

Senate Fiscal Agency
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SFA



BILL ANALYSIS

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Senate Bills 1448 and 1452 (as enrolled)
House Bills 4551, 4552, and 4553 (as enrolled)
Sponsor: Senator Mike Goschka (Senate Bill 1448)
Senator Martha G. Scott (Senate Bill 1452)
Representative Gary A. Newell (House Bill 4551)
Representative Ken Daniels (House Bill 4552)
Representative Andrew Richner (House Bill 4553)

Senate Committee: Judiciary

House Committee: Civil Law and the Judiciary

Date Completed: 2-3-03

PUBLIC ACTS 739 & 605 of 2002
PUBLIC ACTS 740-742 of 2002

RATIONALE

The Revised Judicature Act (RJA) provides that jurors must receive at least \$15 per day (or \$7.50 per half day) for each actual day of attendance at the court. Court funding units (counties, cities, and townships) pay for juror compensation, with counties paying for circuit court, probate court, and first-class district courts, and cities and townships paying for second- and third-class district courts. The RJA requires county boards of commissioners to determine the rate for juror compensation and allows them to establish that rate at a level above, but not below, \$15 per day or \$7.50 per half day. Few counties, however, have chosen to compensate jurors above the minimum rates specified in the RJA, which had not changed since 1967. It was suggested that the rates be raised and that certain fees be increased, with the revenue from those higher fees dedicated to the increased juror compensation.

In addition, the RJA disqualifies from jury service a person who is under sentence for a felony at the time of jury selection. Some people believe that any person who has ever been convicted of a felony should be disqualified.

CONTENT

Senate Bills 1448 and 1452 and House Bills 4551 and 4553 amended the Revised Judicature Act to do all of the following:

- Increase juror compensation fees.
- Specify that a person who has ever

been convicted of a felony may not serve as a juror.

- **Create the Juror Compensation Reimbursement Fund in the State Treasury.**
- **Provide for the distribution of money in the Juror Compensation Reimbursement Fund to district, probate, and circuit court funding units.**
- **Increase court fees for a trial by jury, and provide for the amount of the increase to be deposited in the Fund.**

House Bill 4552 amended the Michigan Vehicle Code to increase various driver license clearance fees that are required for the issuance of a license to a person whose license has been suspended for failure to appear or comply in response to certain violations. The bill allocates a portion of the fees to the Juror Compensation Reimbursement Fund.

The bills all were tie-barred to each other. Senate Bill 1448 and House Bill 4553 will take effect on October 1, 2003. Senate Bill 1452 and House Bills 4551 and 4552 took effect on January 1, 2003.

Senate Bill 1448

Juror Compensation

The RJA requires that a juror be compensated at a rate determined by the county board of commissioners that is at least \$15 per day and

\$7.50 per half day of actual attendance at the court. Under Senate Bill 1448, that minimum rate of compensation applies until October 1, 2003. Beginning on that date, the juror compensation rate determined by a county board of commissioners must be at least \$25 per day and \$12.50 per half day for the first day or half day of actual attendance at the court. The juror compensation rate must be at least \$40 per day and \$20 per half day, for each subsequent day or half day of actual attendance.

Juror Qualification

Under the RJA, a person who is under sentence for a felony at the time of jury selection is not qualified to serve as a juror. The bill, instead, disqualifies from jury service a person who has ever been convicted of a felony. (For purposes of this provision, "felony" means a violation of a penal law of this State, another state, or the United States that is expressly designated by law to be a felony or for which the offender may be punished by death or by imprisonment for more than one year.)

Senate Bill 1452

The RJA previously provided that if a trial by jury was demanded in the circuit court, the party making the demand had to pay a fee of \$60. The bill increased that fee to \$85. If a trial by jury was demanded in the district court, the party making the demand had to pay a \$40 fee. The bill increased that fee to \$50. For each fee collected, under the bill, the circuit court clerk must transmit \$25, and the district court clerk must transmit \$10, to the State Treasurer for deposit in the Juror Compensation Reimbursement Fund.

Previously, failure to pay the fee for demanding a jury trial within the time provided in the court rules constituted a waiver of the right to a jury trial. Under the bill, failure to pay the fee at the time the demand is made constitutes a waiver of the right to a jury trial.

