

HOUSE BILL NO. 69

INTRODUCED BY WHALEN

IN THE HOUSE

DECEMBER 31, 1990	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 7, 1991	FIRST READING.
JANUARY 12, 1991	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 14, 1991	PRINTING REPORT.
JANUARY 15, 1991	SECOND READING, DO PASS.
JANUARY 16, 1991	ENGROSSING REPORT.
JANUARY 17, 1991	THIRD READING, PASSED. AYES, 78; NOES, 21.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 17, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
JANUARY 18, 1991	FIRST READING.
FEBRUARY 5, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
FEBRUARY 9, 1991	SECOND READING, CONCURRED IN AS AMENDED.
FEBRUARY 11, 1991	THIRD READING, CONCURRED IN. AYES, 32; NOES, 16.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 11, 1991	RECEIVED FROM SENATE.
	SECOND READING, AMENDMENTS CONCURRED IN.

MARCH 12, 1991

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

HOUSE BILL NO. 69  
INTRODUCED BY WHALEN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROVISIONS REGARDING THE ESTABLISHMENT, NUMBER, SALARY AND ELECTION OF MUNICIPAL COURT JUDGES AND THE ADMINISTRATION OF AND APPEAL FROM MUNICIPAL COURTS; AMENDING SECTIONS 3-6-101, 3-6-102, 3-6-201, 3-6-203, AND 3-6-301, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-6-101, MCA, is amended to read:

"3-6-101. Establishment of the court. (1) ~~All cities in the state of Montana with a population of 10,000 or more, according to the last federal census,~~ A city may have a court, known as the municipal court of the city of (designating the name of the city) of the state of Montana. The court ~~shall~~ must be a court of record. The municipal court shall assume continuing jurisdiction over all pending city court cases in the city in which the municipal court is established.

(2) ~~The provisions of this chapter apply only after a city may have a municipal court only if~~ the governing body of the city ~~has elected~~ elects by a two-thirds majority vote to adopt ~~them~~ the provisions of this chapter by ordinance

and, in the ordinance, ~~has provided~~ provides the manner in which and time when the municipal court is to be established and is to assume continuing jurisdiction over all pending city court cases. The ordinance must be consistent with the provisions of this chapter."

Section 2. Section 3-6-102, MCA, is amended to read:

"3-6-102. Abolition of city court. (1) In cities in which a municipal court is established, the office of city judge is hereby abolished.

(2) A city judge whose office is abolished shall serve as a municipal court judge in the same city in which he served as city judge for the remainder of his term and until the office of municipal court judge is filled by election, as provided under 3-6-201 and 3-6-202.

Section 3. Section 3-6-201, MCA, is amended to read:

"3-6-201. Election Number of judges -- election -- term of office. (1) The governing body of a city shall determine by ordinance the number of judges required to operate the municipal court.

~~(1)(2)~~ (2) One judge of each A municipal court judge must ~~shall~~ be elected at the general city election, as provided in 13-1-104. The judge's term ~~shall~~ commence ~~commences~~ on the first Monday in January following the election. The judge shall hold office for the term of 4 years and until his successor is elected and qualified.



1 ~~(2)~~(3) All elections of municipal court judges are  
2 governed by the laws applicable to the election of  
3 ~~nonpartisan-city-officials~~ district court judges."

4 **Section 4.** Section 3-6-203, MCA, is amended to read:

5 "3-6-203. Salary. The salary of the municipal court  
6 judge ~~shall~~ must be set by city ordinance or resolution and  
7 ~~shall--be~~ is payable monthly by the city treasurer. Actual  
8 and necessary expenses for the municipal court judge ~~shall~~  
9 ~~be--the~~ travel are expenses, as defined and provided in  
10 2-18-501 through 2-18-503, incurred in the performance of  
11 his official duties."

