
“New Jersey	17
“New Mexico	7
“New York:	
“Northern	5
“Southern	28
“Eastern	18
“Western	5
“North Carolina:	
“Eastern	4
“Middle	4
“Western	4
“North Dakota	2
“Ohio:	
“Northern	11
“Southern	8
“Oklahoma:	
“Northern	3
“Eastern	1
“Western	6
“Northern, Eastern, and Western	1
“Oregon	7

“*Pennsylvania:*
 “*Eastern* 22
 “*Middle* 6
 “*Western* 10
“*Puerto Rico* 7
“*Rhode Island* 3
“*South Carolina* 11
“*South Dakota* 3
“*Tennessee:*
 “*Eastern* 5
 “*Middle* 4
 “*Western* 5
“*Texas:*
 “*Northern* 12
 “*Southern* 22
 “*Eastern* 7
 “*Western* 13
“*Utah* 5
“*Vermont* 2
“*Virginia:*
 “*Eastern* 13
 “*Western* 4
“*Washington:*
 “*Eastern* 4
 “*Western* 8
“*West Virginia:*
 “*Northern* 3
 “*Southern* 5
“*Wisconsin:*
 “*Eastern* 5
 “*Western* 2
“*Wyoming* 3.”.

1 **SEC. 104. ESTABLISHMENT OF ARTICLE III COURT IN THE**
2 **VIRGIN ISLANDS.**

3 (a) *ESTABLISHMENT OF JUDICIAL DISTRICT.—*

4 (1) *VIRGIN ISLANDS.—Chapter 5 of title 28,*
5 *United States Code, is amended by inserting after sec-*
6 *tion 126 the following new section:*

7 **“§ 126A. Virgin Islands**

8 *“The Virgin Islands constitutes 1 judicial district com-*
9 *prising 2 divisions.*

1 “(1) *The Saint Croix Division comprises the Is-*
 2 *land of Saint Croix and adjacent islands and cays.*

3 “*Court for the Saint Croix Division shall be*
 4 *held at Christiansted.*”

5 “(2) *The Saint Thomas and Saint John Divi-*
 6 *sion comprises the Islands of Saint Thomas and*
 7 *Saint John and adjacent islands and cays.*

8 “*Court for the Saint Thomas and Saint*
 9 *John Division shall be held at Charlotte-*
 10 *Amalie.*”

11 (2) *TECHNICAL AND CONFORMING AMEND-*
 12 *MENT.—The table of contents for chapter 5 of title 28,*
 13 *United States Code, is amended by inserting after the*
 14 *item relating to section 126 the following:*

 “126A. *Virgin Islands.*”

15 (b) *NUMBER OF JUDGES.—The table contained in sec-*
 16 *tion 133(a) of title 28, United States Code, is amended by*
 17 *inserting after the item relating to Vermont the following:*

 “*Virgin Islands* 2”.

18 (c) *BANKRUPTCY JUDGES.—The table contained in*
 19 *section 152(a)(2) of title 28, United States Code, is amend-*
 20 *ed by inserting after the item relating to Vermont the fol-*
 21 *lowing:*

 “*Virgin Islands* 0”.

1 (d) *JUDICIAL CONFERENCES OF CIRCUITS.*—Section
2 333 of title 28, United States Code, is amended in the third
3 sentence of the first undesignated paragraph—

4 (1) by striking “, the District Court of the Virgin
5 Islands,”; and

6 (2) by striking “to the conferences of their respec-
7 tive circuits” and inserting “to the conference of the
8 ninth circuit”.

9 (e) *JUDGES IN TERRITORIES AND POSSESSIONS.*—Sec-
10 tion 373 of title 28, United States Code, is amended—

11 (1) in subsection (a), by striking “, the District
12 Court of the Northern Mariana Islands, or the Dis-
13 trict Court of the Virgin Islands” and inserting “or
14 the District Court of the Northern Mariana Islands”;
15 and

16 (2) in subsection (e), by striking “, the District
17 Court of the Northern Mariana Islands, or the Dis-
18 trict Court of the Virgin Islands” and inserting “or
19 the District Court of the Northern Mariana Islands”.

