



**House
Legislative
Analysis
Section**

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

**INCREASE JUROR COMPENSATION,
CREATE STATE FUND**

**House Bill 4551 as enrolled
Public Act 740 of 2002
Sponsor: Rep. Gary A. Newell**

**House Bill 4552 as enrolled
Public Act 741 of 2002
Sponsor: Rep. Ken Daniels**

**House Bill 4553 as enrolled
Public Act 742 of 2002
Sponsor: Rep. Andrew Richner**

**Senate Bill 1448 as enrolled
Public Act 739 of 2002
Sponsor: Sen. Mike Goschka**

**Senate Bill 1452 as enrolled
Public Act 605 of 2002
Sponsor: Sen. Martha Scott**

**Second Analysis (1-12-03)
House Committee: Civil Law and the
Judiciary
Senate Committees: Judiciary and
Transportation and Tourism (HB 4552)**

House Bills 4551-4553 and Senate Bills 1448 and 1452 (1-12-03)

THE APPARENT PROBLEM:

Currently, under the Revised Judicature Act, jurors receive at least \$15 a day (and \$7.50 a half day) for each actual day of attendance at the court. Court “funding units” pay for juror compensation, with counties paying for the county-based courts (the circuit court, the probate court, and first class district courts), and cities or townships paying for their second and third class district courts.

While the RJA allows county boards of commissioners to pay jurors more than the statutory minimum, few counties have chosen to do this. The statutory rates of juror compensation have not changed since 1967, and many people believe that the rates need to be increased. Legislation has been introduced to address this issue.

THE CONTENT OF THE BILLS:

The bills would increase juror compensation to \$40 a day after the first day of jury duty, and establish a new state juror compensation fund to be funded from a doubling of the fee for restoring certain suspended driver’s licenses and from increases in jury demand fees in civil cases.

House Bill 4551 would add a new section to the Revised Judicature Act of 1961 (MCL 600.151c) to create the “juror compensation reimbursement fund” in the state treasury. The state treasurer would credit to the fund (in addition to all income from investment) the increase in driver license clearance fees as proposed in House Bill 4552 and from the increase in jury demand fees as proposed in Senate Bill 1452. The state treasurer could invest money in the fund in any manner authorized by law, but the investment could not interfere with any disbursement of money required under House Bill 4553, below. The unencumbered balance remaining in the fund at

the end of a fiscal year would stay in the fund and not revert to the general fund.

The bill is tie-barred to Senate Bills 1448 and 1452 and House Bills 4552 and 4553, and would take effect on January 1, 2003.

House Bill 4552. Currently, under the Michigan Vehicle Code, people who have their licenses suspended under certain circumstances must, among other things, pay a \$25 “driver license clearance fee” to the court before getting their license back. The court transfers 60 percent (or \$15) of each driver license clearance fee to the secretary of state on a monthly basis to be deposited in the state general fund, and to be used to defray the secretary of state’s expenses in processing driver licenses suspended and reinstated under these provisions of the vehicle code. The remaining \$10 of the fee goes to the local government’s general fund.

The bill would amend the Michigan Vehicle Code (MCL 257.321a) to increase the driver license clearance fee to \$45, and would specify how the money from the fee would be distributed. The secretary of state would continue to receive \$15 from each driver license clearance fee (which the bill would specify as a dollar amount instead of as a percentage of the fee). Another \$15 would go to the treasurer of the county if the matter is before the circuit court; the treasurer of the district funding unit if the matter is before the district court; or the treasurer of the city in which the court is located if the matter is before a municipal court. The remaining \$15 would go to the proposed juror compensation fund.

The bill is tie-barred to Senate Bills 1448 and 1452 and House Bills 4551 and 4553, and would take effect on January 1, 2003.

House Bill 4553 would add a new section to the Revised Judicature Act (MCL 600.151d) to direct the distribution of money each year from the juror compensation reimbursement fund. Under the bill, each court funding unit would submit a semi-annual report to the state court administrator for each court under its administration, indicating the total amount of the expense it incurred during the fiscal year due to the proposed increase in the statutory minimum compensation rate for jurors that would take effect October 1, 2003, under Senate Bill 1448 (Under current law, jurors are paid at least \$15 a day and \$7.50 for each half day of actual attendance at court, with the option given to county boards of commissioners to pay more if they so choose. See

BACKGROUND INFORMATION.) If any of the juror compensation payments made by the court funding unit were above the statutory minimum, the report also would have to include the total amount paid to jurors that was in excess of the statutory minimum.