12 **Section 5.** Section 3-6-301, MCA, is amended to read:

13 "3-6-301. Clerk of the court ~~-- administrative~~  
14 expenses. The city municipal court judge shall appoint a  
15 clerk of the city-in-which-said-court-is-located-shall-be-ex  
16 officio--clerk-of-such court. The governing body of the city  
17 shall set the salary of the clerk and provide for other  
18 necessary expenses that may be incurred in operating the  
19 court."

20 **NEW SECTION. Section 6.** Appeal to district court --

21 record on appeal. (1) A party may appeal to district court  
22 from a municipal court judgment or order. The appeal is  
23 confined to review of the record and questions of law,  
24 subject to the supreme court's rulemaking and supervisory  
25 authority.

1 (2) The record on appeal to district court consists of  
2 an electronic recording or stenographic transcription of a  
3 case tried, together with all papers filed in the action.

4 (3) The district court may affirm, reverse, or amend  
5 any appealed order or judgment and may direct the proper  
6 order or judgment to be entered or direct that a new trial  
7 or further proceeding be had in the court from which the  
8 appeal was taken.

9 **NEW SECTION. Section 7.** Codification instruction.  
10 [Section 6] is intended to be codified as an integral part  
11 of Title 3, chapter 6, and the provisions of Title 3,  
12 chapter 6, apply to [section 6].

13 **NEW SECTION. Section 8.** Effective date. [This act] is  
14 effective July 1, 1991.

-End-

APPROVED BY COMMITTEE  
ON JUDICIARY

HOUSE BILL NO. 69  
INTRODUCED BY WHALEN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROVISIONS REGARDING THE ESTABLISHMENT, NUMBER, SALARY AND ELECTION OF MUNICIPAL COURT JUDGES AND THE ADMINISTRATION OF AND APPEAL FROM MUNICIPAL COURTS; AMENDING SECTIONS 3-6-101, 3-6-102, 3-6-201, 3-6-203, AND 3-6-301, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 3-6-101, MCA, is amended to read:

"3-6-101. Establishment of the court. (1) ~~All cities in the state of Montana with a population of 10,000 or more, according to the last federal census,~~ A city may have a court, known as the municipal court of the city of (designating the name of the city) of the state of Montana. The court ~~shall~~ must be a court of record. The municipal court shall assume continuing jurisdiction over all pending city court cases in the city in which the municipal court is established.

(2) ~~The provisions of this chapter apply only after~~ A city may have a municipal court only if the governing body of the city has elected elects by a two-thirds majority vote to adopt them the provisions of this chapter by ordinance

and, in the ordinance, ~~has provided~~ provides the manner in which and time when the municipal court is to be established and is to assume continuing jurisdiction over all pending city court cases. IF A CITY JUDGE IS NOT AN ATTORNEY AND HIS OFFICE IS ABOLISHED BECAUSE A MUNICIPAL COURT IS ESTABLISHED, THE ORDINANCE MUST PROVIDE THAT THE TIME WHEN THE ESTABLISHMENT OF THE MUNICIPAL COURT TAKES EFFECT IS THE DATE ON WHICH THE MUNICIPAL COURT JUDGE ELECTED AT THE NEXT ELECTION HELD UNDER 3-6-201 BEGINS HIS TERM OF OFFICE. The ordinance must be consistent with the provisions of this chapter."

**Section 2.** Section 3-6-102, MCA, is amended to read:

"3-6-102. Abolition of city court. (1) In cities in which a municipal court is established, the office of city judge is hereby abolished.

(2) A EXCEPT AS PROVIDED IN 3-6-101(2), A city judge whose office is abolished shall serve as a municipal court judge in the same city in which he served as city judge for the remainder of his term and until the office of municipal court judge is filled by election, as provided under 3-6-201 and 3-6-202."

**Section 3.** Section 3-6-201, MCA, is amended to read:

"3-6-201. Election Number of judges -- election -- term of office. (1) The governing body of a city shall determine by ordinance the number of judges required to operate the



1 municipal court.

