



**House  
Legislative  
Analysis  
Section**

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**INCREASE JUROR COMPENSATION,  
CREATE STATE FUND**

**House Bill 4090 (Substitute H-3)**

**Sponsor: Rep. Michael Switalski**

**House Bill 4551 (Substitute H-3)**

**Sponsor: Rep. Gary A. Newell**

**House Bill 4552 (Substitute H-1)**

**Sponsor: Rep. Ken Daniels**

**House Bill 4553 (Substitute H-2)**

**Sponsor: Rep. Andrew Richner**

**House Bill 4798 with committee  
amendments**

**Sponsor: Rep. Andrew Richner**

**First Analysis (6-12-01)**

**Committee: Civil Law and the Judiciary**

House Bills 4090, 4551-4553, and 4798 (6-12-01)

***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 4090 would amend the Revised Judicature Act (MCL 600.1344) to increase juror compensation

after the first day of jury duty to \$40 for each full day and \$20 for each half day of jury duty. (The first day of service would still be compensated at the current statutory minimum of \$15 for a full day's attendance and \$7.50 for a half day's attendance.) The bill also would make some technical language changes, including substituting language referring to a juror being "reimbursed for his or her traveling expenses" instead of the current reference to jurors being "paid mileage," though the reimbursement for traveling expenses would remain at the current rate of a minimum of 10 cents per mile as calculated from the juror's home to the court.

House Bill 4551 would add a new section to the Revised Judicature Act (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 by House Bill 4552 and from the increase in jury demand fees as proposed by House Bill 4798. 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.

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 \$50, 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), \$15 would go to the treasurer of the court funding unit (the treasurer of the district funding unit for a district court, the city treasurer for a municipal court) for deposit in the general fund, and \$20 would go to the proposed juror compensation fund.

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, 2002, under House Bill 4090 (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, 2002; \$40,000 for fiscal years beginning after September 30, 2003) 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 30 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, 2003, and September 30, 2003. 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 21, 2003) would be made from the fund not later than two months after the end of the six-month period.

House Bill 4798 would amend the Revised Judicature Act (MCL 600.2529 and 600.8371) to increase jury demand fees in civil actions brought in either the circuit or district courts, and send the proposed additional amount from each fee collected to the juror

compensation reimbursement fund proposed by House Bill 4551.

Currently, jury demand fees in circuit court are \$60, and \$40 in district court. The bill would increase the circuit court fee by \$25, to \$85, and the district court fee by \$10, to \$50. The additional \$25 from each circuit court jury demand fee, and the additional \$10 from each district court jury demand fee, would be transmitted by the clerk to the state treasurer for deposit in the juror compensation reimbursement fund that would be created under House Bill 4551.

The bill also would update certain circuit court filing fees to reflect the current fees, which have been increased incrementally by statute since October 1, 1994 (by Public Act 189 of 1993) and would delete the now-outdated language specifying the dates on which these fees were increased since 1994.

Effective date, tie-bar. House Bills 4090, 4551, and 4552 would take effect on October 2, 2002, while the two revenue bills, House Bills 4553 and 4798, would take effect on January 1, 2002. None of the bills could take effect unless all were enacted.

### ***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 House Fiscal Agency, the net new costs resulting from House Bill 4090 would amount to \$3,250,155, while the total new revenue would come to \$3,292,500. The State Court Administrative Office (SCAO) would be given \$100,000 for administrative costs in the first year, and \$40,000 a year for administrative costs thereafter, for a net balance of \$2,385 a year. (6-7-01)

### ***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.

#### ***For:***

The bills proposing increases in drivers license clearance fees and in jury demand fees (House Bills 4553 and 4798, respectively) and the bill creating the state juror compensation reimbursement fund (House Bill 5551), if enacted, would take effect on January 1, 2002, while the proposed juror payment increase (House Bill 4090) and the bill directing the distribution of the fund (House Bill 4553), if enacted, would not take effect until October 2, 2002. This would give the court funding units time to add the proposed juror compensation increases to their budgets, as well as allow the state to begin building funds in the proposed new juror compensation reimbursement fund for nine months. Thus, the bill package would employ a seldom-used tactic of "front-loading" a state fund before requiring any disbursements. According to one estimate, the revenues for nine months from the proposed increase in fees would generate \$1,420,000. When the disbursement formula took effect in October 2002 under House Bill 4553, there would be an initial one-time payment to the State Court Administrative Office of \$100,000 (and then \$40,000 a year thereafter), plus two extra one-time payments to court funding units (for the funding periods ending March 31 and September 30, 2003) for administrative costs that would come to \$975,000. By capturing an estimated \$1,420,000 over the initial nine-month period, the initial SCAO administrative payment plus the 30 percent administrative offset to the court funding units would come to \$1,075,000, which still would leave \$345,000 in the fund.

By tie-barring all of the bills, the proposed increase in juror compensation could not take place unless the proposed juror compensation reimbursement fund were created and funded by raises in the drivers license clearance fee and the jury demand fee, thereby paying for the proposed increase. Finally, postponing increasing the rate of reimbursement to jurors beginning only on the second (and subsequent) days of actual jury duty would keep costs down to an estimated \$3,250,115, which should be covered by the proposed drivers' license clearance fee increase (which, given an estimated 140,000 cases a year,

would raise an additional \$2,800,000 for the proposed fund) and jury demand fee increase (which would raise an estimated additional \$492,500 a year).

**Response:**

House Bill 4090 would require local units of government to spend more money on jury reimbursement, and could trigger the so-called Headlee provisions of the state constitution, which require the state to pay for any new services it requires of local units of government. If the proposed fee increases did not pay for the proposed increase in juror compensation, the state could wind up being sued by local units of government for full payment of any shortfalls. Moreover, the estimated \$2,385 annual difference between projected costs and projected revenues would not seem to give the state much of a financial “cushion.”

**Reply:**

It is not clear whether or not a statutory increase in juror compensation rates that is below the rate of inflation (which has tripled since 1978, when the Headlee amendment to the state constitution was approved) would be a new activity or service that would trigger the Headlee provisions (Article IX, Section 29). In any case, the proposed fee increases should adequately cover the proposed increase, so the Headlee provisions should not enter into consideration anyway.

**Against:**

The proposed increase in juror compensation still would not match the amount that would result if inflation since the 1967 \$15 minimum was implemented. 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 single mother working as a waitress who was called for one day of jury duty not only would have to take off a day of work that she could financially ill afford, she also still would 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.

**POSITIONS:**

The Michigan Association of Counties supports the package so long as any increased costs are covered by the state. (6-11-01)

The Genesee County Jury Board supports the bills. (6-11-01)

The Oakland County Board of Commissioners supports the bills so long as the increase is fully funded by the state. (6-11-01)

The Genesee County Board of Commissioners supports the bill so long as any increased costs are paid by the state. (6-11-01)

Although the Michigan Supreme Court does not generally take positions on specific legislation, “there is strong support among the Justices for the concept of increasing the compensation paid to jurors.” (4-25-01)

Analyst: S. Ekstrom

■ 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.