Each year, the state court administrator, at the direction of the supreme court and upon confirmation by the state treasurer of the total amount available in the juror compensation reimbursement fund, would distribute semi-annually from the fund (1) a maximum annual amount to the state court administrative office (\$100,000 for the fiscal year beginning October 1, 2003; \$40,000 for fiscal years beginning after September 30, 2004) for “reasonable costs” associated with administering the bill, and (2) reimbursement to each court funding unit for the expense amount they reported to the state court administrator for juror compensation for the preceding six months, excluding any juror compensation in excess of the statutory minimum. (Note: The actual language of the bill says that the state court administrator “shall be reimbursed,” and that each court unit “is entitled to receive reimbursement.”)

In addition to the amounts paid to court funding units for the increased expenses they reported semi-annually, the state court administrator also would make two extra payments to each court funding unit that would be intended to offset expenses the court funding units incurred in adapting to the proposed changes in the statutory minimum rate for juror compensation. The two extra payments would amount to 14 percent of the semi-annual payments due to the court funding unit, and would be paid out for the six-month periods ending March 31, 2004, and September 30, 2004. The bill would define “court funding unit” to mean the county for circuit or probate court, the district funding unit (as defined in the Revised Judicature Act) for district court, and the city in which a municipal court were located for municipal courts.

If the amount available in the juror compensation fund in any fiscal year were more than the amount needed to pay the entire reimbursement that the bill would require for all court funding units [and, presumably, for the state court administrative office], the unencumbered balance would be carried forward to the next fiscal year and would not revert to the state general fund.

Payments from the fund would be made every six months, with reimbursement for each six-month

period (beginning with the quarter that ended March 31, 2004) would be made from the fund not later than two months after the end of the six-month period.

Senate Bill 1448. The Revised Judicature Act of 1961 excludes from jury duty those individuals who are under sentence for a felony at the time of jury selection. The bill would prohibit a person who has ever been convicted of a felony from serving on a jury.

In addition, the bill would increase juror compensation for the first day or half day of actual attendance to at least \$25 per full day and at least \$12.50 per half day. For each day or half day thereafter, jurors would receive at least \$40 per full day and at least \$20 per half day of actual attendance.

The bill is tie-barred to Senate Bill 1448 and House Bills 4551 - 4553, and would take effect on October 1, 2003.

Senate Bill 1452. Under the Revised Judicature Act of 1961, if a jury trial is demanded in the circuit court, the party making the demand is required to pay a fee of \$60. If a jury trial is demanded in the district court, the party making the demand is required to pay a fee of \$40. The bill would increase the required fee to \$85 and \$50, respectively. For each fee collected, the circuit court clerk would have to transmit \$25, and the district court clerk would have to transmit \$10, to the state treasurer for deposit in the proposed Juror Compensation Reimbursement Fund.

In addition, the act states that the failure to pay the fee for demanding a jury trial within the time required constitutes a waiver of the right to a jury trial. Under the bill, failure to pay the fee at the time of the demand was made would constitute a waiver of the right to a jury trial. (This, however, is not a significant change as MCR 2.508 states that the jury fee must be paid at the time the demand is filed.)

The bill is tie-barred to Senate Bill 1448 and House Bills 4551 - 4553, and would take effect January 1, 2003.

BACKGROUND INFORMATION:

Classes of district courts. A district of the first class consists of one or more counties, with each county composing the district being financially responsible for the district court within the county. Out of the state's 83 counties, 76 have first class district courts, while 7 have second and third class district courts. In every county but Wayne County, which has only

third class district courts, a county won't have a second class district court without a third class district court. A third class district is a district consisting of one or more political subdivisions within a county (that is, a township, city, or village), and is paid for by the political subdivision(s) under its jurisdiction. The rest of a county with one or more third class district courts will be under the jurisdiction of a second class district court, which is paid for by the county. For example, Washtenaw County has three district courts: two third class district courts – one each in the cities of Ann Arbor and Ypsilanti – and one second class district court that covers the rest of the county. Ann Arbor and Ypsilanti each pay for their third class district courts, while Washtenaw County pays for the “out-county” second class district court.

