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Pact Reached to Cut Costs on Federal Civil Cases

By Charley Roberts
Daily Journal Staff Reporter

WASHINGTON — Representatives of the Senate Judiciary Committee and the nation's federal judges have reached a tentative compromise on legislation aimed at curbing the increasing costs and delays in resolving federal civil cases, according to informed sources.

Judiciary Committee Chairman Joseph Biden plans to introduce a revised version of the bill today, a committee aide said.

Also today, the executive committee of the Judicial Conference is scheduled to review the changes worked out during the closed-door negotiations.

Both sides are optimistic that the changes will enable the Judicial Conference, the policy-making body of the federal judiciary, to withdraw its opposition to the bill.

"I think the Biden people have en-

gaged in a lot of productive discussions over the past two months," said Robert Feidler, legislative director for the Administrative Office of the U.S. Courts. "We are much closer today than we were two months ago."

The judges' prime concern, as expressed last March by Chief Judge Aubrey E. Robinson Jr. of the U.S. District Court for the District of Columbia, was that the bill is "extraordinarily intrusive into the internal workings of the judicial branch."

But while the negotiations have been going on, the Judicial Conference has moved toward adoption on its own of some of the provisions of the Biden bill. In late April, it approved by a special mail ballot a 14-point case-management program, but without specifying what would be in each plan.

Biden's original bill was based on consensus recommendations last October of a task force of corporate general counsels, insurance-industry attorneys, plaintiffs' trial lawyers and consumer activists brought together by Biden.

It mandated that each federal district court develop a comprehensive plan to reduce costs and delays. The plan is to include such features as development of tracks or timetables for discovery based on the complexity of the case, the setting of early and firm trial dates, assignment of a single judge to a case to manage its progress, and increased use of alternative dispute resolution.

'Principles' and 'Guidelines'

The revised bill still requires each district to develop a plan, but it no longer mandates what shall be in it. Instead, those features are listed simply as "principles" and "guidelines."

For the most part, said a Senate aide, it's just changing a few words.

But there are some concrete changes in the bill. For example, the original bill diminished the role played by U.S. magistrates in pre-trial matters. The revised bill restores the magistrates' traditional role. That was a specific criticism raised by Robinson when he testified on the bill in March.

The bill also stretches out the time allotted for developing the plan from one year to three.

Still unresolved, however, is whether records revealing the pace at which individual judges process their caseload will

be open to the public. The original bill would have made the information public, but a number of judges have expressed concern about how such data might be used.

Although the compromise reportedly doesn't cover that issue, the judges may decide to support the bill anyway.

"If Biden does throw in a substantial judgeship bill, and other matters of substantial interest to the judicial branch," said Feidler, "that would influence the judges' decision."

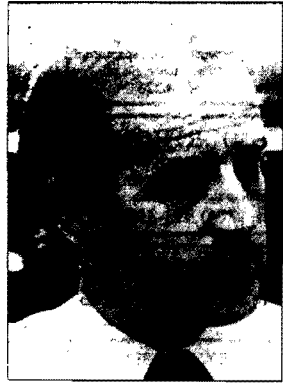
For example, the Judicial Conference has requested 76 additional circuit and district judges. Biden previously said he would introduce a separate bill to create

about 20 of those judgeships.

But Feidler said the revised bill contain a number of additional "close to 76."

The bill also is expected to contain a number of housekeeping measures of interest to the judiciary. The Judicial Conference has a laundry list of the would build further support for it

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Sen. Joseph Biden

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