House Bill 4551

The bill created the Juror Compensation Reimbursement Fund. Money in the Fund must be used as provided in House Bill 4553.

The State Treasurer must credit to the Fund

deposits of proceeds from the collection of driver license clearance fees, as provided in House Bill 4552, and deposits of proceeds from the collection of jury demand fees, as provided in Senate Bill 1452.

The Treasurer may invest money in the Fund in any manner authorized by law for the investment of State money. An investment, however, may not interfere with any apportionment, allocation, or payment of money required under House Bill 4553. The State Treasurer must credit to the Fund all income earned as a result of an investment of money in the Fund. The unencumbered balance in the Fund at the end of a fiscal year is to remain in the Fund and may not revert to the General Fund.

House Bill 4552

The Michigan Vehicle Code requires that the Secretary of State suspend a person's driver's license for failing to answer certain citations or notices to appear in court for driving violations. In each case, the suspension remains in effect until both of the following occur:

- The Secretary of State is notified by each court in which the person failed to answer a citation or notice to appear or failed to pay a fine or cost that the person has answered the citation or notice, paid the fine, or resolved all outstanding matters regarding each notice or citation.
- The person has paid a driver license clearance fee to the court. (In some instances, the court is allowed or required to waive the fee.)

The Code requires the court to transfer \$15 of each driver license clearance fee to the Secretary of State, on a monthly basis. The funds received by the Secretary of State must be deposited in the State General Fund and used to defray the Secretary of State's expenses in processing the driver's license suspensions and reinstatements.

The bill increased the driver license clearance fee from \$25 to \$45. For each fee received, the court still must transmit \$15 each month to the Secretary of State for deposit in the State General Fund to defray driver's license suspension and reinstatement expenses. In addition, on a monthly basis, the court must transmit \$15 to the Juror Compensation

Reimbursement Fund and \$15 to one of the following, as applicable:

- If the matter is before the circuit court, to the county treasurer for deposit in the county's general fund.
- If the matter is before the district court, to the treasurer of that court's district court funding unit (i.e., the county, city, township, or incorporated village where the court is located, depending on the court), for deposit in the funding unit's general fund.
- If the matter is before a municipal court, to the treasurer of the city in which the municipal court is located, for deposit in the city's general fund.

House Bill 4553

The bill provides for the distribution of money in the Juror Compensation Reimbursement Fund. Each court funding unit (county, city, township, or incorporated village, depending on the court) will have to submit a semiannual report to the State Court Administrator, for each court for which it is a funding unit. The report must show the total amount of the expense incurred during the fiscal year by that funding unit due to the increased minimum compensation rate for jurors (as enacted by Senate Bill 1448). If any of the juror compensation payments made by that court funding unit exceed the statutory minimum, the report must include the total amount paid to jurors in excess of that minimum rate.

Each year, at the direction of the Supreme Court and upon confirmation by the State Treasurer of the total amount available in the Fund, the State Court Administrator must distribute to each court funding unit a reimbursement from the Fund for the expense amount reported for the increase in juror compensation fees for the preceding six months, excluding any juror compensation in excess of the statutory minimum fee. Reimbursement from the Fund, however, is subject to both of the following:

- The State Court Administrator semiannually must be reimbursed from the Fund for reasonable costs associated with administration of the distribution process. This reimbursement may not exceed \$100,000 in fiscal year 2003-04 or \$40,000 in subsequent fiscal years.
- If the amount available in the Fund in any

fiscal year is more than the amount needed to pay the entire reimbursement required for all court funding units, the unencumbered balance must be carried forward to the next fiscal year and may not revert to the General Fund.

Payments from the Fund must be made every six months. Reimbursement for each six-month period beginning with the quarter ending March 31, 2004, must be made from the Fund within two months after the end of the six-month period.

The bill provides that, in addition to the amounts paid to court funding units for the reimbursement of the increased juror compensation rate for the six-month periods ending March 31, 2004, and September 30, 2004, the State Court Administrator must pay to each court funding unit an additional sum equal to 14% of the payments due. The bill specifies that those two extra payments are "intended to offset expenses incurred by court funding units for costs in adapting to the changes in the statutory minimum rate for juror compensation".

