



COUNTY ADVISORY BULLETIN

CAB

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JUROR COMPENSATION

BACKGROUND AND INTRODUCTION

Senate Bill 69, sponsored by Senator Bruce Johnson (3rd District), eliminates certain occupational and age exemptions for juror service and increases the amount of juror compensation that can be set by boards of county commissioners. The precursor to SB 69 came from Ohio Supreme Court Chief Justice Thomas J. Moyer's February 12, 1997 State of Judiciary address before a joint session of the General Assembly. In his address, Chief Justice Moyer called juries the "essence of democracy in our courtrooms", and asked legislators to eliminate all occupational and age service exemptions to increase the pool of "persons whose knowledge and experience would lend wisdom to a jury" and to raise the ceiling on juror compensation. With regards to juror compensation the Chief Justice stated, "the law currently restricts the compensation of jurors to \$15 per day. That is \$25 less than a citizen would be reimbursed for sitting on a federal court jury and substantially less than juror fees in many states. In larger counties, the \$15 does not even cover parking and lunch."

After the Chief Justice addressed the joint assembly, the Supreme Court surveyed twenty-one counties on their juror compensation rates. Those rates ranged from \$6.50 for a half-day to the \$15.00 maximum for a full day, with approximately half of the counties surveyed paying the \$15.00 maximum. Senator Johnson introduced SB 69 to respond to the Chief Justice's request to increase the ceiling on juror compensation. The bill has been signed by the Governor and will become effective April 15, 1998.

This CAB provides a brief analysis as to how juror compensation can be set by the boards of county commissioners and summarizes the occupational and age exemptions eliminated by SB 69.

JUROR COMPENSATION

The following tables provide a summary of the juror compensation changes made by SB 69. The compensation changes can be found in Sections 2313.34 and 2929.04 of the Revised Code. Following the tables is a more detailed analysis of the changes.

<i>JUROR COMPENSATION PRIOR TO SB 69</i>	
Daily Rate	After 10 Days of Actual Service
Compensation to be fixed by resolution of board of county commissioners, not to exceed \$15.	Compensation to be fixed by resolution of board of county commissioners at not less than \$15 for each additional day of actual service.

<i>JUROR COMPENSATION UNDER SB 69</i>	
Daily Rate	After 10 Days of Actual Service
Compensation to be fixed by resolution of board of county commissioners, not to exceed \$40.	Compensation for each additional day of actual service shall be fixed at an amount equal to the greater of \$15 or one and a half times the daily rate of compensation set by the board of county commissioners. The rate may not exceed two times the daily rate.

Setting the Daily Rate for Juror Compensation and Grand Juror Compensation

Prior to the passage of SB 69, Section 2313.34 of the Revised Code required the compensation of each juror to be established by resolution of the board of county commissioners. That section also required that the “maximum” for each day of juror compensation could not exceed fifteen dollars. Thus, the board of county commissioners had the discretion of setting the daily rate of juror compensation at any amount up to fifteen dollars. Section 2939.04 set forth the same procedure and “maximum” for the compensation of grand jurors. The compensation set by the board of county commissioners must be paid out of the county treasury.

SB 69 simply increases the “maximum” compensation from fifteen dollars to forty dollars. Thus, the board of county commissioners now have the discretion to set the rate of juror compensation for each day of service at any amount up to forty dollars.

The Required Rate for Juror Compensation after 10 Days

Prior to the passage of SB 69, Section 2313.34 required the amount of juror compensation paid to jurors, after ten days of actual service, to be at least fifteen dollars. In other words,

that section established a minimum threshold for jurors after ten days.

SB 69 changes the “minimum” compensation threshold for jurors to an amount equal to the greater of fifteen dollars or one and a half (1.5) times the daily rate of compensation set by the board of county commissioners. The maximum rate for juror compensation, for jurors who serve more than ten days, may not exceed two times the daily rate. Note the “Introduced” version of SB 69 would have required the “minimum” threshold to be forty dollars. CCAO opposed that provision, thus, the above language was the result of a compromise between the bill’s sponsor, the Supreme Court, and CCAO.

CAN JUDGES INCREASE JUROR COMPENSATION WITH A COURT ORDER

The law is clear that the board of county commissioners for each county have the responsibility of setting juror compensation not the court. However, if a judge of a court felt that the rate of juror compensation was not sufficient, it is likely the court could find rational to increase the rate. Judges could likely base such rational on their inherent powers to ensure for the adequate operation of the court. If the board of county commissioners refused to grant the increase, the court could likely file a mandamus action against the county commissioners for the increase. Typically in a mandamus action related to the appropriation of funds, the board of county commissioners have the burden of proving that the budget request is “unreasonable and unnecessary”. Because the law is clear that it is the board of county commissioners responsibility to set juror compensation, it is not known who has the burden proof and it has not been tested to our knowledge. However, having the language in the law stating that it is the responsibility of the county commissioners to set juror compensation should give commissioners more standing than in a typical budget dispute.

JUROR EXEMPTIONS AND EXCUSES

Under existing law, elected public officers, physicians, attorneys at law, cloistered members of religious organizations, dentists, and all persons over 70 years of age are exempted from jury service. In addition, an active volunteer fireman or any person who has served five consecutive years as a volunteer fireman was not required to serve on a jury. The bill generally repealed these exemptions and provides that no person is exempt from petit jury service or grand jury service.

The bill does still permit a person to be excused from or to postpone jury service. Reasons for an excuse from jury service continue to be as under existing law the following: (1) the exigencies of the juror’s business require the juror’s temporary excuse; (2) the juror is necessarily absent from the county and will not return in time to serve; (3) the interests of the public or of the juror will be materially injured by the juror’s attendance; (4) the juror is physically unable to serve; (5) the juror’s spouse or a near relative of the juror or the juror’s spouse has recently died or is dangerously ill; and (6) the juror had been called as a juror for trial in a court of record in the county during the same jury year. The bill creates an additional excuse from jury service that “the juror is a cloistered member of a religious

organization". Such excuses must still be presented to the judge for approval.

ACKNOWLEDGMENT

CCAO would like to thank the sponsor of the bill, Senator Bruce Johnson, and the Supreme Court, particularly Rick Dove, for their cooperation in addressing CCAO's concerns.

If you have any questions regarding juror compensation or this CAB please contact Mike Toman, CCAO Policy Analyst, at (614) 221-5627.