

HOUSE BILL 783

Introduced by Fagg, et al.

2/12	Introduced
2/12	Referred to Judiciary
2/13	First Reading
2/13	Fiscal Note Requested
2/16	Fiscal Note Received
2/18	Fiscal Note Printed
2/21	Hearing
2/21	Tabled in Committee

1 *House* BILL NO. 783
 2 INTRODUCED BY *[Signature]*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AN
 5 APPEAL TO A DISTRICT COURT FROM A JUSTICE'S OR CITY COURT IS
 6 ON THE RECORD AND LIMITED TO QUESTIONS OF LAW; ELIMINATING
 7 JURY TRIAL AND TRIAL DE NOVO PROVISIONS; REVISING THE
 8 PROCEDURE FOR TRANSFERRING THE RECORD ON APPEAL; AND
 9 AMENDING SECTION 46-17-311, MCA."

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

12 **Section 1.** Section 46-17-311, MCA, is amended to read:

13 "46-17-311. Appeal. (1) ~~Except---as---provided---in~~
 14 ~~46-17-2037---all~~ All cases on appeal from justices' or city
 15 courts must be tried-anew heard on the record and limited to
 16 questions of law in the district court ~~and-may-be-tried~~
 17 ~~before-a-jury-of-six-selected-in-the-same-manner-as-a--trial~~
 18 ~~jury--in--a--civil--action;--except-that-the-total-number-of~~
 19 ~~jurors-drawn-shall-be-at-least-six-plus-the-total-number--of~~
 20 peremptory-challenges. There may not be a trial de novo.

21 (2) A party may appeal to the district court by giving
 22 written notice of his intention to appeal within 10 days
 23 after judgment, except that the state may only appeal in the
 24 cases provided for in 46-20-103.

25 (3) (a) Within 30 days, the entire record of the

1 justice's or city court proceedings must be transferred to
 2 the district court or the appeal must be dismissed. It is
 3 the duty of the appellant to perfect the appeal.

4 (b) When the notice of appeal is filed, the justice's
 5 or city court shall forward the electronic recording or
 6 transcript of the stenographic record of the proceedings to
 7 the district court, together with the original papers filed,
 8 certified by the judge to be accurate and complete. When the
 9 record is transferred to the clerk of the district court,
 10 the justice's or city court shall notify the parties in
 11 writing."

-End-



INTRODUCED BILL
 HB 783

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0783, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The bill provides that an appeal to a district court from a justice or city court is in the record and limited to questions of law, and eliminates jury trial and trial de novo provisions.

ASSUMPTIONS:

1. The bill would impact city and county government expenditures as there are 124 city and justice courts which are not currently courts of record. Additional recorder, tapes, microphone, and storage expenses would be incurred for a total of approximately \$69,000 during FY92 and \$50,000 each fiscal year thereafter.
2. The impact on district court expenses is not subject to reasonable estimate.

FISCAL IMPACT:


None to state agencies.

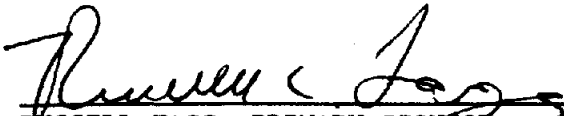
EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

As indicated in assumption #1, the cities and counties represented by the 124 affected courts would incur approximately \$69,000 statewide in additional expenses during FY92 and about \$50,000 per year thereafter for operation of city and justice of the peace courts.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Cities and counties statewide would incur about \$50,000 in additional expenses each year in relation to the operation of city and justice of the peace courts.


ROD SUNDSTED, BUDGET DIRECTOR 2-15-91
Office of Budget and Program Planning DATE


RUSSELL FAGG, PRIMARY SPONSOR 2/18/91
Fiscal Note for HB0783, as introduced DATE
HB 783