

HOUSE BILL 108

Introduced by Whalen

1/09	Introduced
1/10	Referred to Judiciary
1/10	Fiscal Note Requested
1/17	Hearing
1/17	Fiscal Note Received
1/18	Fiscal Note Printed
1/19	Committee Report--Bill Passed as Amended
1/21	2nd Reading Passed
1/24	3rd Reading Failed

1 HOUSE BILL NO. 108
 2 INTRODUCED BY Whalen
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CERTAIN
 5 CITIES TO ESTABLISH MUNICIPAL COURTS; REVISING PROVISIONS
 6 REGARDING THE NUMBER, SALARY, AND ELECTION OF MUNICIPAL
 7 COURT JUDGES AND THE ADMINISTRATION OF AND APPEAL FROM
 8 MUNICIPAL COURTS; AMENDING SECTIONS 3-6-101, 3-6-102,
 9 3-6-201, 3-6-203, AND 3-6-301, MCA; AND PROVIDING AN
 10 EFFECTIVE DATE."

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

13 **Section 1.** Section 3-6-101, MCA, is amended to read:
 14 "3-6-101. Establishment of the court. (1) ~~All cities~~
 15 ~~in the state of Montana~~ A city with a population of 5,000 or
 16 ~~more located in a county with a population of 10,000~~ 75,000
 17 ~~or more,--according--to--the--last--federal--census,--may~~ shall
 18 have a court, known as the municipal court of the city of
 19 (designating the name of the city) of the state of Montana.
 20 The court shall be a court of record. The municipal court
 21 shall assume continuing jurisdiction over all pending city
 22 court cases in the city where the municipal court is
 23 established.
 24 (2) ~~The--provisions-of-this-chapter-apply-only-after~~ A
 25 city not meeting the requirements in subsection (1) may have

1 a municipal court if the governing body of the city has
 2 elected elects by a two-thirds majority vote to adopt them
 3 the provisions of this chapter by ordinance and, in the
 4 ordinance, ~~has--provided~~ provides the manner in which and
 5 time when the municipal court is to be established and
 6 assume continuing jurisdiction over all pending city court
 7 cases. The ordinance must be consistent with the provisions
 8 of this chapter.

9 (3) For the purposes of this section, the population
 10 of a city or county is determined according to the most
 11 recent federal census or, during the interim between
 12 censuses, according to the population estimates published by
 13 the bureau of the census, United States department of
 14 commerce."

15 **Section 2.** Section 3-6-102, MCA, is amended to read:
 16 "3-6-102. Abolition of city court. (1) In cities in
 17 which a municipal court is established, the office of city
 18 judge is hereby abolished.

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

24 **Section 3.** Section 3-6-201, MCA, is amended to read:
 25 "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) ~~One-judge-of-each~~ A municipal court judge shall must be elected at the general city election as provided in 13-1-104. The judge's term shall commence 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.

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

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

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

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

"3-6-301. Clerk of the court -- administrative expenses. The city municipal court judge shall appoint a clerk of the city-in-which-said-court-is-located-shall-be ex

~~officio--clerk-of-such~~ court. The governing body of the city shall set the salary of the clerk and provide for other necessary expenses that may be incurred in operating the court."

NEW SECTION. Section 6. Appeal to district court -- record on appeal. (1) A party may appeal to district court from a municipal court judgment. The appeal is confined to review of the record and questions of law.

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

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

NEW SECTION. Section 8. Effective date. [This act] is effective July 1, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB108, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act requiring certain cities to establish municipal courts; revising provisions regarding the 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.

ASSUMPTIONS:

1. Based on July 1, 1987 provisional census data three Montana counties have a population of 75,000 or more. Yellowstone 118,100. Missoula 78,400. Cascade 78,100.
2. Missoula has the only municipal court. Billings, Great Falls, and Laurel would become eligible for municipal courts under this bill.
3. Municipal courts would replace city courts on a one to one basis.
4. Court of record would be district court.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Municipal/City courts are 100% locally supported. If this bill passes municipal court judges would be paid at the court of record level or district court level of \$49,177 annually plus benefits. Also, the municipal court judge would be authorized to appoint the clerk of court, which could mean additional staff and operating expenses.

 1/16/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
OFFICE OF BUDGET AND PROGRAM PLANNING

TIMOTHY J. WHALEN, PRIMARY SPONSOR DATE

Fiscal Note for HB108, as introduced

HB 108

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 108

INTRODUCED BY WHALEN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING ALLOWING
CERTAIN CITIES TO ESTABLISH MUNICIPAL COURTS; REVISING
PROVISIONS REGARDING THE 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~~ A city with a population of 5,000 or
~~more located in a county with a population of 10,000~~ 75,000
~~or more, according to the last federal census, may shall 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 be a court of record. The municipal court
shall assume continuing jurisdiction over all pending city
court cases in the city where the municipal court is
established.