20 (f) *ANNUITIES FOR SURVIVORS OF CERTAIN JUDICIAL*
21 *OFFICIALS OF THE UNITED STATES.*—Section 376(a) of
22 title 28, United States Code, is amended—

23 (1) in paragraph (1)(B), by striking “, the Dis-
24 trict Court of the Northern Mariana Islands, or the
25 District Court of the Virgin Islands” and inserting

1 *“or the District Court of the Northern Mariana Is-*
2 *lands”*; and

3 (2) *in paragraph (2)(B), by striking “, the Dis-*
4 *trict Court of the Northern Mariana Islands, or the*
5 *District Court of the Virgin Islands” and inserting*
6 *“or the District Court of the Northern Mariana Is-*
7 *lands”*.

8 (g) *AUTHORITY OF ATTORNEY GENERAL.—Section*
9 *526(a)(2) of title 28, United States Code, is amended by*
10 *striking “and of the district court of the Virgin Islands”.*

11 (h) *COURTS DEFINED.—Section 610 of title 28, United*
12 *States Code, is amended—*

13 (1) *by striking “the United States District Court*
14 *for the District of the Canal Zone,”*; and

15 (2) *by striking “the District Court of the Virgin*
16 *Islands,”*.

17 (i) *UNITED STATES MAGISTRATE JUDGES.—Section*
18 *631(a) of title 28, United States Code, is amended—*

19 (1) *in the first sentence, by striking “the Virgin*
20 *Islands, Guam,” and inserting “Guam”*; and

21 (2) *in the second sentence, by striking “the Vir-*
22 *gin Islands, Guam,” and inserting “Guam”*.

23 (j) *COURT REPORTERS.—Section 753(a) of title 28,*
24 *United States Code, is amended by striking “, the United*
25 *States District Court for the District of the Canal Zone,*

1 *the District Court of Guam, and the District Court of the*
2 *Virgin Islands” and inserting “and the District Court of*
3 *Guam”.*

4 *(k) FINAL DECISIONS OF DISTRICT COURTS.—Section*
5 *1291 of title 28, United States Code, is amended by striking*
6 *“, the United States District Court for the District of the*
7 *Canal Zone, the District Court of Guam, and the District*
8 *Court of the Virgin Islands,” and inserting “and the Dis-*
9 *trict Court of Guam,”.*

10 *(l) INTERLOCUTORY DECISIONS.—Section 1292 of title*
11 *28, United States Code, is amended—*

12 *(1) in subsection (a), by striking “, the United*
13 *States District Court for the District of the Canal*
14 *Zone, the District Court of Guam, and the District*
15 *Court of the Virgin Islands,” and inserting “and the*
16 *District Court of Guam,”; and*

17 *(2) in subsection (d)(4)(A), by striking “the Dis-*
18 *trict Court of the Virgin Islands,”.*

19 *(m) JURISDICTION OF THE UNITED STATES COURT OF*
20 *APPEALS FOR THE FEDERAL CIRCUIT.—Section 1295(a) of*
21 *title 28, United States Code, is amended in paragraphs (1)*
22 *and (2)—*

23 *(1) by striking “the United States District Court*
24 *for the District of the Canal Zone,”; and*

1 (2) *by striking “the District Court of the Virgin*
2 *Islands,”.*

3 (n) *UNITED STATES AS DEFENDANT.—Section*
4 *1346(b)(1) of title 28, United States Code, is amended by*
5 *striking “, together with the United States District Court*
6 *for the District of the Canal Zone and the District Court*
7 *of the Virgin Islands,”.*

8 (o) *ADEQUATE REPRESENTATION OF DEFENDANTS.—*
9 *Section 3006A(j) of title 18, United States Code, is amended*
10 *by striking “the District Court of the Virgin Islands,”.*