Court “funding units.” Of the state's 83 counties, 76 counties have, and are the “funding unit” for, three courts: the circuit court, the probate court, and the single (first class) district court. In the 7 counties with second and third class district courts (except, again, for Wayne County which has 20 third class district courts and no second class district courts), the county is the funding unit for the second class district court, while the political subdivisions with third class district courts are the funding units for those courts. Reportedly, there are 60 cities and 12 townships that serve as the funding units for third class district courts.

According to information gathered by the State Court Administrative Office (SCAO), only about 11 counties paid more than the statutory \$15 minimum for juror compensation. (This figure may be incomplete because it is taken from the list of funding units requesting juror compensation reimbursement, which request not all court funding units made.) Most of the higher rates are \$20 for a full day's attendance at court (in Berrien, Dickinson, Emmet, Kalkaska, Menominee, and Ontonagon counties). But the rates range from \$16 in Otsego County, to \$21.50 in Oceana County, \$24 in Leelenau County, and \$25 in Antrim and Benzie Counties. Two counties reported paying less than the \$15 statutory minimum: Marquette County reported \$10 a day and Luce County reported \$12 a day.

The 1999 juror survey report. In December of 1998, the State Court Administrative Office's statewide survey on jury duty service was conducted by Public Sector Consultants (through a private telephone survey research firm in based in Utah) on a sample of 800 Michigan residents. Part of the survey addressed barriers to jury service, and the final report on the

survey concluded that financial barriers to jury service were substantial when analyzed by the respondent's level of education.

While not everyone surveyed was aware that the court would pay them for jury service (15 percent thought not, while 7 percent didn't know), when asked what amount of money they thought was fair pay for each day of jury service, 24 percent answered \$26 to \$50. Apart from the 29 percent of respondents who were coded as "don't know" or "refused" (which included respondents who would not give a dollar figure), the remaining respondents answered as follows: eighteen percent answered \$51 to \$100, fourteen percent answered \$11 to \$25, seven percent answered \$101 or more, six percent answered \$1 to \$10, and one percent answered zero. Although the survey did not ask whether the current statutory \$15 per day minimum would be "fair pay" for each day of jury service, almost half (49 percent) of the respondents thought that jurors should receive from \$26 to over \$101 a day, only seven percent thought that daily juror compensation should be \$10 or less, and fourteen percent thought that it should be in a range (\$11 to \$25) that included the current statutory minimum. The report says that, "Looking only at those respondents who offered a dollar amount (71 percent of the sample), the average pay requested is \$69.95 per day and the median pay requested is \$50 per day."

The report also identified another relationship in the survey's financial questions: that between the respondents' income/education and the percentage who would receive their current salary while serving on a jury. The report notes that "[w]hile only 28 percent of respondents with less than a high school diploma would receive their current salary, 37 percent of high school graduates report[ed] the same. An even higher percentage of respondents with a college degree (44 percent) or postgraduate study or a degree (56 percent) report[ed] they would receive their current salary."

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, the increase in the minimum jury reimbursement rates contained in Senate Bill 1448 has an estimated annual cost of \$5,687,700, based on fiscal year 1994-1995 data submitted by local court funding units to the State Court Administrative Office (SCAO) for reimbursement of juror costs and a 2001 survey of 14 courts regarding second-day and beyond juror service. (The state reimbursed funding units for juror costs in fiscal year 1994-1995 and fiscal year 1995-

1996 based on costs in fiscal year 1993-1994 and fiscal year 1994-1995). The SCAO used a 2001 survey (calendar year 2000) regarding the number of juror days to refine the cost estimate. In addition, the additional revenue due to the increase in the jury demand fee, as proposed in Senate Bill 1452, is estimated at approximately \$500,000. [SFA analysis on earlier, albeit substantially identical, versions of Senate Bills 1448 and 1452 dated 11-22-02.]

According to the Senate Fiscal Agency, the fiscal impact of House Bill 4551 would depend on the increase in juror compensation rates, the amount generated by the driver license clearance fee increase, the distribution of money in the Juror Compensation Reimbursement Fund, and the amount generated by the fee increase for demanding a jury trial, as proposed by the package of bills.