(2) ~~The provisions of this chapter apply only after A~~
~~city not meeting the requirements in subsection (1) may ONLY~~

have a municipal court 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
assume continuing jurisdiction over all pending city court
cases. The ordinance must be consistent with the provisions
of this chapter.

(3) For the purposes of this section, the population
of a city or county is determined according to the most
recent federal census or,--during--the--interim--between
censuses,--according-to-the population estimates published by
the bureau of the census, United States department of
commerce."

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 that 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 --

1 term of office. (1) The governing body of a city shall
 2 determine by ordinance the number of judges required to
 3 operate the municipal court.

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

10 ~~(2)(3)~~ All elections of municipal judges are governed
 11 by the laws applicable to the election of nonpartisan-city
 12 officials 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. ~~The~~
 17 ~~salary-must-be-appropriate-for-a-judge-serving-on-a-court-of~~
 18 ~~record.~~ Actual and necessary expenses for the municipal
 19 court judge ~~shall-be-the~~ are travel expenses, as defined and
 20 provided in 2-18-501 through 2-18-503, incurred in the
 21 performance of his official duties."

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

23 "3-6-301. Clerk of the court -- administrative
 24 expenses. The city municipal court judge shall appoint a
 25 clerk of the city-in-which-said-court-is-located-shall-be-ex

1 ~~office-to-clerk-of-such court.~~ The governing body of the city
 2 shall set the salary of the clerk and provide for other
 3 necessary expenses that may be incurred in operating the
 4 court."

5 **NEW SECTION. Section 6.** Appeal to district court --
 6 record on appeal. (1) A party may appeal to district court
 7 from a municipal court judgment. The appeal is confined to
 8 review of the record and questions of law UNLESS A PARTY
 9 REQUESTS A TRIAL ANEW ON APPEAL OR UNLESS THE DISTRICT COURT
 10 ORDERS A TRIAL ANEW IN THE INTERESTS OF JUSTICE.

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

14 **NEW SECTION. Section 7.** Codification instruction.
 15 {Section 6} is intended to be codified as an integral part
 16 of Title 3, chapter 6, and the provisions of Title 3,
 17 chapter 6, apply to [section 6].

18 **NEW SECTION. Section 8.** Effective date. [This act] is
 19 effective July 1, 1989.

-End-

1 HOUSE BILL NO. 108

2 INTRODUCED BY WHALEN

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

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

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

14 "3-6-101. Establishment of the court. (1) ~~All cities~~
15 ~~in the state of Montana~~ A city with a population of 5,000 or
16 ~~more located in a county with a population of 10,000~~ 75,000
17 ~~or more, according to the last federal census, may shall~~ MAY
18 have a court, known as the municipal court of the city of
19 (designating the name of the city) of the state of Montana.
20 The court shall be a court of record. The municipal court
21 shall assume continuing jurisdiction over all pending city
22 court cases in the city where the municipal court is
23 established.

24 (2) ~~The provisions of this chapter apply only after a~~
25 city not meeting the requirements in subsection (1) may ONLY

1 have a municipal court if the governing body of the city has
2 elected elects by a ~~two-thirds~~ majority vote to adopt them
3 the provisions of this chapter by ordinance and, in the
4 ordinance, ~~has--provided~~ provides the manner in which and
5 time when the municipal court is to be established and
6 assume continuing jurisdiction over all pending city court
7 cases. The ordinance must be consistent with the provisions
8 of this chapter.

9 (3) For the purposes of this section, the population
10 of a city or county is determined according to the most
11 recent federal census or,--during--the--interim--between
12 censuses,--according-to-the population estimates published by
13 the bureau of the census, United States department of
14 commerce."

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

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

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

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

25 "3-6-201. Election Number of judges -- election --

1 term of office. (1) The governing body of a city shall
 2 determine by ordinance the number of judges required to
 3 operate the municipal court.

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

10 ~~{2}~~(3) All elections of municipal judges are governed
 11 by the laws applicable to the election of nonpartisan-city
 12 officials 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. ~~The~~
 17 ~~salary-must-be-appropriate-for-a-judge-serving-on-a-court-of~~
 18 ~~record-~~ Actual and necessary expenses for the municipal
 19 court judge ~~shall-be-the~~ are travel expenses, as defined and
 20 provided in 2-18-501 through 2-18-503, incurred in the
 21 performance of his official duties."

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

23 "3-6-301. Clerk of the court -- administrative
 24 expenses. The city municipal court judge shall appoint a
 25 clerk of the city-in-which-said-court-is-located-shall-be-ex

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

5 **NEW SECTION. Section 6.** Appeal to district court --
 6 **record on appeal.** (1) A party may appeal to district court
 7 from a municipal court judgment. The appeal is confined to
 8 review of the record and questions of law UNLESS A PARTY
 9 REQUESTS A TRIAL ANEW ON APPEAL OR UNLESS THE DISTRICT COURT
 10 ORDERS A TRIAL ANEW IN THE INTERESTS OF JUSTICE.

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

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

18 **NEW SECTION. Section 8.** Effective date. [This act] is
 19 effective July 1, 1989.

-End-