11 (p) *SAVINGS PROVISIONS.—*

12 (1) *TENURE OF INCUMBENT JUDGES.—A judge of*
13 *the District Court of the Virgin Islands in office on*
14 *the effective date of this section shall continue in office*
15 *until the expiration of the term for which the judge*
16 *was appointed, or until the judge dies, resigns, or is*
17 *removed from office, whichever occurs first. When a*
18 *vacancy occurs on the court on or after the effective*
19 *date of this section, the President, in accordance with*
20 *section 133(a) of title 28, United States Code, shall*
21 *appoint, by and with the advice and consent of the*
22 *Senate, a district judge for the District of the Virgin*
23 *Islands.*

24 (2) *RETIREMENT RIGHTS AND BENEFITS.—The*
25 *amendments made by this section shall not affect the*

1 *rights under sections 373 and 376 of title 28, United*
2 *States Code, of any judge of the District Court of the*
3 *Virgin Islands who retires on or before the effective*
4 *date of this section or who continues in office after*
5 *that date under paragraph (1) of this subsection.*
6 *Service as a judge of the District Court of the Virgin*
7 *Islands appointed under section 24 of the Revised Or-*
8 *ganic Act of the Virgin Islands (48 U.S.C. 1614) shall*
9 *be included in calculating service under sections 371*
10 *and 372 of title 28, United States Code, and shall not*
11 *be counted for purposes of section 373 of that title, if*
12 *the judge is reappointed, after the effective date of this*
13 *section, under section 133(a) of title 28, United States*
14 *Code, as district judge for the District of the Virgin*
15 *Islands.*

16 *(q) AMENDMENTS TO REVISED ORGANIC ACT OF THE*
17 *VIRGIN ISLANDS.—*

18 *(1) REPEALS.—Sections 24, 25, 26, and 27 of*
19 *the Revised Organic Act of the Virgin Islands (48*
20 *U.S.C. 1614, 1615, 1616 and 1617) are repealed.*

21 *(2) RIGHTS AND PROHIBITIONS.—Section 3 of*
22 *the Revised Organic Act of the Virgin Islands (48*
23 *U.S.C. 1561) is amended in the 23d undesignated*
24 *paragraph—*

1 *and the times and places of holding court shall be governed*
2 *by local law or the rules promulgated by those courts.”.*

3 (4) *INCOME TAX MATTERS.*—Section 22 of the
4 *Revised Organic Act of the Virgin Islands (48 U.S.C.*
5 *1612) is amended to read as follows:*

6 **“SEC. 22. JURISDICTION OVER INCOME TAX MATTERS.**

7 *“The United States District Court for the District of*
8 *the Virgin Islands shall have exclusive jurisdiction over all*
9 *criminal and civil proceedings in the Virgin Islands with*
10 *respect to the income tax laws applicable to the Virgin Is-*
11 *lands, except the ancillary laws relating to the income tax*
12 *enacted by the legislature of the Virgin Islands. Any act*
13 *or failure to act with respect to the income tax laws appli-*
14 *cable to the Virgin Islands which would constitute a crimi-*
15 *nal offense described in chapter 75 of subtitle F of the Inter-*
16 *nal Revenue Code of 1986 shall constitute an offense against*
17 *the Government of the Virgin Islands and may be pros-*
18 *ecuted in the name of the Government of the Virgin Islands*
19 *by the appropriate officers thereof in the United States Dis-*
20 *trict Court for the District of the Virgin Islands without*
21 *the request or consent of the United States attorney for the*
22 *Virgin Islands.”.*

23 (5) *APPELLATE JURISDICTION.*—Section 23A of
24 *the Revised Organic Act of the Virgin Islands (48*
25 *U.S.C. 1613a) is amended—*

1 (A) by striking “District Court of the Vir-
2 gin Islands” each place it appears and inserting
3 “United States District Court for the District of
4 the Virgin Islands”; and

5 (B) in subsection (b), by striking “pursuant
6 to section 24(a) of this Act: Provided, That no
7 more than one of them may be a judge of a court
8 established by local law.” and inserting “pursu-
9 ant to chapter 13 of title 28, United States Code,
10 or a recalled senior judge of the former District
11 Court of the Virgin Islands. The chief judge of
12 the United States Court of Appeals for the Third
13 Circuit may assign to the appellate division a
14 judge of a court of record of the Virgin Islands,
15 except that no more than 1 of the judges sitting
16 in the appellate division at any session may be
17 a judge of a court established by local law.”.

