

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS

L. RALPH MECHAM
DIRECTOR

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DEPUTY DIRECTOR

WASHINGTON, D.C. 20544

September 28, 1990

MEMORANDUM TO THE CHAIRMAN AND MEMBERS OF THE JUDICIAL CONFERENCE

SUBJECT: H.R. 3898, "Civil Justice Reform Act of 1990",
H.R. 5316, "Federal Judgeship Act of 1990", and
H.R. 5381, "Federal Courts Study Committee
Implementation Act of 1990", as Amended and
Passed by the House of Representatives.

This will update my September 19, 1990, memorandum to you on the above-entitled legislation, a copy of which is enclosed. Once again, I ask that you keep your colleagues abreast of fast-moving activities on these important bills.

On September 27, 1990, the House of Representatives passed H. R. 3898, the Civil Justice Reform Act of 1990; H.R. 5381, the Federal Courts Study Committee Implementation Act of 1990; and H.R. 5316, the Federal Judgeship Act of 1990. The first two bills were approved by voice vote under suspension of the rules of the House. The yeas and nays were ordered on the judgeship bill, and it passed 387 to 18.

H.R. 3898

The salutary changes made at Subcommittee and full Committee, noted in my September 19 memo, were retained in the bill as it passed the full House. The most significant of these amendments makes section 473(a) discretionary. Focus now shifts to the Senate where action may occur as early as next week (but almost assuredly not until after Senate consideration of Judge Souter's nomination to the Supreme Court).

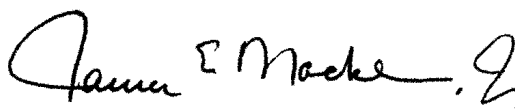
You may wish to communicate with Chairmen Brooks and Kastenmeier, and with Congressmen Fish, Moorhead, and Bryant, to thank them for their efforts on H.R. 3898, and to encourage them to retain their positions throughout the remainder of the legislative process.

H.R. 5316

The House-passed judgeship bill adds two judgeships to the totals approved by the House Judiciary Committee (one permanent for the Eastern District of Washington and one temporary for the Central District of Illinois), for a total of 9 judgeships for the courts of appeals and 52 judgeships for the district courts. As with civil justice reform, Senate action on judgeships could occur as early as next week.

H.R. 5381

In addition to those items noted in my September 19 memo, the House-passed version of this bill, reflecting some of the more modest recommendations of the Federal Courts Study Committee, includes a provision giving district judges nearly equal representation with circuit judges on circuit councils. The chief judge of the circuit would continue to chair the council and would give the circuit judges a one-judge majority on the council. The Executive Committee recommended such a change in August.


for L. Ralph Mecham

Enclosure

cc: Honorable Robert F. Peckham
Honorable Aubrey E. Robinson, Jr.
Circuit Executives

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SUBJECT: H.R. 3898, "Civil Justice Reform Act of 1990",
H.R. 5316, "Federal Judgeship Act of 1990", and
H.R. 5381, "Federal Courts Study Committee
Implementation Act of 1990" as Amended and
Ordered Reported by the House Committee
on the Judiciary.

The House Committee on the Judiciary on September 18, 1990, formally acted on H. R. 3898, the Civil Justice Reform Act of 1990; H.R. 5381, the Federal Courts Study Committee Implementation Act of 1990; and H.R. 5316, the Federal Judgeship Act of 1990. Attached are copies of the text of these bills as reported from the Committee. The pace is fast moving and ever changing. Rather than send out massive amounts of material that will become dated almost as soon as it is sent, we ask that you keep your colleagues abreast of activities as they are reported to you.

H.R. 3898

Action of the Subcommittee on September 14:

Several changes were made at subcommittee, the most significant of which makes section 473(a) discretionary. The introductory language of that section as amended now reads "A civil justice expense and delay reduction plan developed and implemented under this chapter may include provisions applying the following principles and guidelines ...".

The second series of amendments were internal to section 473(a):

473(a)(2)(B) was amended by adding a further exception to the eighteen-month trial rule if "the demands of the case and its complexity make such a trial date incompatible with serving the ends of justice"; and

473(a)(2)(D) and 473(a)(3)(D) were amended to delete "target dates" and insert in lieu thereof the language approved by the Peckham subcommittee "a time framework."

The third change retitles section 476 "Enhancement of judicial information dissemination" and strikes the first clause of the text. This amendment eliminates the negative connotation that could have been read into prior language.

H.R. 3898

Action of the House Committee on the Judiciary on September 18:

Change one gives the Attorney General protection from the district plan's interfering with his settlement authority. Change two makes the United States Attorney, or his designee, a permanent member of district court advisory groups.

Both the House and Senate versions of the "Civil Justice Reform Act of 1990" are poised to go to the floor of their respective chambers, although the House bill must await its Committee Report. Further action may occur early next week.

You may wish to communicate with Chairmen Brooks and Kastenmeier and thank them for their efforts to modify H.R. 3898 and encourage them to retain their positions throughout the remainder of the legislative process.

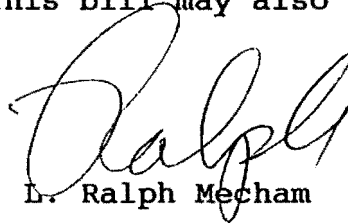
H.R. 5316 (Sept 18)

The Committee ordered reported a judgeship bill containing 9 judgeships for the courts of appeals and 50 judgeships for the district courts. The bill is expected to be considered under "suspension of the rules" in the House early next week. No amendments will be considered under this procedure.

H.R. 5381 (Sept 18)

The Committee ordered reported a bill reflecting some of the more modest recommendations of the Federal Courts Study Committee Report. All provisions relating to bankruptcy were stricken as were the provisions relating to Judicial Conference rulemaking

authority, and elimination of the exemption related to budgeting for the Court of Appeals for the Federal Circuit and the Court of International Trade. The bill did included a name change of magistrate to magistrate judge. This bill may also be brought to the floor of the House next week



L. Ralph Mecham

Attachment

cc: Honorable Robert Peckham
Circuit Executives