2 ~~{1}(2)~~ One--judge--of--each A municipal court judge must  
3 shall be elected at the general city election, as provided  
4 in 13-1-104(2). The judge's term ~~shall commence~~ commences on  
5 the first Monday in January following the election. The  
6 judge shall hold office for the term of 4 years and until  
7 his successor is elected and qualified.

8 ~~{2}(3)~~ All EXCEPT AS PROVIDED IN SUBSECTION (2), ALL  
9 elections of municipal court judges are governed by the laws  
10 applicable to the election of nonpartisan--city--officials  
11 district court judges."

12 **Section 4.** Section 3-6-203, MCA, is amended to read:

13 "3-6-203. Salary. The salary of the municipal court  
14 judge ~~shall must~~ be set by city ordinance or resolution and  
15 ~~shall--be~~ is payable monthly by the city treasurer. Actual  
16 and necessary expenses for the municipal court judge ~~shall~~  
17 ~~be--the travel~~ are expenses, as defined and provided in  
18 2-18-501 through 2-18-503, incurred in the performance of  
19 his official duties."

20 **Section 5.** Section 3-6-301, MCA, is amended to read:

21 "3-6-301. Clerk of the court -- administrative  
22 expenses. The city municipal court judge shall appoint a  
23 clerk of the city--in--which--said--court--is--located--shall--be--ex  
24 officio--clerk--of--such court. The governing body of the city  
25 shall set the salary of the clerk and provide for other

1 necessary expenses that may be incurred in operating the  
2 court."

3 NEW SECTION. Section 6. Appeal to district court --

4 record on appeal. (1) A party may appeal to district court  
5 from a municipal court judgment or order. The appeal is  
6 confined to review of the record and questions of law,  
7 subject to the supreme court's rulemaking and supervisory  
8 authority.

9 (2) The record on appeal to district court consists of  
10 an electronic recording or stenographic transcription of a  
11 case tried, together with all papers filed in the action.

12 (3) The district court may affirm, reverse, or amend  
13 any appealed order or judgment and may direct the proper  
14 order or judgment to be entered or direct that a new trial  
15 or further proceeding be had in the court from which the  
16 appeal was taken.

17 NEW SECTION. Section 7. Codification instruction.

18 [Section 6] is intended to be codified as an integral part  
19 of Title 3, chapter 6, and the provisions of Title 3,  
20 chapter 6, apply to [section 6].

21 NEW SECTION. Section 8. Effective date. [This act] is  
22 effective July 1, 1991.

-End-

1 HOUSE BILL NO. 69

2 INTRODUCED BY WHALEN

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROVISIONS  
5 REGARDING THE ESTABLISHMENT, NUMBER, SALARY AND ELECTION OF  
6 MUNICIPAL COURT JUDGES AND THE ADMINISTRATION OF AND APPEAL  
7 FROM MUNICIPAL COURTS; AMENDING SECTIONS 3-6-101, 3-6-102,  
8 3-6-201, 3-6-203, AND 3-6-301, MCA; AND PROVIDING AN  
9 EFFECTIVE DATE."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 3-6-101, MCA, is amended to read:

13 ~~"3-6-101. Establishment of the court. (1) All cities in~~  
14 ~~the state of Montana with a population of 10,000 or more,~~  
15 ~~according to the last federal census, a city may have a~~  
16 ~~court, known as the municipal court of the city of~~  
17 ~~(designating the name of the city) of the state of Montana.~~  
18 ~~The court shall must be a court of record. The municipal~~  
19 ~~court shall assume continuing jurisdiction over all pending~~  
20 ~~city court cases in the city in which the municipal court is~~  
21 ~~established.~~

22 ~~(2) The provisions of this chapter apply only after a~~  
23 ~~city may have a municipal court only if the governing body~~  
24 ~~of the city has elected elects by a two-thirds majority vote~~  
25 ~~to adopt them the provisions of this chapter by ordinance~~

