

HOUSE JOINT RESOLUTION NO. 29

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Introduced: 3/17/99

Referred: Judiciary

A RESOLUTION

1 **Relating to the division of the Ninth Circuit Court of Appeals.**

2 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 **WHEREAS** the State of Alaska is within the jurisdiction of the United States Court
4 of Appeals for the Ninth Circuit; and

5 **WHEREAS** the Court of Appeals for the Ninth Circuit consists of the States of
6 Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington, and
7 Guam, and the Commonwealth of the Northern Marianas Islands; and

8 **WHEREAS** United States Senators Murkowski of Alaska and Gorton of Washington
9 have introduced S. 253, a bill that would amend Title 28 of the United States Code to divide
10 the Court of Appeals for the Ninth Circuit into three regional divisions and a fourth circuit
11 division, and that has the short title of the "Federal Ninth Circuit Reorganization Act of 1999";
12 and

13 **WHEREAS** S. 253 proposes to place the states of Alaska, Idaho, Montana, Oregon,
14 and Washington within one regional division of the Court of Appeals for the Ninth Circuit and
15 to place the other states and territories, possessions, and protectorates into two other regional
16 divisions; and

17 **WHEREAS** S. 253 proposes to adopt the recommendations of a Congressionally

1 mandated commission, chaired by retired Supreme Court Justice Byron R. White, that studied
2 the realignment of the federal courts of appeal; the recommendations were made in a report
3 issued in December 1998; and

4 **WHEREAS** the membership of the Court of Appeals for the Ninth Circuit is heavily
5 weighted toward the State of California and the court seems to concern itself predominately
6 with issues arising out of California and the southwestern United States; and

7 **WHEREAS** the Court of Appeals for the Ninth Circuit's case filings are consistently
8 either greater than any other federal circuit or among the greatest; and

9 **WHEREAS** the Court of Appeals for the Ninth Circuit is the largest of the 13 circuit
10 courts of appeal, spanning 1,400,000 square miles, and is larger than the First, Second, Third,
11 Fourth, Fifth, Sixth, Seventh, and Eleventh Circuits combined; and

12 **WHEREAS** the Court of Appeals for the Ninth Circuit serves a population of more
13 than 49,000,000 people, almost 60 percent more than any other federal circuit; and

14 **WHEREAS** members of the Court of Appeals for the Ninth Circuit have shown a
15 surprising lack of understanding of Alaska's people and geography that has resulted in
16 decisions that have often caused the people of Alaska unnecessary hardship; and

17 **WHEREAS**, in the so-called "Katie John" subsistence case, which is of tremendous
18 importance to the people of the State of Alaska, even though the Court of Appeals for the
19 Ninth Circuit granted expedited consideration of that case, the court did not issue its decision
20 for over 13 months; and

21 **WHEREAS** the Court of Appeals for the Ninth Circuit consistently ranks at or near
22 the bottom of the circuits in time from the filing of a case in the district court to final
23 disposition in the court appeals; and

24 **WHEREAS** Attorney General Bruce Botelho has estimated that there are more than
25 200 Alaska cases currently pending before the Court of Appeals for the Ninth Circuit; and

26 **WHEREAS**, previously, the Attorneys General of the States of Idaho, Montana,
27 Oregon, and Washington have also found that similar issues of unnecessary delay concerning,
28 lack of understanding of, and lack of consideration for cases and issues by the Court of
29 Appeals for the Ninth Circuit exist in regard to those states; and

30 **WHEREAS** the division of the Court of Appeals for the Ninth Circuit into regions
31 would benefit the States of Alaska, Idaho, Montana, Oregon, and Washington by providing

1 speedier and more consistent rulings by jurists who have a greater familiarity with the social,
2 geographical, political, and economic life of the region;

3 **BE IT RESOLVED** that the Alaska State Legislature supports S. 253 and the division
4 of the Court of Appeals for the Ninth Circuit into regional divisions with one region consisting
5 of the States of Alaska, Idaho, Montana, Oregon, and Washington headquartered in the Pacific
6 Northwest; and respectfully requests the United States Congress to act in an expeditious
7 manner.

8 **COPIES** of this resolution shall be sent to the Honorable Al Gore, Jr., Vice-President
9 of the United States and President of the U.S. Senate; the Honorable Strom Thurmond,
10 President Pro Tempore of the U.S. Senate; the Honorable J. Dennis Hastert, Speaker of the
11 U.S. House of Representatives; the Honorable Trent Lott, Majority Leader of the U.S. Senate;
12 the Honorable Dick Arney, Majority Leader of the U.S. House of Representatives; the
13 Honorable Thomas Daschle, Minority Leader of the U.S. Senate; the Honorable Richard A.
14 Gephardt, Minority Leader of the U.S. House of Representatives; the Honorable Orrin G.
15 Hatch, Chair of the U.S. Senate Committee on the Judiciary; the Honorable Henry J. Hyde,
16 Chair of the U.S. House Committee on the Judiciary; and to the Honorable Ted Stevens and
17 the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S.
18 Representative, members of the Alaska delegation in Congress.