MCL 600.1307a & 600.1344 (S.B. 1448)
600.2529 & 600.8371 (S.B. 1452)
600.151d (H.B. 4551)
257.321a (H.B. 4552)
600.151e (H.B. 4553)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Serving on a jury is a civic obligation, required of a person called for jury duty unless he or she is dismissed by the court. For some people, however, jury duty also can be a financial burden. Although some employers will pay an employee's salary for the time he or she spends in court on jury duty, most employers apparently do not, and those earning low levels of income are more likely than others not to have paid time off for jury service. In addition, the cost of transportation to and from the courthouse, parking, meals, and care for children or other dependents while a person serves on a jury may prove to be a hardship for that person.

According to a report based on a 1999 survey

("Public Perceptions of Jury Service", prepared for the Michigan Supreme Court and the State Court Administrative Office by Public Sector Consultants, Inc.), only 28% of the survey's respondents who had less than a high school education reported that they would receive their salary for time spent on jury duty. That percentage increased with workers' educational levels, but, even at the highest level of education (postgraduate college study or degree), only 56% of respondents indicated that they would receive their salary. In addition, the survey found that the responsibility of providing care for dependents was a potential barrier to serving jury duty: 47% of respondents between the ages of 25 and 44 had children or elderly relatives at home who would require care if the respondent had to attend court.

It is important, then, that citizen-jurors be adequately compensated for their service. Given the expenses that may be incurred due to jury service, the minimum rate of compensation simply has been too low. That minimum rate of \$15 per day or \$7.50 per half day was established in 1967, and, after 35 years, is clearly not enough to remunerate jurors for their time and service. Indeed, in some jurisdictions the fee may barely cover the cost of parking and is far from enough to meet required costs such as child care. By raising the minimum juror fee that counties must establish, Senate Bill 1448 offers more reasonable compensation to those who fulfill their civic responsibility by serving on a jury.

Response: While an increase in the juror compensation rate was overdue and necessary, the bill does not raise the rate enough. If the \$15-a-day payment established in 1967 had increased by the rate of inflation over 35 years, the fee for jury service would have been \$79.50 per day in 2002. In addition, the 1999 Public Sector Consultants survey asked respondents what amount would be fair pay for a day of jury service. The average response was \$69.95 and the median was \$50, both of which exceed the juror compensation rate enacted by Senate Bill 1448. Also, according to testimony before the Senate Judiciary Committee by the Genesee County jury coordinator, jurors in that county lose an average of \$111 per day in lost pay (with only one-third of jurors receiving paid leave from employment for jury duty) and those with children average \$30 per day in child care costs.

Respondents to the 1999 survey raised other concerns, as well. While the level of pay was an issue for those surveyed, they also recommended such services as free day care for children, free transportation or parking, more timely payment of jurors, and being allowed to choose when to serve.

Supporting Argument

Over the years, efforts have been made to increase the number of potential jurors. For instance, Public Act 104 of 1986 changed the juror selection rolls from county voter registration lists to driver's license lists. In recent years, however, some courts reportedly have been excusing people from jury duty because of the financial hardship they would endure from missing work or incurring expenses such as child care costs. By increasing the juror reimbursement rates, Senate Bill 1448 may result in fewer financial hardship claims from potential jurors, thereby expanding the juror pool. This, in turn, will benefit the criminal and civil justice system by ensuring that juries are more representative of the community from which they are drawn.

Response: Disqualifying from juror eligibility anyone who has ever been convicted of a felony will reduce the pool of potential jurors.

Supporting Argument

The bills establish an innovative way to pay for the increased juror compensation fees. Senate Bill 1452 and House Bill 4552 provide the revenue needed to pay the higher fees to jurors. By raising the fee for filing a demand for a jury trial, and increasing the driver license clearance fee for reinstatement of a suspended license when a person fails to answer a traffic citation or notice to appear in court, those bills place the burden of paying for increased juror compensation fees upon people who use the court system. The revenue from the jury demand fee and clearance fee increases is dedicated to the Juror Compensation Reimbursement Fund enacted by House Bill 4551, which will be used under House Bill 4553 to distribute money to court funding units to cover the increased juror compensation fee enacted by Senate Bill 1448. This funding system should hold the local court funding units harmless for any increased costs associated with paying their jurors more money.

