Free to Exit Administrative Tribunals Act (FEAT)

Overview

The Free to Exit Administrative Tribunals Act (FEAT Act) gives Americans the option to bypass the administrative petition and appeals process at the Department of the Interior (DOI) and go straight to federal court for matters that could go to court eventually under both the Constitution and current law.

This bill is necessary after the Supreme Court's *Jarkesy* decision, as DOI's current system of hearings in certain cases before administrative law judges (ALJs) and appeals boards violates the Constitution's Seventh Amendment.

The Problem

There are two problems here. First, the Supreme Court's in *SEC v. Jarkesy*, 603 U.S. 109 (2024), held that most ALJ processes that impose civil sanctions of more than twenty dollars violates the Constitution's Seventh Amendment because the private party was entitled to a jury trial, which can only be provided in federal district court. Parts of DOI's current ALJ process are thus likely unconstitutional under that standard because an ALJ proceeding does not include a jury.

Second, companies that would prefer to litigate a dispute in federal court are forced to make their way through DOI's tribunals. ALJ/Board decisions at DOI can be appealed to federal court only after the agency process is complete. So even though some energy companies and similar businesses know from the outset that the matters they have before ALJs will eventually go to federal court, those companies have no choice but to first go through the ALJ process, which can last two years or more.

The Solution

FEAT addresses both problems by giving private parties an opportunity to take their matters directly to federal court, satisfying the Constitution by providing the option of access to a jury, and also helping business by avoiding a two-year delay to reach a final result.

Key provisions:

- This applies to some matters before DOI's Office of Hearings and Appeals (OHA), which includes ALJs and the appeals boards.
- Once an application for a permit is docketed with OHA, the applicant has 60 days to "remove" (i.e., transfer) the matter directly to federal district court.
- If DOI seeks to enforce a monetary penalty on a private party, that party has 60 days to remove the matter to district court instead of having OHA (staffed by DOI officers) review DOI's action.

For more information regarding this bill or to be added as a cosponsor, please contact Ken Klukowski at Ken_Klukowski@energy.senate.gov.