1 and, in the ordinance, ~~has provided~~ provides the manner in  
2 which and time when the municipal court is to be established  
3 and is to assume continuing jurisdiction over all pending  
4 city court cases. IF A CITY JUDGE IS NOT AN ATTORNEY AND HIS  
5 OFFICE IS ABOLISHED BECAUSE A MUNICIPAL COURT IS  
6 ESTABLISHED, THE ORDINANCE MUST PROVIDE THAT THE TIME WHEN  
7 THE ESTABLISHMENT OF THE MUNICIPAL COURT TAKES EFFECT IS THE  
8 DATE ON WHICH THE MUNICIPAL COURT JUDGE ELECTED AT THE NEXT  
9 ELECTION HELD UNDER 3-6-201 BEGINS HIS TERM OF OFFICE. The  
10 ordinance must be consistent with the provisions of this  
11 chapter."

12 **Section 2.** Section 3-6-102, MCA, is amended to read:

13 ~~"3-6-102. Abolition of city court. (1) In cities in~~  
14 ~~which a municipal court is established, the office of city~~  
15 ~~judge is hereby abolished.~~

16 ~~(2) A EXCEPT AS PROVIDED IN 3-6-101(2), A city judge~~  
17 ~~whose office is abolished shall serve as a municipal court~~  
18 ~~judge in the same city in which he served as city judge for~~  
19 ~~the remainder of his term and until the office of municipal~~  
20 ~~court judge is filled by election, as provided under 3-6-201~~  
21 ~~and 3-6-202."~~

22 **Section 3.** Section 3-6-201, MCA, is amended to read:

23 ~~"3-6-201. Election Number of judges -- election -- term~~  
24 ~~of office. (1) The governing body of a city shall determine~~  
25 ~~by ordinance the number of judges required to operate the~~

1 municipal court.

2 ~~{1}~~(2) ~~One--judge--of--each~~ A municipal court judge must  
3 ~~shall~~ be elected at the general city election, as provided  
4 in 13-1-104(2). The judge's term ~~shall--commence~~ commences on  
5 the first Monday in January following the election. The  
6 judge shall hold office for the term of 4 years and until  
7 his successor is elected and qualified.

8 ~~{2}~~(3) ~~All~~ EXCEPT AS PROVIDED IN SUBSECTION (2), ALL  
9 elections of municipal court judges are governed by the laws  
10 applicable to the election of ~~nonpartisan--city--officials~~  
11 district court judges."

12 **Section 4.** Section 3-6-203, MCA, is amended to read:

13 "3-6-203. Salary. The salary of the municipal court  
14 judge ~~shall~~ must be set by city ordinance or resolution and  
15 ~~shall--be~~ is payable monthly by the city treasurer. Actual  
16 and necessary expenses for the municipal court judge ~~shall~~  
17 ~~be--the~~ travel are expenses, as defined and provided in  
18 2-18-501 through 2-18-503, incurred in the performance of  
19 his official duties."

20 **Section 5.** Section 3-6-301, MCA, is amended to read:

21 "3-6-301. Clerk of the court -- administrative  
22 expenses. The city municipal court judge shall appoint a  
23 clerk of the ~~city-in-which-said-court-is-located-shall-be-ex~~  
24 ~~officio--clerk-of-such~~ court. The governing body of the city  
25 shall set the salary of the clerk and provide for other

1 necessary expenses that may be incurred in operating the  
2 court."

3 NEW SECTION. Section 6. Appeal to district court --  
4 record on appeal. (1) A party may appeal to district court  
5 from a municipal court judgment or order. The appeal is  
6 confined to review of the record and questions of law,  
7 subject to the supreme court's rulemaking and supervisory  
8 authority.

9 (2) The record on appeal to district court consists of  
10 an electronic recording or stenographic transcription of a  
11 case tried, together with all papers filed in the action.

