

FILED

2002 MAR 12 P 5: 59

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4309

(By Delegates Amores, Webster, J. Smith, Smirl and Webb)

—●—
Passed February 28, 2002

In Effect Ninety Days from Passage

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FOR

H. B. 4309

(BY DELEGATES AMORES, WEBSTER, J. SMITH, SMIRL AND WEBB)

[Passed February 28, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact section two, article ten, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to enabling cities and municipalities to provide by charter provision or ordinance that, in the absence of its municipal court judge, the municipal court clerk or other persons designated by city charter or ordinance may serve as municipal judge; and making certain technical revisions.

Be it enacted by the Legislature of West Virginia:

That section two, article ten, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 10. POWERS AND DUTIES OF CERTAIN OFFICERS.

§8-10-2. Municipal court for municipalities.

1 (a) Notwithstanding any charter provision to the contrary,
2 any city may provide by charter provision and any municipality
3 may provide by ordinance for the creation and maintenance of
4 a municipal court, for the appointment or election of an officer
5 to be known as municipal court judge and for his or her
6 compensation, and authorize the exercise by the court or judge
7 of the jurisdiction and the judicial powers, authority and duties
8 set forth in section one of this article and similar or related
9 judicial powers, authority and duties enumerated in any
10 applicable charter provisions, as set forth in the charter or
11 ordinance. Additionally, any city may provide by charter
12 provision and any municipality may provide by ordinance, that
13 in the absence of or in the case of the inability of the municipal
14 court judge to perform his or her duties, the municipal court
15 clerk or other official designated by charter or ordinance may
16 act as municipal court judge: *Provided*, That the municipal
17 court clerk or other official designated by charter or ordinance
18 to act as municipal court judge shall comply with the require-
19 ments set forth in subsection (b) of this section, as well as any
20 other requirements that the city by charter provision or the
21 municipality by ordinance may require.

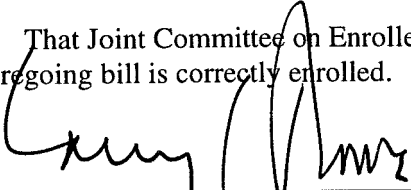
22 (b) Any person who assumes the duties of municipal court
23 judge who has not been admitted to practice law in this state
24 shall attend and complete the next available course of instruc-
25 tion in rudimentary principles of law and procedure. The course
26 shall be conducted by the municipal league or a like association
27 whose members include more than one half of the chartered
28 cities and municipalities of this state. The instruction must be
29 performed by or with the services of an attorney licensed to
30 practice law in this state for at least three years. Any municipal
31 court judge may attend a course for the purpose of continuing
32 education. The cost of any course referred to in this section

33 shall be paid by the municipality that employs the municipal
34 judge.

35 (c) Only a defendant who has been charged with an offense
36 for which a period of confinement in jail may be imposed is
37 entitled to a trial by jury. If a municipal court judge determines,
38 upon demand of a defendant, to conduct a trial by jury in a
39 criminal matter, it shall follow the procedures set forth in the
40 rules of criminal procedure for magistrate courts promulgated
41 by the supreme court of appeals, except that the jury in munici-
42 pal court shall consist of twelve members.

Enr. Com. Sub. for H. B. 4309] 4

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



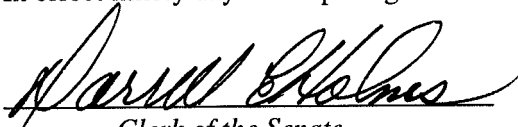
Chairman Senate Committee



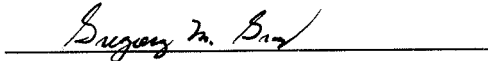
Chairman House Committee

Originating in the House.

In effect ninety days from passage.



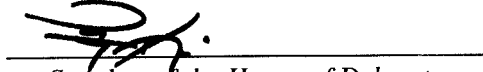
Clerk of the Senate



Clerk of the House of Delegates

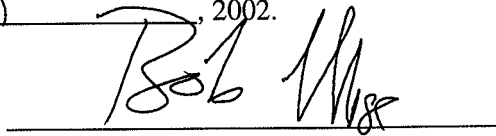


President of the Senate



Speaker of the House of Delegates

The within is approved this the 12th
day of March, 2002.



Governor

PRESENTED TO THE

GOVERNOR

Date 3/6/02

Time 10:05th a m