18 (r) *ADDITIONAL REFERENCES.*—Any reference in any
19 provision of law to the “District Court of the Virgin Is-
20 lands” shall, on and after the effective date of this section,
21 be deemed to be a reference to the United States District
22 Court for the District of the Virgin Islands.

23 (s) *EFFECTIVE DATE.*—This section and the amend-
24 ments made by this section shall take effect at the end of
25 the 90-day period beginning on the date of the enactment

1 *of this Act. Any complaint or proceeding pending in the*
2 *District Court of the Virgin Islands on the effective date*
3 *of this section may be pursued to final determination in*
4 *the United States District Court for the District of the Vir-*
5 *gin Islands, the United States Court of Appeals for the*
6 *Third Circuit, the United States Court of Appeals for the*
7 *Federal Circuit, and the Supreme Court of the United*
8 *States.*

9 **SEC. 105. EFFECTIVE DATE.**

10 *Except as provided in section 104(s), this title and the*
11 *amendments made by this title shall take effect on the date*
12 *of the enactment of this Act.*

13 **TITLE II—BANKRUPTCY**
14 **JUDGESHIPS**

15 **SEC. 201. SHORT TITLE.**

16 *This title may be cited as the “Enhanced Bankruptcy*
17 *Judgeship Act of 2005”.*

18 **SEC. 202. AUTHORIZATION FOR ADDITIONAL BANKRUPTCY**

19 **JUDGESHIPS.**

20 *The following judgeships shall be filled in the manner*
21 *prescribed in section 152(a)(1) of title 28, United States*
22 *Code, for the appointment of bankruptcy judges provided*
23 *for in section 152(a)(2) of such title:*

24 *(1) 1 additional bankruptcy judgeship for the*
25 *eastern and western districts of Arkansas.*

1 (2) 1 additional bankruptcy judgeship for the
2 eastern district of California.

3 (3) 2 additional bankruptcy judgeships for the
4 middle district of Florida.

5 (4) 2 additional bankruptcy judgeships for the
6 northern district of Georgia.

7 (5) 1 additional bankruptcy judgeship for the
8 southern district of Georgia.

9 (6) 1 additional bankruptcy judgeship for the
10 eastern district of Kentucky.

11 (7) 1 additional bankruptcy judgeship for the
12 district of Maryland.

13 (8) 3 additional bankruptcy judgeships for the
14 eastern district of Michigan.

15 (9) 1 additional bankruptcy judgeship for the
16 southern district of New York.

17 (10) 1 additional bankruptcy judgeship for the
18 western district of Pennsylvania.

19 (11) 1 additional bankruptcy judgeship for the
20 western district of Tennessee.

21 (12) 1 additional bankruptcy judgeship for the
22 eastern district of Texas.

23 (13) 1 additional bankruptcy judgeship for the
24 district of Utah.

1 **SEC. 203. TEMPORARY BANKRUPTCY JUDGESHIPS.**

2 (a) *AUTHORIZATION FOR ADDITIONAL TEMPORARY*
3 *BANKRUPTCY JUDGESHIPS.*—*The following judgeships shall*
4 *be filled in the manner prescribed in section 152(a)(1) of*
5 *title 28, United States Code, for the appointment of bank-*
6 *ruptcy judges provided for in section 152(a)(2) of such title:*

7 (1) *1 additional bankruptcy judgeship for the*
8 *northern district of Florida.*

9 (2) *2 additional bankruptcy judgeships for the*
10 *middle district of Florida.*

11 (3) *1 additional bankruptcy judgeship for the*
12 *northern district of Indiana.*