12 (3) The district court may affirm, reverse, or amend  
13 any appealed order or judgment and may direct the proper  
14 order or judgment to be entered or direct that a new trial  
15 or further proceeding be had in the court from which the  
16 appeal was taken.

17 NEW SECTION. Section 7. Codification instruction.  
18 [Section 6] is intended to be codified as an integral part  
19 of Title 3, chapter 6, and the provisions of Title 3,  
20 chapter 6, apply to [section 6].

21 NEW SECTION. Section 8. Effective date. [This act] is  
22 effective July 1, 1991.

-End-



SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
February 4, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 69 (third reading copy -- blue), respectfully report that House Bill No. 69 be amended and as so amended be concurred in:

1. Page 3, line 22.

Following: "The"

Insert: "position of"

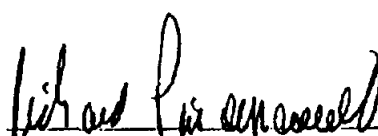
Following: "court"

Strike: "judge shall appoint a"

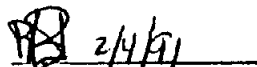
2. Page 3, line 24.

Following: "court"

Insert: "must be established by ordinance"

Signed: 

Richard Pinsoneault, Chairman

  
Amd. Coord.

SB 2-5-91 9:15  
Sec. of Senate

SENATE  
HB 69

SENATE COMMITTEE OF THE WHOLE AMENDMENT

February 7, 1991 1:08 pm

Mr. Chairman: I move to amend House Bill No. 69 (third reading copy -- blue) as follows:

1. Page 1, line 15.

Following: "A city"

Insert: ", with a population of 4,000 or more,  
according to the last federal census,"


2. Page 1, line 24.

Following: "~~two-thirds~~"

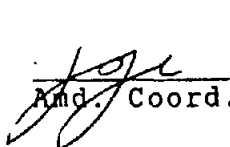
Insert: "two-thirds"

ADOPT

REJECT

Signed: 

Senator

  
And. Coord.

Sec. of Senate

SENATE

HB 69

1 HOUSE BILL NO. 69  
2 INTRODUCED BY WHALEN

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROVISIONS  
5 REGARDING THE ESTABLISHMENT, NUMBER, SALARY AND ELECTION OF  
6 MUNICIPAL COURT JUDGES AND THE ADMINISTRATION OF AND APPEAL  
7 FROM MUNICIPAL COURTS; AMENDING SECTIONS 3-6-101, 3-6-102,  
8 3-6-201, 3-6-203, AND 3-6-301, MCA; AND PROVIDING AN  
9 EFFECTIVE DATE."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 3-6-101, MCA, is amended to read:

13 "3-6-101. Establishment of the court. (1) ~~All cities in~~  
14 ~~the state of Montana with a population of 10,000 or more,~~  
15 ~~according to the last federal census,~~ A city WITH A  
16 POPULATION OF 4,000 OR MORE, ACCORDING TO THE LAST FEDERAL  
17 CENSUS, may have a court, known as the municipal court of  
18 the city of (designating the name of the city) of the state  
19 of Montana. The court ~~shall~~ must be a court of record. The  
20 municipal court shall assume continuing jurisdiction over  
21 all pending city court cases in the city in which the  
22 municipal court is established.

23 (2) ~~The provisions of this chapter apply only after a~~ A  
24 city may have a municipal court only if the governing body  
25 of the city ~~has elected~~ elects by a two-thirds TWO-THIRDS

1 majority vote to adopt ~~them~~ the provisions of this chapter  
2 by ordinance and, in the ordinance, ~~has provided~~ provides  
3 the manner in which and time when the municipal court is to  
4 be established and is to assume continuing jurisdiction over  
5 all pending city court cases. IF A CITY JUDGE IS NOT AN  
6 ATTORNEY AND HIS OFFICE IS ABOLISHED BECAUSE A MUNICIPAL  
7 COURT IS ESTABLISHED, THE ORDINANCE MUST PROVIDE THAT THE  
8 TIME WHEN THE ESTABLISHMENT OF THE MUNICIPAL COURT TAKES  
9 EFFECT IS THE DATE ON WHICH THE MUNICIPAL COURT JUDGE  
10 ELECTED AT THE NEXT ELECTION HELD UNDER 3-6-201 BEGINS HIS  
11 TERM OF OFFICE. The ordinance must be consistent with the  
12 provisions of this chapter."

