

SENATE BILL No. 408

May 3, 1989, Introduced by Senator NICHOLS and referred to the Committee on Judiciary.

A bill to amend section 17 of chapter V and section 7 of chapter XXV of Act No. 215 of the Public Acts of 1895, entitled as amended

"An act to provide for the incorporation of cities of the fourth class; to provide for the vacation of the incorporation thereof; to define the powers and duties of such cities and the powers and duties of the municipal finance commission or its successor agency and of the department of treasury with regard thereto; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness by cities; to define the application of this act and provide for its amendment by cities subject thereto, and to validate such prior amendments and certain prior actions taken and bonds issued by such cities,"

being sections 85.17 and 105.7 of the Michigan Compiled Laws; and to amend the title and section 2 of Act No. 76 of the Public Acts of 1917, entitled as amended

"An act to authorize township boards of townships and legislative bodies of cities to fill vacancies in the office of justice of the peace; and to provide for designation of substitute municipal judges and justices of the peace,"

1 Section 1. Section 17 of chapter V and section 7 of chapter
2 XXV of Act No. 215 of the Public Acts of 1895, being sections
3 85.17 and 105.7 of the Michigan Compiled Laws, are amended to
4 read as follows:

6 Sec. 17. In case any vacancy occurs in the office of mayor,
7 or in any other elective office, except ~~justice of the peace,~~
8 constable and school trustee, as hereinafter provided, the coun-
9 cil may fill such vacancy by appointment at any time within 20
10 days after such vacancy occurs, or may, within such time, call a
11 special election for the purpose of filling such vacancy, as they
12 may deem for the best interest of the city. Vacancies in the
13 office of ~~justice of the peace and~~ constable shall be filled at
14 the next annual election or at a special election called for that
15 purpose. Vacancies in any appointive office shall be filled
16 within 20 days after such vacancy occurs, by the mayor by and
17 with the consent of the council.

19 Sec. 7. On the return day of the summons, or on some subse-
20 quent day to which the proceedings are adjourned, if no suffi-
21 cient cause to the contrary has been shown, the probate court
22 shall make an order that a jury be impaneled in the case. Such
23 jury shall be composed of 12 ~~freeholders~~ RESIDENTS of the

1 municipality and shall be selected and impaneled as follows: The
2 ~~city marshal or any constable or any member of the police force~~
3 ~~of such city shall, on the same day, or at an adjourned day,~~
4 COURT SHALL make a list of 24 ~~resident freeholders of said~~
5 RESIDENTS OF THE city, and the city attorney and the respondents
6 collectively, shall each have the right to strike 6 names from
7 the list of persons written down as aforesaid, and subject to
8 objection for cause; the 12 persons whose names are left on the
9 list shall compose the jury for the trial of the cause and shall
10 be summoned to attend at not less than 3 nor more than 10 days
11 from the date of selecting such jury, by a venire issued by ~~him~~
12 THE COURT and to be served by 1 of the officers aforesaid. If
13 the respondents neglect or refuse to strike 6 names from ~~said~~
14 THE list, it shall be done by the probate judge, and in case any
15 of the persons to be summoned cannot ~~by him~~ be found in the
16 county, or being summoned do not attend, or shall be excused for
17 cause or otherwise, talesmen possessing the necessary qualifica-
18 tions may be summoned as jurors in the case by such officer. →
19 ~~and the~~ THE practice and proceedings under this chapter, except
20 as herein otherwise provided, relative to impaneling, summoning,
21 and excusing jurors and talesmen and imposing penalties or fines
22 upon them for ~~non attendance~~ NONATTENDANCE, shall be the same
23 as the practice and proceedings ~~of justice courts~~ relative to
24 jurors in civil cases in ~~such courts~~ DISTRICT COURT.

25 Section 2. The title and section 2 of Act No. 76 of the
26 Public Acts of 1917, being section 201.52 of the Michigan
27 Compiled Laws, are amended to read as follows:

TITLE

1
2 An act to authorize township boards of townships and legis-
3 lative bodies of cities to fill vacancies in the office of
4 ~~justice of the peace~~ MUNICIPAL JUDGE; and to provide for desig-
5 nation of substitute municipal judges. ~~and justices of the~~
6 ~~peace.~~

7 Sec. 2. When the judge of the municipal court ~~or the jus-~~
8 ~~tice of the peace~~ in any city having only 1 municipal judge, ~~or~~
9 ~~justice of the peace,~~ who is paid a salary in lieu of fees, is
10 unable to perform the duties of his OR HER office by reason of
11 illness or absence from the city, ~~said~~ THE judge, ~~justice of~~
12 ~~the peace,~~ or his OR HER chief clerk may designate any other
13 ~~justice of the peace or~~ municipal judge of the same county to
14 sit in the court of the municipal judge ~~or justice of the peace~~
15 who is absent or ill. ~~—~~ Provided, That no ~~justice of the~~
16 ~~peace or~~ municipal judge shall be so designated unless qualified
17 under the provisions of the city charter. The judge ~~or justice~~
18 ~~of the peace~~ so designated shall perform the duties and exercise
19 all of the powers of the municipal judge ~~or justice of the~~
20 ~~peace~~ in whose court he OR SHE is sitting during such absence or
21 illness and his OR HER compensation shall be in the same amount.
22 and payable from the same fund as that paid to such absent or
23 incapacitated judge.