

1 **H. B. 2839**

2
3 (By Delegates Manchin and Lawrence)
4 [Introduced January 25, 2011; referred to the
5 Committee on Political Subdivision then the Judiciary.]
6
7
8
9

10 A BILL to amend and reenact §8-10-2 of the Code of West Virginia,
11 1931, as amended, relating to municipalities; powers and
12 duties of certain officers; municipal court for
13 municipalities; and reducing the number of jurors in criminal
14 trials in municipal courts from twelve to six.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §8-10-2 of the Code of West Virginia, 1931, as amended,
17 be amended and reenacted to read as follows:

18 **ARTICLE 10. POWERS AND DUTIES OF CERTAIN OFFICERS.**

19 **§8-10-2. Municipal court for municipalities.**

20 (a) Notwithstanding any charter provision to the contrary, any
21 city may provide by charter provision and any municipality may
22 provide by ordinance for the creation and maintenance of a
23 municipal court, for the appointment or election of an officer to

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

18 (b) Any person who makes application for appointment to, or
19 who files to become a candidate in any election for municipal
20 judge, shall first submit to a criminal background check, to be
21 conducted by the State Police. The cost of the criminal background
22 check shall be paid by the applicant or candidate. The result of
23 each background check conducted in accordance with this section
24 shall be forwarded to the municipal court clerk or recorder whose

1 duty it is to review the results and confirm the eligibility of the
2 applicant or candidate to serve as a municipal judge. No person
3 convicted of a felony or any misdemeanor crime set forth in
4 articles eight, eight-a, eight-b, eight-c or eight-d, chapter
5 sixty-one, of this code is eligible to become a municipal judge.

6 (c) Any person who assumes the duties of municipal court judge
7 who has not been admitted to practice law in this state shall
8 attend and complete the next available course of instruction in
9 rudimentary principles of law and procedure. The course shall be
10 conducted by the municipal league or a like association whose
11 members include more than one half of the chartered cities and
12 municipalities of this state. The instruction must be performed by
13 or with the services of an attorney licensed to practice law in
14 this state for at least three years. Any municipal court judge
15 shall, additionally, be required to attend a course, on an annual
16 basis for the purpose of continuing education: *Provided, That*
17 the forgoing additional education requirement does not apply to
18 municipal judges who are attorneys admitted to practice in this
19 state. The cost of any course referred to in this section shall be
20 paid by the municipality that employs the municipal judge.

21 (d) Only a defendant who has been charged with an offense for
22 which a period of confinement in jail may be imposed is entitled to
23 a trial by jury. If a municipal court judge determines, upon
24 demand of a defendant, to conduct a trial by jury in a criminal

1 matter, it shall follow the procedures set forth in the rules of
2 criminal procedure for magistrate courts promulgated by the Supreme
3 Court of Appeals, except that the jury in municipal court shall
4 consist of ~~twelve~~ six members.

NOTE: The purpose of this bill is to reduce the number of jurors in criminal trials in municipal courts from twelve to six.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.