In addition, the bills that increase the driver license clearance and jury demand fees and

establish the Juror Compensation Reimbursement Fund took effect on January 1, 2003, while the bills that require greater compensation for jurors and govern distributions from the Fund will not take effect until October 1, 2003. This nine-month delay will allow the Fund to be built up well before any disbursements have to be made from it to compensate jurors at the higher rate.

Response: More could be done to ensure *timely* reimbursement to counties and other court funding units for expenses associated with the increased juror fees.

Supporting Argument

Felons should not be permitted to serve on a jury, regardless of whether they are serving a sentence at the time of jury selection or have already fulfilled all the terms of their sentence. A person who has been convicted of a felony might have a tainted view of the criminal justice system and sympathize with a criminal defendant. Such a situation is blatantly unfair to the prosecution and the crime victim.

Response: Disqualifying a person who has ever been convicted of a felony applies to jury service in civil, as well as criminal, trials. In addition, Michigan court rules already allow an attorney to challenge a potential juror for cause, and one ground for a challenge for cause is that the person has been convicted of a felony (MCR 2.511). Thus, a prosecutor may ask the judge to remove a person from the jury pool if the prosecutor believes the person could not fairly and adequately fulfill his or her responsibilities. An attorney also may exercise a limited number of "peremptory" challenges in order to excuse a potential juror without cause.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Senate Bill 1448

The bill increases statutory minimum juror reimbursement rates effective October 1, 2003, as follows:

CURRENT		NEW	
		1 st Day of Actual Attendance	2 nd and Subsequent Days
Per Day	15.00	25.00	40.00

Half Day	7.50	12.50	20.00
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The estimated annual cost of the increase is \$5,687,700. This estimate is based on FY 1994-95 data submitted by local court funding units to the State Court Administrative Office 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 FY 1994-95 and FY 1995-96 based on costs in FY 1993-94 and FY 1994-95.) The State Court Administrative Office used a 2001 survey (calendar year 2000) regarding the number of juror days to refine the cost estimate.

Senate Bill 1452

The bill increased the jury demand fee in civil cases from \$60 to \$85 in circuit court, and from \$40 to \$50 in district court. The additional revenue generated from the increases in jury demand fees must be deposited in the new Juror Compensation Reimbursement Fund. The estimated annual revenue generated from jury demand fee increases is approximately \$500,000. The fee increases took effect on January 1, 2003.

House Bill 4551

The fiscal impact of House Bill 4551 depends on the increase in juror compensation rates under Senate Bill 1448; the amount generated by the driver license clearance fee increase in House Bill 4552; the distribution of money in the Juror Compensation Reimbursement Fund pursuant to House Bill 4553; and the amount generated by the increase in jury trial fees under Senate Bill 1452.

House Bill 4552

The previous \$25 clearance fee was allocated as follows: \$6 to the Department of State, \$9 to the Transportation Economic Development Fund (TEDF), and \$10 to the local court funding unit. The bill increased the clearance fee to \$45 and allocates \$5 of the increase to the local court funding unit and \$15 to the Juror Compensation Reimbursement Fund. (The Department of State and the TEDF will continue to receive \$6 and \$9, respectively.) Based on the last six years of collection data, the clearance fee increase will generate between \$7,000,000 and \$8,240,000 annually. The allocation of the clearance fee

increase between the Juror Compensation Reimbursement Fund and local court funding units will range as follows:

Juror Compensation Reimbursement Fund
\$5,250,000 to \$6,180,000

Local Court Funding Unit
\$1,750,000 to \$2,060,000

House Bill 4553

Based on reports to be filed by local court funding units, the State Court Administrative Office will semiannually reimburse local units of government for the expense incurred due to the increases in statutory minimum compensation rates for jurors that takes effect on October 1, 2003. The annual cost of this reimbursement is estimated at \$5,687,700 (as explained above, under Senate Bill 1448). House Bill 4553 also provides that the State Court Administrative Office will receive up to \$100,000 in FY 2003-04, and up to \$40,000 in subsequent fiscal years for reasonable administrative costs. For FY 2003-04 only, local court funding units will receive an additional sum equal to 14% 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 FY 2003-04 is estimated at \$796,300.

Fiscal Analyst: Bill Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.