13 (4) *1 additional bankruptcy judgeship for the*
14 *northern district of Mississippi.*

15 (5) *1 additional bankruptcy judgeship for the*
16 *district of Nevada.*

17 (6) *1 additional bankruptcy judgeship for the*
18 *western district of North Carolina.*

19 (7) *1 additional bankruptcy judgeship for the*
20 *southern district of Ohio.*

21 (b) *VACANCIES.*—

22 (1) *DISTRICTS WITH SINGLE APPOINTMENTS.*—
23 *Except as provided in paragraph (2), the first va-*
24 *cancy occurring in the office of bankruptcy judge in*
25 *each of the judicial districts set forth in subsection*

26 (a)—

1 (A) occurring 5 years or more after the ap-
2 pointment date of the bankruptcy judge ap-
3 pointed under subsection (a) to such office, and
4 (B) resulting from the death, retirement,
5 resignation, or removal of a bankruptcy judge,
6 shall not be filled.

7 (2) *MIDDLE DISTRICT OF FLORIDA.*—The 1st
8 and 2d vacancies in the office of bankruptcy judge in
9 the middle district of Florida—

10 (A) occurring 5 years or more after the re-
11 spective 1st and 2d appointment dates of the
12 bankruptcy judges appointed under subsection
13 (a)(2), and

14 (B) resulting from the death, retirement,
15 resignation, or removal of a bankruptcy judge,
16 shall not be filled.

17 (c) *ELIGIBILITY FOR SUBSEQUENT APPOINTMENTS.*—
18 A judge holding office in any of the districts enumerated
19 in subsection (a) shall, at the expiration of the term of the
20 judge (other than by reason of paragraph (1)(B) or (2)(B)
21 of subsection (b)), be eligible for reappointment as a bank-
22 ruptcy judge in that district.

1 **SEC. 204. CONVERSION OF EXISTING TEMPORARY BANK-**
2 **RUPTCY JUDGESHIPS.**

3 (a) *JUDGESHIPS AUTHORIZED BY PUBLIC LAW 102-*
4 *361.—The following temporary bankruptcy judgeships au-*
5 *thorized by the following paragraphs of section 3(a) of Pub-*
6 *lic Law 102–361, as amended by section 307 of Public Law*
7 *104–317 (28 U.S.C. 152 note), are converted to permanent*
8 *bankruptcy judgeships under section 152(a)(2) of title 28,*
9 *United States Code:*

10 (1) *The temporary bankruptcy judgeship for the*
11 *district of Delaware authorized by paragraph (3).*

12 (2) *The temporary bankruptcy judgeship for the*
13 *southern district of Illinois authorized by paragraph*
14 *(4).*

15 (3) *The temporary bankruptcy judgeship for the*
16 *district of Puerto Rico authorized by paragraph (7).*

17 (b) *JUDGESHIPS AUTHORIZED BY PUBLIC LAW 109-*
18 *8.—The following temporary bankruptcy judgeships au-*
19 *thorized by the following subparagraphs of section*
20 *1223(b)(1) of the Bankruptcy Abuse Prevention and Con-*
21 *sumer Protection Act of 2005 (Public Law 109–8), are con-*
22 *verted to permanent bankruptcy judgeships under section*
23 *152(a)(2) of title 28, United States Code:*

24 (1) *The 4 temporary bankruptcy judgeships for*
25 *the district of Delaware authorized by subparagraph*
26 *(C).*

1 (2) *The temporary bankruptcy judgeship for the*
2 *southern district of Georgia authorized by subpara-*
3 *graph (E).*

4 (3) *One of the 3 temporary bankruptcy judge-*
5 *ships for the district of Maryland authorized by sub-*
6 *paragraph (F).*

7 (4) *The temporary bankruptcy judgeship for the*
8 *eastern district of Michigan authorized by subpara-*
9 *graph (G).*

10 (5) *The temporary bankruptcy judgeship for the*
11 *district of New Jersey authorized by subparagraph*
12 *(I).*

