WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2002

---

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
ENROLLED

COMMITTEE SUBSTITUTE

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.

(a) Notwithstanding any charter provision to the contrary, any city may provide by charter provision and any municipality may provide by ordinance for the creation and maintenance of a municipal court, for the appointment or election of an officer to be known as municipal court judge and for his or her compensation, and authorize the exercise by the court or judge of the jurisdiction and the judicial powers, authority and duties set forth in section one of this article and similar or related judicial powers, authority and duties enumerated in any applicable charter provisions, as set forth in the charter or ordinance. Additionally, any city may provide by charter provision and any municipality may provide by ordinance, that in the absence of or in the case of the inability of the municipal court judge to perform his or her duties, the municipal court clerk or other official designated by charter or ordinance may act as municipal court judge: Provided, That the municipal court clerk or other official designated by charter or ordinance to act as municipal court judge shall comply with the requirements set forth in subsection (b) of this section, as well as any other requirements that the city by charter provision or the municipality by ordinance may require.

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

(c) Only a defendant who has been charged with an offense
for which a period of confinement in jail may be imposed is
entitled to a trial by jury. If a municipal court judge determines,
upon demand of a defendant, to conduct a trial by jury in a
criminal matter, it shall follow the procedures set forth in the
rules of criminal procedure for magistrate courts promulgated
by the supreme court of appeals, except that the jury in municip-
al 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 3/01/02
Time 10:05 AM