13 **Section 2.** Section 3-6-102, MCA, is amended to read:

14 "3-6-102. Abolition of city court. (1) In cities in  
15 which a municipal court is established, the office of city  
16 judge is hereby abolished.

17 (2) A EXCEPT AS PROVIDED IN 3-6-101(2), A city judge  
18 whose office is abolished shall serve as a municipal court  
19 judge in the same city in which he served as city judge for  
20 the remainder of his term and until the office of municipal  
21 court judge is filled by election, as provided under 3-6-201  
22 and 3-6-202."

23 **Section 3.** Section 3-6-201, MCA, is amended to read:

24 "3-6-201. Election Number of judges -- election -- term  
25 of office. (1) The governing body of a city shall determine



1 by ordinance the number of judges required to operate the  
2 municipal court.

3 ~~††~~(2) ~~One-judge-of-each~~ A municipal court judge must  
4 ~~shall~~ be elected at the general city election, as provided  
5 in 13-1-104(2). The judge's term ~~shall-commence~~ commences on  
6 the first Monday in January following the election. The  
7 judge shall hold office for the term of 4 years and until  
8 his successor is elected and qualified.

9 ~~††~~(3) ~~All~~ EXCEPT AS PROVIDED IN SUBSECTION (2), ALL  
10 elections of municipal court judges are governed by the laws  
11 applicable to the election of ~~nonpartisan-city-officials~~  
12 district court judges."

13 **Section 4.** Section 3-6-203, MCA, is amended to read:

14 "3-6-203. Salary. The salary of the municipal court  
15 judge ~~shall~~ must be set by city ordinance or resolution and  
16 ~~shall-be~~ is payable monthly by the city treasurer. Actual  
17 and necessary expenses for the municipal court judge ~~shall~~  
18 ~~be-the travel~~ are expenses, as defined and provided in  
19 2-18-501 through 2-18-503, incurred in the performance of  
20 his official duties."

21 **Section 5.** Section 3-6-301, MCA, is amended to read:

22 "3-6-301. Clerk of the court -- administrative  
23 expenses. The POSITION OF city municipal court judge-shall  
24 appoint-a clerk of the ~~city-in-which-said-court--is--located~~  
25 ~~shall--be-ex-officio-clerk-of-such~~ court MUST BE ESTABLISHED

1 BY ORDINANCE. The governing body of the city shall set the  
2 salary of the clerk and provide for other necessary expenses  
3 that may be incurred in operating the court."

4 **NEW SECTION. Section 6.** Appeal to district court --  
5 record on appeal. (1) A party may appeal to district court  
6 from a municipal court judgment or order. The appeal is  
7 confined to review of the record and questions of law,  
8 subject to the supreme court's rulemaking and supervisory  
9 authority.

10 (2) The record on appeal to district court consists of  
11 an electronic recording or stenographic transcription of a  
12 case tried, together with all papers filed in the action.

13 (3) The district court may affirm, reverse, or amend  
14 any appealed order or judgment and may direct the proper  
15 order or judgment to be entered or direct that a new trial  
16 or further proceeding be had in the court from which the  
17 appeal was taken.

18 **NEW SECTION. Section 7.** Codification instruction.  
19 [Section 6] is intended to be codified as an integral part  
20 of Title 3, chapter 6, and the provisions of Title 3,  
21 chapter 6, apply to [section 6].

22 **NEW SECTION. Section 8.** Effective date. [This act] is  
23 effective July 1, 1991.

-End-