13 (6) *The temporary bankruptcy judgeship for the*
14 *northern district of New York authorized by subpara-*
15 *graph (K).*

16 (7) *The temporary bankruptcy judgeship for the*
17 *southern district of New York authorized by subpara-*
18 *graph (L).*

19 (8) *The temporary bankruptcy judgeship for the*
20 *eastern district of North Carolina authorized by sub-*
21 *paragraph (M).*

22 (9) *The temporary bankruptcy judgeship for the*
23 *eastern district of Pennsylvania authorized by sub-*
24 *paragraph (N).*

1 (10) *The temporary bankruptcy judgeship for the*
 2 *district of South Carolina authorized by subpara-*
 3 *graph (S).*

4 (11) *The temporary bankruptcy judgeship for the*
 5 *western district of Tennessee authorized by subpara-*
 6 *graph (Q).*

7 **SEC. 205. GENERAL PROVISIONS.**

8 (a) *TABLE OF JUDGESHIPS.—In order that the table*
 9 *contained in section 152(a)(2) of title 28, United States*
 10 *Code, will, with respect to each judicial district, reflect the*
 11 *changes in the total number of bankruptcy judgeships au-*
 12 *thorized under sections 202 and 204, such table is amended*
 13 *to read as follows:*

“Districts	Judges
“Alabama:	
“Northern	5
“Middle	2
“Southern	2
“Alaska	2
“Arizona	7
“Arkansas:	
“Eastern and Western	4
“California:	
“Northern	9
“Eastern	7
“Central	21
“Southern	4
“Colorado	5
“Connecticut	3
“Delaware	6
“District of Columbia	1
“Florida:	
“Northern	1
“Middle	10
“Southern	5
“Georgia:	
“Northern	10
“Middle	3
“Southern	4
“Hawaii	1

“Idaho	2
“Illinois:	
“Northern	10
“Central	3
“Southern	2
“Indiana:	
“Northern	3
“Southern	4
“Iowa:	
“Northern	2
“Southern	2
“Kansas	4
“Kentucky:	
“Eastern	3
“Western	3
“Louisiana:	
“Eastern	2
“Middle	1
“Western	3
“Maine	2
“Maryland	6
“Massachusetts	5
“Michigan:	
“Eastern	8
“Western	3
“Minnesota	4
“Mississippi:	
“Northern	1
“Southern	2
“Missouri:	
“Eastern	3
“Western	3
“Montana	1
“Nebraska	2
“Nevada	3
“New Hampshire	1
“New Jersey	9
“New Mexico	2
“New York:	
“Northern	3
“Southern	11
“Eastern	6
“Western	3
“North Carolina:	
“Eastern	3
“Middle	2
“Western	2
“North Dakota	1
“Ohio:	
“Northern	8
“Southern	7
“Oklahoma:	
“Northern	2
“Eastern	1
“Western	3

“Oregon	5
“Pennsylvania:	
“Eastern	6
“Middle	2
“Western	5
“Puerto Rico	3
“Rhode Island	1
“South Carolina	3
“South Dakota	2
“Tennessee:	
“Eastern	3
“Middle	3
“Western	6
“Texas:	
“Northern	6
“Eastern	3
“Southern	6
“Western	4
“Utah	4
“Vermont	1
“Virgin Islands	0
“Virginia:	
“Eastern	5
“Western	3
“Washington:	
“Eastern	2
“Western	5
“West Virginia:	
“Northern	1
“Southern	1
“Wisconsin:	
“Eastern	4
“Western	2
“Wyoming	1.”.

