

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 173

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

AN ACT

RELATING TO COURTS; REVISING PROCEDURES REGARDING TRANSFER OF
JURISDICTION OVER MUNICIPAL ORDINANCES TO THE MAGISTRATE COURT
WITH THE AGREEMENT OF THE SUPREME COURT; SPECIFYING CERTAIN
COURT-IMPOSED FEES TO BE REMITTED TO THE STATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 35-14-1 NMSA 1978 (being Laws 1961,
Chapter 208, Section 1, as amended) is amended to read:

"35-14-1. MUNICIPAL COURT--CREATION.--

A. Except for municipalities with a population of
[~~less~~] fewer than two thousand five hundred or more than five
thousand persons in the [~~1980~~] most recent federal decennial
census lying within the boundaries of a class A county with a
population of more than two hundred thousand persons in the
[~~last~~] most recent federal decennial census and municipalities

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underscored material = new
[bracketed material] = delete

1 [which] that have adopted an effective ordinance pursuant to
2 Subsection [B] D of this section, there is established a
3 municipal court in each incorporated municipality. The
4 municipal courts shall be presided over by municipal judges.
5 As used in Chapter 35, Articles 14 and 15 NMSA 1978,
6 "municipality" includes H class counties.

7 ~~[B. The governing body of a municipality with a
8 population of one thousand five hundred persons or less in the
9 last federal decennial census may designate the magistrate
10 court of the county in which the municipality is located as the
11 court having jurisdiction over municipal ordinances. The
12 designation shall be by adopted ordinance which shall not be
13 effective until the expiration of the term of any incumbent
14 municipal judge.]~~

15 B. The governing body of a municipality that is not
16 governed by home rule, territorial or special charter and
17 having a population fewer than ten thousand persons in the most
18 recent federal decennial census, where the municipal court is
19 located twenty-five or fewer miles from the nearest magistrate
20 court, may by resolution express its intent to designate the
21 magistrate court of the county in which the municipality is
22 located as the court having jurisdiction over municipal
23 ordinances. Within fifteen days from the adoption of a
24 resolution pursuant to this section, the governing body of the
25 municipality shall create a "municipal ordinance jurisdiction

1 advisory committee". The municipal ordinance jurisdiction
 2 advisory committee shall be composed of the following members,
 3 who shall be residents of the municipality:

4 (1) the mayor;

5 (2) a member of the governing body;

6 (3) a municipal judge;

7 (4) the chief of police; and

8 (5) three members of the public, each selected
 9 by the mayor, the governing body and the municipal judge.

10 C. A municipal ordinance jurisdiction advisory
 11 committee shall:

12 (1) hold at least one public hearing on the
 13 question of designating the magistrate court of the county in
 14 which the municipality is located as the court having
 15 jurisdiction over municipal ordinances;

16 (2) hear testimony from all interested
 17 persons, including the mayor, the governing body and the
 18 municipal judge; and

19 (3) submit a report, including recommendations
 20 directly to the governing body of the municipality, with copies
 21 to the mayor and municipal judge.

22 D. Following receipt of a report from the municipal
 23 ordinance jurisdiction advisory committee, the governing body
 24 of a municipality may, subject to approval by the supreme
 25 court, adopt an ordinance upon a three-fourths' majority vote

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1 to designate the magistrate court of the county in which the
2 municipality is located as the court having jurisdiction over
3 municipal ordinances. An ordinance adopted shall become
4 effective only upon supreme court approval and the expiration
5 of the term of the municipal judge in office on the date of the
6 supreme court's approval of the ordinance.

7 E. Within five days after the effective date of
8 ~~[the]~~ an ordinance adopted pursuant to Subsection D of this
9 section, the governing body of the municipality shall:

10 (1) forward a copy of the ordinance to the
11 magistrate court and to the administrative office of the
12 courts; and

13 (2) provide to the magistrate court copies of
14 all municipal ordinances over which the magistrate court will
15 have jurisdiction.

16 ~~[G.]~~ F. A magistrate court designated pursuant to
17 Subsection ~~[B]~~ D of this section shall, with respect to
18 ordinances of the municipality:

19 (1) follow the rules of procedure for the
20 municipal courts and the procedures provided by Chapter 35,
21 Article 15 NMSA 1978;

22 (2) impose no fine or sentence greater than
23 that permitted for municipalities; ~~[and]~~

24 (3) remit monthly to the state ~~[all funds]~~ the
25 court automation and judicial education fees collected pursuant

1 to Subsection B of Section 35-14-11 NMSA 1978 as a result of
2 enforcement of municipal ordinances; and

3 (4) remit monthly to the municipality the
4 corrections fee collected pursuant to Subsection B of Section
5 35-14-11 NMSA 1978 as a result of the enforcement of municipal
6 ordinances.

7 G. Any municipality that has passed an ordinance
8 designating the magistrate court of the county in which the
9 municipality is located as the court having jurisdiction over
10 municipal ordinances may re-establish the municipal court as
11 the court having jurisdiction over municipal ordinances through
12 the following procedures:

13 (1) the governing body of the municipality may
14 pass an ordinance rescinding the designation that was made
15 pursuant to Subsection B of this section; or

16 (2) following receipt of a petition signed by
17 at least twenty percent of the registered voters who voted in
18 the last municipal election for the office of mayor:

19 (a) convene a municipal ordinance
20 jurisdiction advisory committee pursuant to Subsection B of
21 this section that shall make a report and recommendation, if
22 any, to the governing body of the municipality; and

23 (b) the governing body shall indicate
24 its assent to re-establishment of the municipal court by
25 ordinance."

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