

HOUSE BILL NO. 174

INTRODUCED BY D. MORTENSEN

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CITY COURT JUDGES TO BE ELECTED; AND AMENDING SECTIONS 3-11-201, 3-11-202, 3-11-204, 3-11-206, 7-4-4102, AND 7-4-4103, MCA."

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

**Section 1.** Section 3-11-201, MCA, is amended to read:

**"3-11-201. Number of judges -- term of office.** (1) The governing body of a city may determine by ordinance the number of judges required to operate the city court.

(2) An elected ~~or appointed~~ city judge shall hold office for a term of 4 years and until the qualification of a successor.

(3) A justice of the peace designated to act as city judge for a city or town under 3-11-205 shall serve as city judge for the duration of the justice of the peace's term as justice of the peace or until the agreement provided for in 3-11-205 terminates."

**Section 2.** Section 3-11-202, MCA, is amended to read:

**"3-11-202. Salary -- qualifications.** (1) A city judge, at the time of election, ~~or appointment~~ must:

(a) meet the qualifications of a justice of the peace under 3-10-202;

(b) be a resident of the county in which the city or town is located; and

(c) satisfy any additional qualifications prescribed by ordinance.

(2) The annual salary and compensation of city judges must be fixed by ordinance or resolution.

(3) Each city judge shall receive actual and necessary travel expenses, as provided in 2-18-501 through 2-18-503, incurred in the performance of official duties."

**Section 3.** Section 3-11-204, MCA, is amended to read:

**"3-11-204. Training sessions for judges.** (1) There must be two mandatory annual training sessions supervised by the supreme court for all ~~elected and appointed~~ city judges. One of the training sessions may be held in conjunction with the Montana magistrates' association convention. Actual and necessary travel expenses,

1 as provided in 2-18-501 through 2-18-503, and the costs of registration and books and other materials must be  
2 paid to the ~~elected or appointed~~ judge for attending the sessions. Whenever the office of city judge is held by a  
3 justice of the peace, the costs imposed by this subsection are the joint responsibility of the county and the  
4 municipality, with the costs to be allocated and charged in proportion to the work done for each governmental  
5 entity. In all other cases, the costs must be paid by the city or town in which the judge holds or will hold court and  
6 must be charged against that city or town.

7 (2) Each city judge shall attend the training sessions. Failure to attend disqualifies the judge from office  
8 and creates a vacancy in the office. However, the supreme court may excuse a city judge from attendance  
9 because of illness, a death in the family, or any other good cause."

10

11 **Section 4.** Section 3-11-206, MCA, is amended to read:

12 **"3-11-206. City to provide facilities -- conduct of court business -- electronic filing and storage**  
13 **of court records.** (1) The governing body of the city in which the judge has been elected or ~~appointed~~ designated  
14 pursuant to 3-11-205:

15 (a) shall provide for the city court:

16 (i) the office space, courtroom, and clerical assistance necessary to enable the judge and the clerk of  
17 city court, if any, to conduct business in dignified surroundings;

18 (ii) the books, records, forms, papers, stationery, postage, office equipment, and supplies necessary for  
19 the proper keeping of the records and files of the court and the transaction of business; and

20 (iii) one copy of the latest edition of the Montana Code Annotated and all official supplements or  
21 immediate access to the code and supplements; and

22 (b) may provide a clerk of city court.

23 (2) The provisions of 3-6-302(1) and 3-6-303 concerning conduct of municipal court business apply to  
24 the city court.

25 (3) The records of the court may be kept by means of electronic filing or storage, or both, as provided  
26 in 3-1-114 and 3-1-115, in lieu of or in addition to paper records."

27

28 **Section 5.** Section 7-4-4102, MCA, is amended to read:

29 **"7-4-4102. Officers of city of second or third class.** (1) The officers of a city of the second or third  
30 class consist of:

- 1 (a) one mayor;  
 2 (b) two city council members from each ward; and  
 3 (c) one city judge.

4 (2) ~~The~~ Except as provided in subsection (3), the officers listed in subsection (1), ~~except the city judge~~  
 5 ~~for a city of the third class,~~ must be elected by the qualified electors of the city, as provided in this part.

6 (3) The governing body of a city of the third class may by ordinance ~~determine whether the office of city~~  
 7 ~~judge must be filled by appointment by the governing body or by election or may~~ appoint a justice of the peace  
 8 or the city judge of another city as judge of the city court as provided in 3-11-205.

9 (4) There may ~~also~~ be appointed by the mayor, with the advice and consent of the council:

- 10 (a) one city attorney;  
 11 (b) one city clerk, who is ex officio city assessor;  
 12 (c) one city treasurer or one city clerk-treasurer;  
 13 (d) one chief of police; and  
 14 (e) any other officers necessary to carry out the provisions of this title.

15 (5) The city council may prescribe the duties of all city officers and fix their compensation."  
 16

17 **Section 6.** Section 7-4-4103, MCA, is amended to read:

18 **"7-4-4103. Officers of towns.** (1) The officers of a town consist of:

- 19 (a) one mayor;  
 20 (b) two city council members from each ward; and  
 21 (c) one city judge.

22 (2) ~~The~~ Except as provided in subsection (3), the officers listed in subsection (1), ~~except for the city~~  
 23 ~~judge,~~ must be elected by the qualified electors of the town, as provided in this part.

24 (3) The governing body of ~~the a~~ town may by ordinance ~~determine that the office of city judge must be~~  
 25 ~~filled either by election or by appointment or may~~ appoint a justice of the peace or the city judge of another city  
 26 to be judge of the city court as provided in 3-11-205.

27 (4) There may be appointed by the mayor, with the advice and consent of the council:

- 28 (a) one clerk, who may be ex officio assessor and tax collector and a member of the council;  
 29 (b) one marshal, who may be ex officio street commissioner; and  
 30 (c) any other officers necessary to carry out the provisions of this title.