1 (b) *SENSE OF CONGRESS.*—*It is the sense of the Con-*
2 *gress that bankruptcy judges in the eastern district of Cali-*
3 *fornia should conduct bankruptcy proceedings on a daily*
4 *basis in Bakersfield, California.*

5 **SEC. 206. EFFECTIVE DATE.**

6 *This title and the amendments made by this title shall*
7 *take effect on the date of the enactment of this Act.*

1 **TITLE III—NINTH CIRCUIT**
2 **REORGANIZATION**

3 **SEC. 301. SHORT TITLE.**

4 *This title may be cited as the “Judicial Administra-*
5 *tion and Improvements Act of 2005”.*

6 **SEC. 302. DEFINITIONS.**

7 *In this title:*

8 (1) *FORMER NINTH CIRCUIT.*—*The term “former*
9 *ninth circuit” means the ninth judicial circuit of the*
10 *United States as in existence on the day before the ef-*
11 *fective date of this title.*

12 (2) *NEW NINTH CIRCUIT.*—*The term “new ninth*
13 *circuit” means the ninth judicial circuit of the*
14 *United States established by the amendment made by*
15 *section 303(2)(A).*

16 (3) *TWELFTH CIRCUIT.*—*The term “twelfth cir-*
17 *cuit” means the twelfth judicial circuit of the United*
18 *States established by the amendment made by section*
19 *303(2)(B).*

20 **SEC. 303. NUMBER AND COMPOSITION OF CIRCUITS.**

21 *Section 41 of title 28, United States Code, is amend-*
22 *ed—*

23 (1) *in the matter preceding the table, by striking*
24 *“thirteen” and inserting “fourteen”; and*

25 (2) *in the table—*

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

“Ninth California, Guam, Hawaii, 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, Oregon, Washington.”.

6 **SEC. 304. NUMBER OF CIRCUIT JUDGES.**

7 The table contained in section 44(a) of title 28, United
8 States Code, as amended by section 102(c) of this Act, is
9 further amended—

10 (1) by striking the item relating to the ninth cir-
11 cuit and inserting the following:

“Ninth 19”;

12 and

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

“Twelfth 14”.

15 **SEC. 305. PLACES OF CIRCUIT COURT.**

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

18 (1) by striking the item relating to the ninth cir-
19 cuit and inserting the following:

“Ninth Honolulu, Pasadena, San Francisco.”;

20 and

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

“Twelfth Las Vegas, Missoula, Phoenix, Port-
land, Seattle.”.

3 **SEC. 306. ASSIGNMENT OF CIRCUIT JUDGES.**

4 Each circuit judge of the former ninth circuit who is
5 in regular active service and whose official duty station on
6 the day before the effective date of this title—

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

10 (2) is in Alaska, Arizona, Idaho, Montana, Ne-
11 vada, Oregon, or Washington shall be a circuit judge
12 of the twelfth circuit as of such effective date.

13 **SEC. 307. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.**

14 Each judge who is a senior circuit judge of the former
15 ninth circuit on the day before the effective date of this title
16 may elect to be assigned to the new ninth circuit or the
17 twelfth circuit as of such effective date and shall notify the
18 Director of the Administrative Office of the United States
19 Courts of such election.

20 **SEC. 308. SENIORITY OF JUDGES.**

21 The seniority of each judge—

22 (1) who is assigned under section 306, or

23 (2) who elects to be assigned under section 307,

1 *shall run from the date of commission of such judge as a*
2 *judge of the former ninth circuit.*

3 **SEC. 309. APPLICATION TO CASES.**

4 *The following apply to any case in which, on the day*
5 *before the effective date of this title, an appeal or other pro-*
6 *ceeding has been filed with the former ninth circuit:*

7 *(1) Except as provided in paragraph (3), if the*
8 *matter has been submitted for decision, further pro-*
9 *ceedings with respect to the matter shall be had in the*
10 *same manner and with the same effect as if this title*
11 *had not been enacted.*

12 *(2) If the matter has not been submitted for deci-*
13 *sion, the appeal or proceeding, together with the origi-*
14 *nal papers, printed records, and record entries duly*
15 *certified, shall, by appropriate orders, be transferred*
16 *to the court to which the matter would have been sub-*
17 *mitted had this title been in full force and effect at*
18 *the time such appeal was taken or other proceeding*
19 *commenced, and further proceedings with respect to*
20 *the case shall be had in the same manner and with*
21 *the same effect as if the appeal or other proceeding*
22 *had been filed in such court.*