With regard to House Bill 4552, the Senate Fiscal Agency notes that the current \$25 clearance fee is allocated as follows: \$6 to the Department of State, \$9 to the Transportation Economic Development Fund, and \$10 to the local court funding unit. The bill would increase the clearance fee to \$45 and allocate \$5 of the increase to the local court funding unit and \$15 to the proposed Juror Compensation Reimbursement Fund. Based on the last six years of collection data, the clearance fees would generate between \$7 million and \$8.24 million annually. The allocation of the clearance fee increase between the Juror Compensation Reimbursement Fund and local court funding units would range from \$5.25 million to \$6.18 million and \$1.75 million to \$2.06 million, respectively.

Regarding House Bill 4553, the Senate Fiscal Agency notes that the SCAO semi-annual reimbursement of local court funding units due to the increased statutory minimum juror compensation rates effective October 1, 2003 is estimated at \$5,687,700 (see Senate Bill 1448). The bill also provides that the SCAO would receive up to \$100,000 in fiscal year 2003-2004, and up to \$40,000 in subsequent fiscal years for reasonable administrative costs. For fiscal year 2003-2004 only, local court funding units would receive an additional sum equal to 14 percent of their reimbursement amount to offset expenses incurred in adapting to changes in the new statutory minimums for juror compensation. The cost of this additional payment in fiscal year 2003-2004 is estimated at \$796,300. [SFA analysis of earlier, albeit substantially identical, versions of House Bills 4551-4553 dated 7-8-02.]

ARGUMENTS:**For:**

Jury duty is a civic obligation that can result in heavy fines for individuals who try to avoid serving on juries without an excuse from the court, and over the years various efforts have been made to increase the number of potential jurors (such as Public Act 104 of 1986, that switched juror selection from county voter registration lists to driver's license and state personal identification card lists). Although some employers pay their employees' salaries for the time the employee spends in court on jury duty, not all employers do this. In particular, the lowest paying jobs reportedly seldom, if ever, do this, which means that the people who can least afford to leave their jobs to serve on juries are precisely the ones most penalized financially. In fact, according to testimony before the House Committee on Civil Law and the Judiciary, a number of court funding units with large impoverished populations often excuse many people from jury duty due to financial hardship reasons. The bill would potentially allow many more people to serve on juries by increasing the juror reimbursement, beginning the second day of jury duty, to a level that should allow many more people to be able to afford to serve on juries, which also would mean that more poor people on trial would be truly judged by juries of their financially disadvantaged peers.

Against:

The proposed increase in juror compensation still would not match the amount that would result if inflation since the \$15 minimum was implemented in 1967. Reportedly, had the statutory rates increased with inflation, the daily juror compensation rate would now be almost \$80 a day. Some people believe that even if the current statutory minimum cannot be raised to that amount, at least it should be increased more than the amount proposed by the bill. Moreover, the bill would exempt the first day of jury duty from the proposed increase, and yet for many people, the first day of jury duty may be financially onerous. Many low-wage workers cannot afford to take even a single day off work without severe financial penalties. Depending on the jury pool, the number of people who can't afford jury duty for even a single day would still remain unacceptably high.

For example, a low-wage worker who was called for one day of jury duty not only would have to take off a day of work that he or she could financially ill afford, and may well have to pay for child care, parking, and food. Although some courts – such as in

Wayne County, which is applying for child care grants – are making efforts to provide ways to support people who can't afford to take time off for jury duty because they work at sub-poverty wages, this should be a statewide, not a county-by-county effort. Perhaps the first day delay in paying more for jury duty could be means tested, with those falling under a certain income level eligible to receive the proposed higher second-day pay for the first day of jury duty as well. Jury duty, while a civic duty, should not be an onerous financial burden to the prospective juror.

Juror compensation should include not only a minimum stipend that would allow jurors to buy lunch and pay for parking, it also should include provisions for child care for those who need it. Otherwise, the amount proposed in the package still would not pay for all of the expenses incurred by people who serve on juries. By failing to provide for child care, moreover, the bill package would continue to discriminate against poor parents who cannot afford to pay child care on top of all of the other expenses of jury duty. If jury duty is truly to be a civic obligation that is essential to the functioning of the justice system, then people should be financially able to participate in this fundamental exercise in civic duty instead of just being threatened with sanctions when they are unable to do so and unable to obtain an excuse for reasons of financial hardship.

Analyst: S. Ekstrom/M. Wolf

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.