23 *(3) If a petition for rehearing en banc is pend-*
24 *ing on or after the effective date of this title, the peti-*
25 *tion shall be considered by the court of appeals to*

1 *which it would have been submitted had this title been*
2 *in full force and effect at the time that the appeal or*
3 *other proceeding was filed with the court of appeals.*

4 **SEC. 310. TEMPORARY ASSIGNMENT OF CIRCUIT JUDGES**
5 **AMONG CIRCUITS.**

6 *Section 291 of title 28, United States Code, is amended*
7 *by adding at the end the following:*

8 “(c) *The chief judge of the Ninth Circuit may, in the*
9 *public interest and upon request by the chief judge of the*
10 *Twelfth Circuit, designate and assign temporarily any cir-*
11 *cuit judge of the Ninth Circuit to act as circuit judge in*
12 *the Twelfth Circuit.*”

13 “(d) *The chief judge of the Twelfth Circuit may, in*
14 *the public interest and upon request by the chief judge of*
15 *the Ninth Circuit, designate and assign temporarily any*
16 *circuit judge of the Twelfth Circuit to act as circuit judge*
17 *in the Ninth Circuit.*”

18 **SEC. 311. TEMPORARY ASSIGNMENT OF DISTRICT JUDGES**
19 **AMONG CIRCUITS.**

20 *Section 292 of title 28, United States Code, is amended*
21 *by adding at the end the following:*

22 “(f) *The chief judge of the United States Court of Ap-*
23 *peals for the Ninth Circuit may, in the public interest—*

24 “(1) *upon request by the chief judge of the*
25 *Twelfth Circuit, designate and assign 1 or more dis-*

1 *trict judges within the Ninth Circuit to sit upon the*
2 *Court of Appeals of the Twelfth Circuit, or a division*
3 *thereof, whenever the business of that court so re-*
4 *quires; and*

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

8 *“(g) The chief judge of the United States Court of Ap-*
9 *peals for the Twelfth Circuit may in the public interest—*

10 *“(1) upon request by the chief judge of the Ninth*
11 *Circuit, designate and assign 1 or more district*
12 *judges within the Twelfth Circuit to sit upon the*
13 *Court of Appeals of the Ninth Circuit, or a division*
14 *thereof, whenever the business of that court so re-*
15 *quires; and*

16 *“(2) designate and assign temporarily any dis-*
17 *trict judge within the Twelfth Circuit to hold a dis-*
18 *trict court in any district within the Ninth Circuit.*

19 *“(h) Any designations or assignments under subsection*
20 *(f) or (g) shall be in conformity with the rules or orders*
21 *of the court of appeals of, or the district within, as applica-*
22 *ble, the circuit to which the judge is designated or as-*
23 *signed.”.*

1 **SEC. 312. ADMINISTRATION.**

2 *The court of appeals for the ninth circuit as con-*
3 *stituted on the day before the effective date of this title may*
4 *take such administrative action as may be required to carry*
5 *out this title and the amendments made by this title. Such*
6 *court shall cease to exist for administrative purposes 2*
7 *years after the date of the enactment of this Act.*

8 **SEC. 313. EFFECTIVE DATE.**

9 *This title and the amendments made by this title shall*
10 *take effect no later than December 31, 2006.*

11 **TITLE IV—AUTHORIZATION OF**
12 **APPROPRIATIONS**

13 **SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

14 *There are authorized to be appropriated for each of*
15 *fiscal years 2006 through 2009 such sums as are necessary*
16 *to carry out this Act, including such sums as may be nec-*
17 *essary to provide appropriate space and facilities for the*
18 *judicial positions created by this Act. Funds appropriated*
19 *pursuant to this section in any fiscal year shall remain*
20 *available until expended.*

Union Calendar No. 204

109TH CONGRESS
2^D SESSION

H. R. 4093

[Report No. 109-373]

A BILL

To provide for the appointment of additional Federal circuit and district judges, to improve the administration of justice, and for other purposes.

FEBRUARY 8, 2006

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed